



DEPARTMENT OF AGRICULTURE, FORESTRY AND FISHERIES

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

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

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

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1. Introduction

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

The Minister intends to delegate the Section 18 power to allocate fishing rights in terms of section 79 of the Marine Living Resources Act 18 of 1998 ("the MLRA") to an official of the Department of Agriculture, Forestry and Fisheries ("the Department").

This policy sets out the objectives, criteria and considerations that will guide the allocation and management of fishing rights in the demersal shark fishery. This policy will guide the delegated authority in taking decisions on applications in this fishery.

2. Profile of the fishery

2.1 Description of the fishery

The demersal shark fishery uses bottom-set longline fishing gear to predominantly target soupfin, *Galeorhinus galeus*, smoothhound sharks, *Mustelus mustelus*, some Carcharhinid sharks, skates and rays. The fishery operates in two major areas: the Eastern Cape and Western Cape and operates in waters generally shallower than 100m.

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

more productive the fishery.

Landings of sharks in various commercial fisheries, including the demersal shark longline and line fishery, appear to be largely influenced by market trends. The bulk of soupfin and smoothhound shark trunks and fins are exported to Australia for use in the fillet trade.

2.2. History of the fishery

After interest in the tuna longline fishery waned in the mid-1960s, longline fishers turned their attention to other more lucrative stocks. Permits for the demersal shark longline fishery were first issued in 1991. The initial incentive to obtain these permits was by exploiting loopholes in the regulations to catch hake by longline, an activity that was discontinued in 1990.

Fishers used longline gear to target hake and kingklip under the guise of shark permits. When the by-catch limits of hake and kingklip were reduced in the shark fishery, fishing effort decreased exponentially.

Prior to 1998 more than 30 permits were issued to target shark, but due to poor performance in the fishery, the total applied effort ("TAE") was reduced to 23 permits in 1998. The TAE was further reduced in 2004 and 2006 to 11 and 6 permits, respectively, due to poor performance. Furthermore, as a result of changes in market trends, catches of soupfin and smoothhound sharks only increased in 2006.

2.3. Resource users

Catches of demersal sharks have generally been poor due to right holders only being active on a part-time basis. Many shark right holders have rights in sectors such as hake longline and tuna pole. Consequently, the shark fishery is generally used to keep the vessels busy when not engaged in other sectors.

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

In 2005, the Department allocated 6 demersal fishing rights. The fishing rights authorised a maximum of six fishing vessels access to the fishery. Each Right holder was permitted to use only one vessel. 63% of the rights were allocated to blacks or black-owned and controlled entities. In terms of female shareholding, 50% of rights were allocated to females or female-owned and controlled entities.

4. Objectives

The objectives of allocating fishing rights in the demersal shark fishery are to:

- (a) promote transformation, broaden meaningful participation (increase participation, value-creation, and linkage) and growth;
- (b) improve the quality of jobs through the promotion of permanent employment and allocation of rights to SMMEs owned by historically disadvantaged persons
- (c) promote adherence to fair labour practices;
- (d) to promote food security and poverty alleviation;
- (e) allocate rights to applicants reliant on demersal shark as their main source of income;
- (f) promote further investment in vessels;
- (g) facilitate the recovery of over-exploited and collapsed fish stocks;
- (h) achieve optimum utilisation and ecologically sustainable development of marine living resources; and

- (i) Promote youth and female ownership and development.

5. Granting of rights

Fishing rights are granted in terms of section 18 of the MLRA. All rights granted shall be valid from the date of allocation for a period not exceeding 15 years, where after it shall automatically terminate and revert back to the State.

5.1. Form of right holder

Applications will only be considered from South African-owned companies, close corporations and co-operatives.

5.2. Duration of rights

Fishing rights in the demersal shark fishery will be granted for the period not exceeding 15 years. The duration of fishing will be determined by the delegated authority taking into account amongst other things, the level of transformation in the fishery, the capital intensity of the fishery, the need to encourage further investment and economic growth, the current knowledge of the biological status of the target species and the performance of participants in the fishery.

6. Evaluation criteria

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

6.1. Exclusionary criteria

Apart from the criteria described in the 2013: General Policy pertaining to the

lodgement of applications and material defects, the delegated authority will exclude applicants that fail to meet the following requirements:

(a) **Compliance**

Applicants, including their members, directors or controlling shareholders that have been convicted of a serious transgression of the MLRA (without the option of the payment of a fine) will be excluded. Applicants, including their members, directors or controlling shareholders that have had any fishing right cancelled or revoked in terms of the MLRA will also be excluded. Minor infringements, including the payment of admission of guilt fines, may be taken in to account as a balancing criterion and may also adversely affect an application.

(b) **Paper Quotas**

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

(c) **Non-utilisation**

Applicants that failed to effectively utilise their demersal shark fishing rights between the period 2007 to 2012 or who have not collected a permit for any particular reason without providing a reasonable explanation and/or supporting documentation may be excluded.

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

An applicant will be required to demonstrate a right of access to a vessel suitable for the harvesting of demersal shark. Access may be in the form of ownership, part-ownership, catch agreement, charter agreement, or bank guarantee in the case of a purchase of a vessel or to build a vessel. If an applicant intends purchasing a vessel then additional proof of a purchase agreement must be provided. If in the case of a new build vessel then the

vessel plans and cost from the vessel building company must be provided.

6.2. Balancing criteria

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

(a) Transformation

Applicants will be assessed and scored on –

- (i) The percentage of black and women ownership and black and women representation at top salary, board of directors, members and senior official and management levels;
- (ii) Whether employees (other than top salary earners) benefit from an employee share scheme;
- (iii) Compliance with the Employment Equity Act 55 of 1998 and the representivity of blacks and women at the various levels of employment below senior official and management level. The Department may also give regard to the wage differentials between the highest and lowest paid employees;
- (iv) Compliance with the Basic Conditions of Employment Act, 1997 (No. 75 of 1997) (BCEA). Applicants that comply with the BCEA will score more points than applicants not complying.
- (v) Affirmative procurement;
- (vi) Compliance with legislation on skills development and the amounts spent on the training of blacks and youth and participation in learnership programmes; and

(vii) Corporate social investment.

(b) Investment in the fishery

Investment in the demersal shark fishery related to vessels, processing, and human capital will be considered.

(c) Fishing performance

(i) The fishing performance of applicants holding fishing rights in the demersal shark fishery will be examined to determine if they have effectively utilised their fishing rights.

(ii) Applicants that did not harvest any demersal shark during a fishing season or who have not collected a permit for any particular season without providing a reasonable explanation and/or supporting documentation may be excluded.

(d) Reliance on demersal shark

Preference will be given to applicants who rely on the harvesting of demersal shark for a significant portion of their gross annual income above applicants deriving income from sources outside the fishery.

(e) Local economic development

(i) The delegated authority will take into consideration the landing of catches in fishing harbours outside the metropolitan areas to promote local economic development.

(ii) The delegated authority may, in order to ensure that all fishing communities share in the marine living resources, use landing sites/fishing harbours as scoring or tie-breaking criteria.

- (iii) Applicants are encouraged to land or process fish in harbours and fishing communities that are economically depressed.

(f) **Job creation**

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

- (i) permanent employment;
- (ii) medical aid, pension and provident fund;
- (iii) safe working conditions in accordance with the applicable legislative requirements; and
- (iv) an employee share scheme as a shareholding entity of the right holder.

(g) **Payment of levies**

Applicants that were granted fishing rights in 2005/2006 will be required to provide proof that they are up to date on the payment of their levies on fish landed at the date of submitting their applications.

6.3. Suitable vessels

- (a) A suitable vessel in the demersal shark fishery is a vessel that:
 - (i) has a minimum South African Maritime Safety Authority (SAMSA) registered length of approximately 10 metres. Smaller vessels may be considered on the basis of their demersal shark fishing performance;
 - (ii) has a functioning vessel monitoring system at the time of applying for

a vessel licence if the application is successful;

(iii) is registered and certified by SAMSA as being suitable for fishing; and

(iv) is geared for demersal shark longline fishing.

(b) In order to verify if the vessel meets the suitable vessel criteria, applicants would need to submit photos of the vessel as well as copies of the SAMSA registration certificate.

6.4. Multi-sector involvement

Applicants in the demersal shark fishery (including their controlling shareholders and members of their executive management team) are not precluded or discouraged in applying for fishing rights in other fishing sectors.

7. Application fees

No application fees will be payable for applications in this fishery.

8. Provisional lists, representations and consultations

8.1. The delegated authority may issue provisional lists for comment on any aspect relating to an application in this fishery.

8.2. The delegated authority may request comment on any of the information provided by an applicant and on the basis of the comments received make a final decision.

8.3. The delegated authorities may invite representations regarding the assessment of the applications before making final decisions.

9. Management measures

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

9.1. Ecosystem approach to fisheries

This fishery will be managed in accordance with the ecosystem approach to fisheries ("EAF"). An ecosystem approach to fisheries management is a holistic approach that maintains or improves the health of an ecosystem and balances the diverse societal needs and values. This approach also defines the ecosystem in its broadest sense and includes ecological, social, economic and governance systems.

9.2. Performance measuring

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

9.3 Utilisation of fishing right

Successful applicants that fail to utilise their demersal shark fishing rights for one season without any reasonable explanation, will have their rights cancelled or revoked in terms of the provisions of the MLRA.

9.4 Grant-of-right fees

All successful applicants may be required to pay a grant-of-right fee. The Department will determine the applicable grant of right fee payable for each fishery after consultation with the successful applicants in each fishery. The grant-of-right fee for each fishery will be subject to the approval of the Minister and the Minister

of Finance.

10. Permit conditions

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

11. Glossary of terms

- 11.1 "MLRA" means the Marine Living Resources Act, 1998 (Act No. 18 of 1998).
- 11.2 "Rights" means fishing or harvesting rights granted in terms of section 18 of the Marine Living Resources Act, 1998 (Act No. 18 of 1998).
- 11.3 "Right holder" means a person that was granted a fishing right during the period 2005 – 2006 in a specific fishery, or became a right holder in a fishery by way of an approved transfer of a fishing right.
- 11.4 "The 2013: General Policy" means the General Policy on the Allocation and Management of Fishing Rights: 2013.
- 11.5 "The Department" means the Department of Agriculture, Forestry and Fisheries.
- 11.6 "The Minister" means the Minister of Agriculture, Forestry and Fisheries.
- 11.7 "Total applied effort" means the maximum number of fishing vessels, the type, size and engine power thereof or the fishing method applied thereby for which fishing vessel licenses or permits to fish may be issued for individual species or groups of species, or the maximum number of persons on board a fishing vessel for which fishing licences or permits may be issued to fish individual species or groups of species.