

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)**

TABLE OF CONTENTS

1.	Introduction	3
2.	Biology and resource dynamics	4
3.	Sector profile	4
4.	The medium-term rights allocation process	5
5.	Over-arching sectoral objectives.....	6
6.	Duration of rights	6
7.	New entrants.....	6
8.	Evaluation criteria	6
8.1	Exclusionary criteria	7
8.2	Comparative balancing criteria	8
9.	Provisional lists	9
10.	Management and co-management of the KZN sardine beach-seine fishery	10
11.	Application fees	10
12.	Vehicle use in the coastal zone	10
13.	Permit conditions.....	11

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.