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DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND TOURISM  
BRANCH MARINE AND COASTAL MANAGEMENT

POLICY ON THE ALLOCATION AND MANAGEMENT OF LONG-  
TERM COMMERCIAL FISHING RIGHTS IN THE HORSE  
MACKEREL 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](http://www.mcm-deat.gov.za))**

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## 1. Introduction

This draft policy on the allocation and management of commercial fishing rights in the Horse Mackerel fishery is issued by the Department of Environmental Affairs and Tourism: Branch Marine and Coastal Management (“the Department”) for public comment. Interested and affected parties are advised that 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 must submit written comment 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 Horse Mackerel 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 Horse Mackerel Policy Comments	<b>By E-mail:</b> <a href="mailto:RVU@deloitte.co.za">RVU@deloitte.co.za</a> Attention: The Deputy Director-General Horse Mackerel Policy Comments
		<b>By Hand</b> Attention: The Deputy Director-General The Rights Verification Unit 11 Landsdown Road Claremont Horse Mackerel Trawl Policy Comments

The purpose of this policy is to set out the considerations that will apply to the allocation of long-term commercial horse mackerel 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 horse mackerel 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.

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

## **2. Biological status of the fishery**

The southern African subspecies of horse mackerel (*Trachurus trachurus capensis*) is found along the entire South African coast, but the largest concentrations of adult fish are found on the Agulhas Bank, near the continental shelf break. Juveniles occur inshore, mainly on the west coast, where they are caught by the purse-seine fishery during the first quarter of the year.

The South African horse mackerel stock is comparatively small by world standards. The status of the South African stock is still being assessed. For this reason, the horse mackerel fishery is managed in terms of a maximum precautionary catch limit (“MPCL”). The MPCL has fluctuated between 22 000 and 54 000 tons since 1990.

It is important to note that the Cape horse mackerel is highly nomadic. Local availability is variable and dependent on environmental conditions.

## **3. Profile of the Fishery**

The horse mackerel resource is harvested mainly by targeted mid-water trawling but there are substantial targeted and incidental catches in the hake-directed bottom trawl fishery. In addition, juvenile horse mackerel is taken as a by-catch in the purse-seine fishery on the west coast. While generally low, the catch of juveniles by the purse-seine fishery has on occasion been substantial and is currently subject to a strict limit of 5 000 tons per annum.

Management of the horse mackerel resource in South African waters is hampered by a lack of data, particularly the lack of a time-series of abundance indices. The most reliable current abundance index is derived from the demersal trawl surveys using bottom trawl gear. However, this index most likely underestimates the size of the resource. Consequently, the status and productivity of the resource is less well known relative to other South African resources such as hake, sardine and anchovy. The data on horse mackerel are inadequate because the primary research focus of monitoring surveys has been the assessment of established fisheries such as hake and sardine.

The horse mackerel fishery employs approximately 50 persons on board one midwater trawler. Of these 50 persons, only 16 are South African. Horse mackerel is transhipped and exported without landing or processing in South Africa. The fish are exported to West Africa, earning approximately R2.50 per kilogram. The value of the catch is worth approximately R55 million annually.

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

In 2001, medium-term rights for targeted mid-water trawling were allocated to 21 companies, of which five were new entrants. The new entrants were allocated 500 tons each and the rest of the TAC was divided among existing right-holders. The allocation considered previous allocations and scores achieved in a comparative balancing assessment.

The medium-term allocation records show that:

- 41 percent of the current participants are black owned;
- 29 percent of the current participants are black managed;
- 37 percent of the TAC is held by black owned companies.

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

The over-arching objectives of allocating long-term fishing rights in this fishery are to:

- Improve the transformation profile of the horse mackerel fishery;
- Create an environment that attracts investment and stimulates job creation;
- Support the economic viability and environmental sustainability of the fishery;
- Encourage the landing and processing of horse mackerel in South Africa.

The Department will recognise two types of horse mackerel directed effort. First, those that target horse mackerel using a mid-water trawler. These right-holders may only use a mid-water trawl net and all hake harvested will be regarded as a by-catch. The hake by-catch limitations will apply in this regard.

Those right-holders that hold a hake deep-sea trawl right in addition to a horse mackerel right may carry both a deep water and a mid-water trawl net. All hake caught in this instance will be deducted from the right-holder's hake allocation.

Right-holders will be required to specify which option they intend exercising.

## **6. Duration of rights**

Having regard to –

- the transformation profile of the fishery
- the capital intensity of the fishery;
- the need to encourage landing of horse mackerel in South Africa and increase the number of South African jobs in this fishery;
- the need to increase the economic stability and competitiveness of the fishery; and
- the fact that the horse mackerel resource requires further research,

the Department intends to allocate commercial rights for a period of 10 years (01 January 2006 to 31 December 2015 subject to a review at regular intervals against predetermined performance criteria, including whether agreed transformation goals have been achieved (**see paragraph 12 below**)).

## **7. New Entrants**

Notwithstanding that the Department considers this fishery to be optimally exploited, the poor transformation profile, coupled with the fact that horse mackerel is harvested and exported

without processing in South Africa, the Department intends allowing in new entrant applicants. New entrant applicants will only be granted rights if they –

- are significantly transformed in respect of both ownership and management;
- are not fronts for other companies;
- have immediate access to a suitable vessel(s) and to the capital required to finance a mid-water trawl operation.

## **8. Exclusionary 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 will then be determined. A proportion of the TAC will then be allocated to each successful applicant in terms of a set of “*quantum criteria*”.

### **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 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) and trusts will not be considered.
- (b) **Compliance:** Right-holders, including the directors or controlling shareholders, that have been convicted of an offence in terms of the MLRA (without the option of the payment of a fine) will not be allocated a horse mackerel fishing right. Right-holder applicants, including the directors or controlling shareholders, that have had any fishing right cancelled or revoked in terms of

the Marine Living Resources Act will also not be allocated a horse mackerel fishing right.

Right-holders, including their directors or controlling shareholders, who are currently being investigated for breaches of the MLRA whether criminal or administrative, will not be allocated a horse mackerel fishing right until the conclusion of the investigation.

The Department requires every right-holder to pay a levy on targeted fish landed. A number of right-holders have either not paid their levies or have under-reported catches 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, should such an applicant nevertheless qualify for a right, a fishing permit will not be issued until the outstanding levies (plus interest) have been paid to the Department.

- (c) **Paper quotas:** Paper quotas, as defined in the General Policy, will be excluded.
- (d) **Access to a suitable vessel:** Applicants will have to demonstrate a right of access to a suitable vessel (*see paragraph 9 below*).

## **8.2 Comparative balancing criteria**

Right-holder applicants and new entrant applicants will be evaluated in terms of the following balancing criteria, which will be weighted to assess the strength of each application:

### **(a) Transformation**

The Department's objective during the process of allocating long-term fishing rights in this fishery is to improve on the present levels of transformation. As stipulated in the General Fisheries Policy, 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 representativity of blacks and women at the various levels of employment below executive management;
- Compliance with the Employment Equity Act 55 of 1998; and
- Corporate social investment.

**(b) Investment in the fishery**

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

- Investments in vessels suitable for the harvesting of horse mackerel. In this regard, investment in the form of shareholding will be considered.
- Investments in processing and marketing infrastructure. The Department will specifically seek to reward those applicants that undertake to land and process horse mackerel in South Africa.

As far as new entrant applicants are concerned, the Department will consider what investments have been made in the form of vessels, processing and marketing infrastructure. In addition, new entrant applicants will have to demonstrate whether they have the knowledge, skill and ability to fish for horse mackerel.

**(c) Jobs**

The Department will reward those applicants that have provided their employees with –

- Full-time employment;

- Medical aid and pension;
- Any other employment benefits; and
- Safe working conditions.

In addition, right-holder applicants will be rewarded in accordance with the number of jobs created per ton of fish allocated. The Department will also have regard to the wage differentials between the highest and lowest paid employees.

**(d) Value-adding**

The Department may have regard to the ability of applicants to add or intend to add to the maximum value of horse mackerel by processing fish products for local and international markets.

**(e) Performance**

Right-holder applicants that significantly over and under-caught (more than 10 percent) will be penalised. Financial performance will be measured, as indicated in the General Policy.

**(f) Payment of fish levies**

Right-holder applicants will be penalised if their levies are outstanding for a period longer than 60 days.

**(g) By-catch**

The impact of trawling for horse mackerel on dolphins, pelagic sharks and sunfish is a concern. Applicants able to demonstrate steps taken to reduce the impact of mid-water trawling on these species will be positively scored.

The hake by-catch in the horse mackerel targeted mid-water trawl fishery is expected to be just under two percent of the horse mackerel catch. Prospective applicants will be required to demonstrate what by-catch mitigation and reduction measures they have been implementing or - if new entrant applicants - would invest in to ensure adherence with the above by-catch limitations.

**(h) Compliance**

Applicants that failed to comply with their obligations under the Skills Development Act, 97 of 1998, and the Skills Development Levies Act, 9 of 1999, and those that committed minor infringements of the MLRA (ie infringements which do not justify their exclusion) will be penalised.

**8.3 Quantum criteria**

In respect of right-holders, the Department will use as a base the 2005 allocations. To this will be added proportionately the allocations of right-holders that were excluded. A set of quantum scoring criteria will then be developed based on the –

- (a) Level of transformation:** 20 percent of the TAC will be redistributed in accordance with transformation scores achieved by each successful applicant;
- (b) Landing of Horse Mackerel in South Africa:** 20 percent of the TAC will be redistributed to those successful applicants which intend to land horse mackerel in South Africa and develop products for human consumption;
- (c) The unequal distribution of the MPCL between right-holders:** This is a further factor that will be considered. Ten percent of the MPCL will be allocated to applicants with higher than the average balancing score and less than the average quantum allocation.

New entrants will be allocated the same as the lowest allocation made to a successful right-holder applicant.

## **9. Suitable vessels**

A suitable horse mackerel fishing vessel is a vessel that is –

- Geared for mid-water trawling
- A suitable hake deep-sea trawl vessel that capable of carrying a mid-water trawl net;
- Is SAMSA certified; and
- Is fitted with a functioning vessel monitoring system.

## **10. Multi-sector involvement**

Right-holders in the horse mackerel fishery are not precluded from holding rights in any fishery in the Cluster A and Cluster B fisheries. Right-holders in the horse mackerel fishery (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.

The employment of dedicated mid-water trawl vessels for the purposes of fishing in other sectors will not be permitted except in the case where the right-holder also holds a right in the deep-sea trawl fishery, in which case the vessel may be used to activate both rights.

## **11. Landing sites**

Only the South African ports of Saldanha, Cape Town, Hout Bay, Mossel Bay and Port Elizabeth may be used to land catches.

## 12. Management measures

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

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### 12.1 *Ecosystem approach to fisheries management*

This 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. This part of the horse mackerel fishing policy does not attempt to provide a policy statement on EAF in the horse mackerel fishery. The EAF in the horse mackerel fishery will be detailed further in the Fishery Management Manual for the horse mackerel fishery. South Africa remains committed to the target date of 2010 for the implementation of an EAF in the commercial fisheries.

### 12.2 *Consolidation of participants*

After the allocation of 10-year commercial fishing rights in this fishery, the Department will facilitate the consolidation of the number of right-holders active in the fishery, particularly where:

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

### 12.3 *Maximum precautionary catch limit*

The resource will be managed using a maximum precautionary catch limit (MPCL) and gear restrictions. The MPCL will be determined annually and will be based primarily on an age-structured surplus production model that uses catch data and

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survey biomass estimates. In addition, the MPCL may be adjusted in terms of the perturbation experiment with the purpose of eliciting responses from the resource, thereby improving the information content of the data available for stock assessments. The method of annual MPCL determination may be modified during the rights period, based on available data and improved assessment procedures.

Part of the MPCL will be allocated among right-holders for targeted fishing using bottom and mid-water trawl gears, and part will be held in reserve to cover by-catch in the hake-directed demersal fishery. In addition, the pelagic purse-seine fleet will not be permitted catch more than 5 000 t of horse mackerel.

### **13. Performance measuring**

The Department will institute a number of formal performance measuring exercises for the duration of the commercial fishing 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 fishing rights, and after consulting with right-holders, the following broad performance-related criteria may be used:

- transformation;
- investment in vessels, factories and gear;
- sustainable utilisation, and in particular by-catch mitigation and reduction of the ecological impacts of trawling;
- compliance with applicable laws and regulations.

### **14. Observer programme**

The Department's current observer programme will be expanded to include compliance observation. In addition, the Department will progressively increase the observer

coverage of this fishery. Right-holders will be required to bear the costs of the observer programme.

**15. 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**. Interested and affected parties are invited to comment on these permit conditions.