

DRAFT



**DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND TOURISM
BRANCH MARINE AND COASTAL MANAGEMENT**

**POLICY FOR THE ALLOCATION AND MANAGEMENT OF
COMMERCIAL FISHING RIGHTS IN THE
DEMERSAL SHARK 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 is a draft policy on the allocation and management of commercial fishing rights in the demersal shark fishery 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 shall be submitted as follows:

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

The purpose of this policy is to set out the considerations that will apply to the allocation of long-term commercial demersal shark 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 Demersal Shark 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 demersal shark 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. Profile of the fishery

After interest in the tuna longline fishery waned in the mid 1960's, fishers turned their attention to other more lucrative stocks. Fishers used longline gear to target hake and kingklip under the guise of shark permits. When the Department reduced the by-catch limits of hake and kingklip in the shark fishery fishing effort decreased exponentially. Prior to 1998 more than 30 permits were issued to target shark, but due to poor performance in the fishery the TAE was reduced to 23 permits in 1998. The TAE was further reduced for 2004 to 11 permits due to poor performance.

The current shark longline fishery targets both pelagic sharks (blue and mako sharks) and demersal sharks (hound sharks, namely *Galeorhinus galeus* and *Mustelus mustelus*) by using either surface or bottom set gears respectively. In general the vessels targeting hound sharks are often smaller than those targeting pelagic sharks as the area of operation is restricted to coastal waters. As the gear used to target blue and mako sharks is similar to that targeting tunas and swordfish a management decision was taken to remove pelagic shark fishing from the shark longline sector and manage it as part of the large pelagic sector from the start of 2006. With effect from 01 January 2006, there will no longer be a targeted pelagic shark fishery.

Many shark permit holders hold other permits in sectors such as demersal shark, hake longline and tuna pole. Consequently, the shark fishery is generally used to keep the vessels busy when not engaged in other sectors.

Sharks are generally long-lived species that display low fecundity, slow growth rates and late maturation, which makes them particularly susceptible to overexploitation. Further, sharks are apex predators and the removal of these species could drastically alter marine ecosystems. Shark recruitment is strongly associated with adult biomass. Accordingly, the more adults in a population

the more productive the fishery.

The number of vessels active in the demersal fishery has fluctuated annually, with the number steadily increasing to 14 vessels in 1999. Only five vessels were active in 2003. As the fishery is seasonal (with highest catch rates experienced in winter) it is difficult to assess yearly CPUE, which has fluctuated widely. Prior to 2001 catches of *G. galeus* averaged 34 MT per year, but since 2001 catches have declined to below 20 MT per year, with less than 3 MT landed in 2004 (the second lowest catch on record). In 2001-2002 a stock assessment indicated that the main targeted species *Galeorhinus galeus* was optimally exploited, despite only three longliners operating in 2001 and two in 2002. This result confirms the sharks cannot sustain large fisheries.

3. Over-arching fishery objectives

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

- Substantially increase the transformation profile of this fishery;
- Permit only the targeting of demersal sharks. Pelagic sharks may not be targeted;
- Reduce the by-catches of hake and kingklip;
- Encourage value adding to demersal sharks to increase the value of fish caught; and
- Ensure the environmental sustainability of the fishery.

4. Duration of rights

Having regard to –

- the transformation profile of the fishery; and
- the present marginal state of this fishery,

the Department will allocate commercial rights for a period of eight years (01 January 2006 to 31 December 2013), subject to review at regular intervals against predetermined performance criteria, including the attainment of agreed transformation goals (*see Paragraph 11 below*).

5. New entrants

New entrant applicants will be considered to replace those right holders who have failed to give effect to their transformation plans, who have failed to perform and/or who have not complied with the provisions of the Marine Living Resources Act.

The Department does not foresee authorising more than 6 vessels to target demersal sharks.

6. Evaluation criteria

Applications will be screened in terms of a set of “*exclusionary criteria*”. New entrant applicants and right-holder applicants will then 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. A proportion of the TAE will then be allocated to each successful applicant in terms of a set of “*quantum criteria*”.

6.1 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 71 of 1973. Applications from natural persons (i.e. individuals or sole proprietors) and trusts will not be considered.

- (b) **Compliance:** Applicants, 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 demersal shark fishing right. 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 demersal shark fishing right. Other breaches of the MLRA will adversely affect the evaluation of applications, as specified below.
- (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 7 below*).
- (e) **Non-utilisation:** Right-holders that failed to utilise their medium-term commercial shark demersal fishing right between 2002 and 2004 will not be re-allocated a shark demersal fishing right.

6.2 ***Comparative 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**

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 fishery

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

- Investments in suitable vessels. In this regard, investment in the form of shareholding will be considered. Right-holder applicants will not be rewarded for having concluded purchase agreements, charter agreements or catching agreements.
- Investments in processing and marketing infrastructure. In this regard, the Department will reward right-holder applicants that have invested in demersal shark processing and marketing initiatives.

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 that they have the knowledge, skill and ability to participate in the demersal shark fishery.

(c) Performance

Right-holder applicants will be assessed by having regard to their demersal shark fishing performance over the medium-term period (2002 to 2004).

New entrant applicants will be assessed by having regard to whether they have the ability, knowledge and skills to fish for demersal shark.

(d) Reliance on demersal shark

The Department will prefer applicants who rely on demersal shark fishing for more than 30 percent of their gross annual income. Applicants or their controlling shareholders who derive any income from sources outside of the fishing industry will be penalised.

(e) Local economic development

The Department will positively score those applicants that elect to land their catches at small harbours.

(f) Jobs

The Department will reward those applicants who have provided their employees, or who undertake to provide their employees with –

- Full-time 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 fish levies

The Department requires every right-holder to pay a levy on the 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, if any such applicant qualifies for a right, a fishing permit will not be issued until the total amount of outstanding levies (plus interest) has been paid to the Department.

(h) Compliance

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 demersal shark fishing right until the conclusion of the investigation.

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

6.3 Effort allocations

The Department will allocate a maximum of six fishing rights authorising a maximum of 6 fishing vessels access to the fishery. Accordingly, each successful applicant will be entitled to use only one vessel.

7. Suitable vessels

A suitable vessel in the demersal shark fishery is a vessel that:

- has a minimum SAMSA certified length of approximately ten metres. Smaller vessels may be considered on the basis of their demersal shark fishing performance;
- has a functioning vessel monitoring system; and
- is geared for demersal shark fishing.

8. Multi-sector involvement

Right-holders in the demersal shark fishery (including their controlling shareholders and members of their executive management team) will not be precluded from holding commercial fishing rights in the Cluster A and Cluster B fisheries. Demersal shark right-holders will, however, not be permitted to hold commercial fishing rights in the Cluster C and Cluster D fisheries.

9. Application Fees and Levies

The application fee for the demersal shark fishery 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 fish 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.

10. Management measures

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

10.1 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 demersal shark fishery policy does not attempt to provide a policy statement on EAF in the demersal shark fishery. The EAF in the demersal shark fishery will be detailed further in the Demersal Shark Fishery Management Manual. South Africa remains committed to the target date of 2010 for the implementation of an EAF in the commercial fisheries.

10.2 *By-catch mitigation*

The by-catches of hake and kingklip in this sector are of concern. Current by-catch limits for these species will be retained and may be reduced further. By-catch limitations will also be introduced for blue and mako sharks to prevent the targeting of these species.

11. 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 a year, 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;
- by-catch mitigation;
- demersal shark catching performance; and
- compliance with applicable laws and regulations.

12. 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.

13. Permit conditions

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