



DEPARTMENT OF AGRICULTURE, FORESTRY AND FISHERIES

**POLICY FOR THE ALLOCATION AND MANAGEMENT OF FISHING RIGHTS IN THE
WHITE MUSSEL 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)

**This document is also available in Afrikaans, isiXhosa and isiZulu
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(In the case of any inconsistency, the English text prevails)

TABLE OF CONTENTS

1.	Introduction	1
2.	Profile of the fishery	1
3.	The 2005/2006 long-term fishing rights allocation process	2
4.	Objectives	2
5.	Granting of fishing rights	3
6.	Evaluation criteria	4
7.	Application fees	7
8.	Provisional lists, representations and consultations	8
10.	Permit conditions	9
11.	Glossary of terms	9

1. Introduction

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

The Minister intends to delegate the section 18 powers 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 evaluation and allocation of fishing rights in the white mussel 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

White mussels (*Donax serra*), which is the targeted species in this fishery, 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 white mussels 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 fishery started in the late 1960s 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 the catch per unit effort ("CPUE").

The total number of white mussels harvested per year has declined steadily since the 1980s. This has largely been as a result of the sector'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.

2.2. The management of the white mussel fishery

Harvesting of white mussels is limited to seven areas along the west coast where White mussels are particularly abundant owing to the nutrient rich Benguela Current that washes these shores.

The fishery is managed by means of limiting the number of pickers with no daily bag limits. Furthermore, effort has been split across seven white Mussel harvesting areas.

The total applied effort (TAE) for the fishery for the period 2005 and 2013 was determined at seven Right Holders and 49 pickers.

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

In 2005 rights in the fishery were granted to seven individual applicants. The right holders were limited to a maximum of seven pickers, including the right holder, to fish white mussels in their allocated harvesting areas along the West Coast. Presently, the TAE and the harvesting area restrictions are considered to be the most effective management measures for the fishery. The 2005/2006 successful right holders in the fishery comprised of 43% black males, 43% black females and 14% white females.

4. Objectives

4.1. The objectives of allocating fishing rights in the white mussel 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 white mussels as their main source of income;
- (f) facilitate the recovery of over-exploited and collapsed fish stocks;
- (g) achieve optimum utilisation and ecologically sustainable development of marine living resources; and
- (h) promote youth and female ownership and development.

5. Granting of fishing 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, whereafter 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.

5.2 Duration of rights

Fishing rights will be granted in the white mussel fishery for a period not exceeding 15 years. The duration of rights will be determined by the delegated authority taking

in to 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

In addition to 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 the payment of admission of guilt 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 white mussel fishing right 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**

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

(e) **Multi-sector involvement**

In general, it is not a policy objective to preclude or discourage the holding of rights in more than one fishery.

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 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 white mussel fishery related to gear, processing, and human capital will be taken into consideration.

(c) Fishing performance

- (i) The fishing performance of applicants holding fishing rights or exemptions between 2007 and 2012 in the white mussel fishery will be examined to determine if they have effectively utilised their fishing rights or exemptions.
- (i) Applicants that did not harvest any white mussels 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 white mussels

Preference will be given to applicants who rely on the harvesting of white mussels for a significant portion of their gross annual income above applicants deriving an 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 taken into consideration, 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; and
- (iv) an employee share scheme.

6.3. Multi-sector involvement

Applicants in the white mussel fishery will not be precluded from holding commercial fishing rights in other fishing sectors.

7. Application fees

No application fees will 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 in this before making final decisions.

9. Management measures

9.1. Ecosystems 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 white mussel 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 the successful applicants in this fishery and will be subject to revision as and when it may be necessary.

11. Glossary of terms

- 11.1. "Applicants holding fishing rights" means a natural person that has been granted a fishing or harvesting right in terms of section 18 of the MLRA during the period 2005 – 2006 in the white mussel fishery.
- 11.2. "Application period" means the period which commences with the publication of an invitation to interested parties to apply for a fishing or harvesting right in the fishery to the date on which the appeals authority finally decides on the appeals in the fishery.
- 11.3. CPUE" means catch per unit effort.
- 11.4. "MLRA" means the Marine Living Resources Act, 1998 (Act No. 18 of 1998).
- 11.5. "Rights" means fishing or harvesting rights granted in terms of section 18 of the Marine Living Resources Act, 1998 (Act No. 18 of 1998).
- 11.6. "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.

- 11.7. "The 2013: General Policy" means the General Policy on the Allocation and Management of Fishing Rights: 2013.
- 11.8. "The Department" means the Department of Agriculture, Forestry and Fisheries.
- 11.9. "The Minister" means the Minister of Agriculture, Forestry and Fisheries.
- 11.10. "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.
- 11.11. "Total applied effort" means the maximum number of fishing vessels, the type, size and engine power thereof or the fishing method applied thereby for which fishing vessel licences or permits to fish may be issued for individual species or groups of species, or the maximum number of persons on board a fishing vessel for which fishing licences or permits may be issued to fish individual species or groups of species.