



DEPARTMENT OF AGRICULTURE, FORESTRY AND FISHERIES

**POLICY FOR THE ALLOCATION AND MANAGEMENT
OF FISHING RIGHTS IN THE HAKE HANDLINE 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 on the allocation and management of fishing rights in the hake handline fishery is issued by the Minister of Agriculture, Forestry and Fisheries ("the Minister"). This policy must be read with the General Policy on the Allocation and Management of Fishing Rights: 2013 ("the 3013: General 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 hake handline 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 hake handline fishery developed along the southern Cape coast in the late 1980s. The fishery operates in inshore waters targeting shallow water hake, *Merluccius capensis*. During the early 2000s when the markets were lucrative, the hake handline fishery operated out of small fishing harbours and slipways along the southern Cape and Eastern Cape coasts, as far north as Port Alfred.

Since 2006, the fishing activity in the hake handline fishery has decreased significantly as a result of change in distribution of the fish, collapsed international markets and increase in operational costs, emanating mainly from fuel. In addition, the fish has subsequently moved offshore, in areas which make it difficult for small boats to access because of safety reasons. The availability of the hake in the inshore areas where the hake handline boats used to operate is seasonal.

2.2. History of the fishery

In the late 1980s, traditional linefishers began targeting hake as demand for prime quality ("PQ") hake had increased on the international market, particularly in Europe. In that period the fishery was not properly regulated or managed. The lack of a regulatory framework, coupled with increased demand for PQ hake in the late 1990s resulted in a number of persons, including recreational and fishers operating in other fisheries, targeting this fishery to take advantage of the high prices and catches rates which rapidly escalated. By the year 2000, approximately 5000 tons were landed with catches peaking at an estimated 7300 tons in 2001.

In December 2000, the Minister announced an emergency measures in terms of section 16 of the MLRA 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 with the intention of protecting the dwindling linefish stocks. In that year, the Minister, for the first time, set a total applied effort ("TAE") for 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 was set aside under the global hake total allowable catch.

2.3. The Management of the hake handline fishery

The Department manages the hake handline fishery as part of the collective hake fisheries collective. A global total allowable catch ("TAC") for hake is set annually by the Minister. The split of the commercial hake directed TAC is as follows:

- (i) hake handline - 3%
- (ii) hake inshore trawl – 6%.
- (iii) hake longline – 7%
- (iv) hake deepsea trawl – 84%

Hake stocks are currently managed in terms of a recovery strategy and the TAC for hake has improved over the past 3 years (2010-2012). There are clear indications that the recovery strategy is yielding positive results.

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

In 2005, the Department allocated 95 hake handline fishing rights. The fishing rights authorised 95 vessels and 742 crew to target hake using the handline method. This was the second time that fishing rights were allocated in this fishery and the second time that the hake handline fishery was subjected to comprehensive regulations. 75% of the rights were allocated to blacks and black-owned entities and 23 % to females and female-owned entities.

4. Objectives

4.1. The objectives of allocating fishing rights in the hake handline 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 hake handline 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 natural persons and South African-owned companies, close corporations and co-operatives.

5.2. Duration of right

Fishing rights will be granted in the hake handline fishery for a 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 for Traditional linefish rights will be screened in terms of a set of "exclusionary criteria". All applicants will thereafter be separately scored in terms of a set of weighted "comparative balancing criteria". A cut-off will then be determined in order to select the successful applicants and effort will be allocated to each successful applicant.

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

(b) **Paper quotas**

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

(c) **Non-utilisation**

Applicants that failed to effectively utilise their hake handline 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) **Personal involvement in harvesting of the resource**

Applicants will be required to demonstrate that they (or a member of the close corporation, shareholder of the company or a member of the co-operative) will be involved on a full-time basis in the hake handline fishery. They will be required to actively participate in the harvesting of the resource and the business operations. Only applicants incapable of participating due to a permanent physical disability will be exempted from this requirement. Consideration will be given to female applicants who may not be personally involved in the harvesting of the resource but who are dependent on the fishery for their livelihood.

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

An applicant will be required to demonstrate a right of access to a vessel suitable for the harvesting of hake handline. 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**

Accordingly, 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 hake handline 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 hake handline fishery will be examined to determine if they have effectively utilised their fishing rights.
- (ii) Applicants that did not harvest any hake handline 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 hake handline

Preference will be given to applicants who rely on the harvesting of hake handline 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 and pension;
- (iii) safe working conditions; and
- (iv) an employee share scheme as a shareholding entity of the right holder.

(g) Payment of levies

Applicants that have been 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 hake handline fishery is a vessel that:
 - (i) is either a skiboat or traditional deck boat;
 - (ii) has a minimum registered length of 5 metres and a maximum registered length of 20 metres;
 - (iii) is certified by the South African Maritime Safety Authority (SAMSA) as being safe for hake handline fishing;
 - (iv) is geared for hake handline fishing; and
 - (v) has a functioning vessel monitoring system at the time of applying for a vessel licence if the application is successful.
- (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 hake handline fishery (including their controlling shareholders and members of their executive management team) will not be precluded from holding commercial fishing rights in other fishing sectors.

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 any fishery/sector.
- 8.2. The delegated authority may request comment on any of the information provided by an applicant and on the basis of the comments received make a final decision.
- 8.3. The delegated authorities may invite representations regarding the assessment of the applications before making final decisions.

9. 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 hake handline fishing right 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 successful applicants in this fishery and will be subject to revision 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 allowable catch" means the maximum quantity of fish of individual species or groups of species made available annually or during such other period of time as may be prescribed, for combined recreational, small-scale, commercial and foreign fishing.
- 11.8 "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.