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DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND TOURISM  
BRANCH MARINE AND COASTAL MANAGEMENT

POLICY FOR THE ALLOCATION AND MANAGEMENT OF  
COMMERCIAL HARVESTING RIGHTS IN THE SEAWEED SECTOR:  
2005

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

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## 1. Introduction

This is a draft policy on the allocation and management of commercial harvesting rights in the seaweed sector and is issued by the Department of Environmental Affairs and Tourism: Branch Marine and Coastal Management (“the Department”) for public comment. This policy must be read with the Draft General Policy on the Allocation and Management of Long-Term Commercial Fishing Rights: 2005 (“the General Fisheries Policy”). Interested and affected parties may submit written comment to the Department by 4 April 2005. Comments submitted after this date will not be considered. Comments shall be submitted as follows:

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

Many of the considerations in this draft policy 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.

The Department will develop a Seaweed Sector Management Manual with all right-holders during the course of 2006. This manual will stipulate in detail the management methodology and procedures for the sector.

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

## 2. Sector profile

Seaweed or kelp harvesting in South Africa is primarily directed at two species of large brown seaweeds, *Ecklonia maxima* and *Laminaria pallida*. These seaweeds are abundant in the cool, temperate waters between Cape Agulhas and Namibia. The South African coastline is, however, also home to a number of other species of seaweed. These include *Gelidium* and *Gracilaria*.

Beach-cast kelp of both species, *Ecklonia maxima* and *Laminaria pallida*, have been collected since at least 1953 in quantities that fluctuate with market demand, but reached a maximum of about 5 000 tons (dry weight) in 1977. Since then, an average of 1 312 dry weight tons have been collected with low yields between 1993 and 1995 reflecting strong international competition from Chinese alginate producers.

Beach-cast kelp is sun-dried, milled and exported mainly for the extraction of alginate. No commercial extraction occurs in South Africa due to strong international competition. Laboratory tests on South African kelps indicate alginate yields of between 22 percent and 40 percent. Recently, powdered kelp has been exported to Japan for use in formulated fish-feed. Fresh kelp has been harvested since 1979 in relatively small quantities for the production of a liquid plant-growth stimulant (Kelpak). The product contains cytokinins, that have been shown to improve the growth and quality of various food and horticultural crops. The recent growth of the abalone farming industry has created further demand for freshly harvested kelp.

Commercially viable quantities of *Gracilaria gracilis* occur in Saldanha Bay and *Gracilariopsis* occurs in St Helena Bay.

Commercially viable quantities of *Gelidium* have been harvested in the Eastern Cape since at least 1957. Four species (*G. pristoides*, *G. abbottiorum*, *G. pteridifolium* and possibly some *G. capense*) are capable of being harvested from the intertidal and shallow subtidal zones of concession areas 1, 20, 21, 22 and 23. An attempt was made to extract agar in the Eastern Cape from 1978-1982 but this proved uneconomical. The present levels and methods of exploitation have a negligible ecological effect. Exploitation levels are essentially controlled by limiting effort to only one commercial operator per concession area and yields are monitored. Furthermore, this species is difficult to fully remove by picking.

The seaweed sector is managed in terms of both a total applied effort ("TAE") and a total allowable catch ("TAC"). However, the principal management tool is effort control and the number of right-holders in each seaweed harvesting area is restricted. Essentially, each concession area is limited to one right-holder. In addition, in certain areas limitations are placed on the amounts that may be harvested.

Seaweed is harvested on a per area basis. The Department has divided the South African coastline (between Port Nolloth and Port St Johns) into 23 harvesting areas.

Very few right-holders harvest seaweed and add value to it. Currently, many right-holders harvest seaweed for feed for abalone farms. In terms of value adding, seaweed is used in specialised "*health-food*" products, fertilizers, as part of aromatherapy products and for cosmetic products.

The seaweed sector nevertheless employs over 1 700 people (313 on a permanent basis and 1 450 on a seasonal basis). Of these jobs, 92 percent are held by historically disadvantaged persons. The majority of workers are women.

The start-up costs for a new entrant may range from approximately R250 000 to R10 million. The operations are labour intensive and wage costs for the various right-holders range from R50 000 per annum to R1 783 000 per annum. Certain right-holders also invest in research and development and these investments range from R60 000 to R600 000 per annum.

### **3. The medium-term rights allocation process**

Between 2001 and 2003, the Department allocated commercial seaweed harvesting rights to 13 enterprises. One exemption in terms of section 81 of the MLRA was granted in 2003.

In 1997, the commercial seaweed sector was completely dominated by white-owned and managed enterprises. Today, six out of 14 right-holders are black-owned and managed. Accordingly, 42.8 percent of right-holders are black. Of the 14 right-holders, seven (or 50 percent) are small- and medium-sized enterprises.

Of the 23 commercial areas, seaweed in areas 2, 3, 20 and 22 are currently not exploited at all. A map of the concession areas is attached as part of **Annexure A**.

#### **4. Over-arching sectoral objectives**

The over-arching objectives of allocating long-term harvesting rights in the seaweed sector are to:

- Improve the transformation profile of the sector;
- Encourage further investment in seaweed beneficiation;
- Increase the number of participants in this sector;
- Encourage current right-holders who do not engage in seaweed beneficiation to instead join with local communities in application for seaweed harvesting rights;
- Support the economic viability of the sector; and
- Ensure the environmental sustainability of the sector.

#### **5. Duration of rights**

Having regard to –

- the transformation profile of the sector;
- the need to maintain the economic stability that currently prevails in the sector; and
- the fact that the seaweed resource is well managed in terms of reliable and current data,

the Department will allocate commercial rights for a period not exceeding 10 years (01 January 2006 to 31 December 2015). Every right-holder will, however, be tested at regular intervals against predetermined performance criteria (***see Paragraph 13 below***).

## 6. New entrants

Although a large proportion of the available concession areas are fully subscribed, a number of concession areas (areas 2, 3, 20 and 22) are not being exploited at all. In addition, many right-holders are not fully exploiting their rights. Further, certain right-holders do not harvest the resource themselves. The present transformation profile of this sector is below the fishing industry average which is approximately 66 percent.

In light of the above, the Department encourages applications from new entrants.

## 7. Evaluation criteria

Applications will be screened in terms of a set of “*exclusionary criteria*”. New entrant applicants and previous right-holder applicants will thereafter be separately assessed in terms of a set of weighted “*comparative balancing criteria*”. A cut-off score or rank will then be determined in order to select the successful applicants.

### 7.1 *Exclusionary criteria*

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

- (a) **Form of the applicant:** Applications will only be considered from entities incorporated in terms of the Close Corporations Act 69 of 1984 and the Companies Act 61 of 1973. Applications from natural persons (i.e. individuals or sole proprietors) will not be considered. Right-holders that existed in the form of trusts must incorporate themselves as either a company or a close corporation.
- (b) **Compliance:** Right-holder applicants and new entrant applicants, including the directors or controlling shareholders, that have been convicted of a serious infringement of the MLRA (without the option of the payment of a fine) will not be allocated a seaweed harvesting right. Right-holder and new entrant

applicants, including the directors or controlling shareholders, that have had any fishing right cancelled or revoked in terms of the MLRA will also not be allocated a seaweed harvesting right. Other breaches of the MLRA will adversely affect the evaluation of applications, as set out below.

- (c) **Paper quotas:** Paper quotas, as defined in the General Policy, will be excluded.
  
- (d) **Non-utilisation:** Those right-holders that failed to utilise their medium-term commercial seaweed right between 2002 and 2004 will not be re-allocated a seaweed right.

## 7.2 ***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**

Currently, 42 percent of right-holders in this sector are black-owned and managed. Further, small- and medium-sized enterprises make up 50 percent of right-holders. Although the Department recognises the impressive strides made in this sector since 1997, further improvement in the transformation profile of the sector is necessary.

The Department's objective during the process of allocating commercial rights in this sector is to improve the present levels of transformation. Accordingly, right-holder applicants will be assessed and scored on –

- The percentage black and women representation at ownership and executive management levels;
- Whether employees are shareholders 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) Investment in the sector**

Both right-holder and new entrant applicants will be evaluated by having regard to investments made in the seaweed sector.

As far as right-holder applicants are concerned, the Department will specifically consider:

- Investments in processing, marketing; and
- Investments in research and the development of marketable seaweed products.

New entrant applicants will have to show how they intend processing and marketing seaweed and whether they have invested in any research into the harvesting and marketing of seaweed.

**(c) Ecosystem impacts**

Although, the concept of by-catch is not directly applicable to this sector, right-holder applicants will be evaluated on what steps they have implemented to ensure that the surrounding environment (both fauna and flora) were not negatively affected during harvesting. In particular, the destruction of limpets is prohibited. In addition, the authorized use of vehicles in the coastal zone must have been undertaken in accordance with the conditions set out by the Minister of Environmental Affairs and Tourism.

**(d) Value-adding**

The Department will have regard to the ability of applicants to add or indicate how they will add the maximum value to seaweed for both the local and international markets.

Value adding to seaweed is considered particularly relevant as it –

- can increase the number of jobs provided by the sector; and
- the South African seaweed industry is not internationally competitive in respect of value-adding.

**(e) Local economic development**

There is potential for seaweed harvesting to occur along a substantial part of our coast. The Department will endeavour to allocate at least one seaweed right in each of the 23 concession areas.

**(f) Jobs**

The seaweed sector employs some 1 450 people. Average annual salaries are R38 500 in this sector. The majority of employees are not employed on a full time basis.

Although the Department recognises the seasonal nature of the harvesting of seaweed, the Department does encourage the provision of permanent jobs or greater levels of job security for low skilled and unskilled staff. The Department will reward those applicants who have provided their employees, or who undertake to provide their employees, with –

- Full-time employment or secure annual employment;
- Medical aid and pension;
- Any other employment benefits; and
- Safe working conditions.

The Department will also have regard to the wage differentials between the highest and lowest paid employees.

**(g) Non-payment of levies**

The Department requires every right-holder to pay a levy on the seaweed harvested. A number of right-holders have either not paid their levies or have under-reported harvests to, *inter alia*, avoid the payment of levies.

The former will be penalised in the comparative balancing process as set out below. The latter will be excluded. However, if any such applicant qualifies for a right, a permit will not be issued until the total amount of outstanding levies (plus interest) has been paid to the Department.

**(h) Reliance on seaweed**

The Department will prefer applicants who rely on seaweed harvesting for 50 percent and more of their gross annual income. Applicants or their controlling shareholders who derive any income from sources outside the fishing industry will be penalised.

**(i) Empowerment of local communities**

The Department considers the harvesting of seaweed to be an opportunity for the empowerment of the inhabitants of coastal communities, particularly those who may not be able to benefit from harvesting fish stocks such as abalone or west coast rock lobster. To this end, the Department will favourably consider applications from companies incorporated for the benefit of local communities and supported by those right-holders that have traditionally utilised their seaweed rights for non-beneficiation purposes.

**(j) Compliance**

Right-holders, including their directors or controlling shareholders, who are currently being investigated for breaches of the MLRA will not be allocated a seaweed right until the outcome of the investigation is known.

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

Right-holders who have utilised vehicles in the coastal zone without authorisation will not be allocated a seaweed right.

## **8. Concession areas and allocation**

There are currently 23 concession areas. The Department will reduce this number to 22 by consolidating areas 11 and 12 into one concession area.

The Department will continue to apply its policy of allocating one right per genus, per concession area. To date each area has been subjected to exploitation by a single right-holder. The exception has been area 11 where two right-holders shared the area, exploiting different genus of seaweed. The Department therefore encourages applicants (and in particular new entrant applicants) to not only apply for their “first choice of seaweed” but also for alternative seaweeds.

Accordingly, the Department will only allocate one seaweed right per genus, per concession area. In this way, the Department intends to accommodate multiple entities harvesting different genus of seaweed in each concession area. This approach is intended to have a positive impact on job creation and the innovative exploitation of, and value-adding to, seaweed.

## **9. Multi-sector involvement**

Right-holders in the seaweed sector are not precluded from holding rights in any of the Cluster A and Cluster B fisheries. Right-holders in the seaweed sector (including their controlling shareholders and members of their executive management team) will not be allowed to hold commercial fishing rights in the Cluster C and Cluster D fisheries.

## **10. Application fees and levies**

The application fee for the seaweed sector will be set having regard to:

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

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

## **11. Management Measures**

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

### **11.1 *Ecosystem approach to fisheries management***

This sector will be managed in accordance with the ecosystem approach to fisheries ("EAF"). An ecosystem approach to fisheries management is a holistic and integrated policy recognising that fishing and associated land-based activities impact on the broader marine environment. This part of the seaweed policy does not attempt to provide a policy statement on EAF in the seaweed sector. The EAF in the seaweed sector will be detailed further in the Seaweed Sector Management Manual. South Africa remains committed to the target date of 2010 for the implementation of an EAF in the commercial fisheries, including seaweed.

### **11.2 *Consolidation of participants***

Subsequent to the allocation of 10-year commercial rights in this sector, the Department will facilitate the consolidation of the number of right-holders active in the sector. Right-holders may consolidate their respective business operations:

- Where right-holders share the same shareholders, offices or management team; or
- Where smaller right-holders opt to consolidate their business operations.

Consolidation of right-holders is, however, subject to the Department's approach to monopolies (*see paragraph 11.4 below*).

### **11.3 Vehicle use in the coastal zone**

Many seaweed right-holders have 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](http://www.mcm-deat.gov.za) for the Regulations and Implementation Guideline).

Seaweed operators must apply to the Deputy Director-General of Marine and Coastal Management for permit to use a vehicle in the coastal zone if a vehicle is required for the harvesting of seaweed. The Department favours the employment of more harvesters over the employment of vehicles.

Application forms for vehicle use in the coastal zone will be made available along with the application forms for commercial seaweed harvesting rights. These application forms are also available from [www.mcm-deat.gov.za](http://www.mcm-deat.gov.za).

### **11.4 Monopolisation**

While the Department will encourage the consolidation of right-holders in this sector, it is opposed to monopolies which may operate to the detriment of smaller right-holders.

The Department will not at this stage determine any maximum number of areas a right-holder may exploit, but will monitor whether any right-holder acts in a manner contrary to fair competition practices.

## **12. Performance measuring**

The Department will institute a number of formal performance measuring exercises for the duration of the commercial rights. It is envisaged that the first performance measuring exercise will take place after two years and thereafter every three years.

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

- transformation;
- investment in value-adding and marketing initiatives;
- sustainable utilisation of seaweeds; and
- compliance with applicable laws and regulations.

### **13. Observer and monitoring Programme**

The Department's current observer and monitoring programmes will be expanded to include compliance observation. In addition, the Department will progressively increase the observer and monitoring coverage of this sector. Right-holders will be required to bear the costs of the observer and monitoring programmes.

### **14. Permit conditions**

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