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

**POLICY FOR THE ALLOCATION AND MANAGEMENT OF
COMMERCIAL FISHING RIGHTS IN THE HAKE LONGLINE
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)**

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1. Introduction

This is a draft policy on the allocation and management of commercial fishing rights in the hake longline fishery and 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 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:

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 hake longline fishing rights. Many of these considerations are not new. They have been applied by the Department when allocating rights in the past and to an extent this policy documents those considerations.

Certain post-rights allocation management policies are also presented in this draft policy. A Hake longline 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 hake longline commercial 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

When compared to the South African hake trawl fishery, the hake longline fishery is relatively new. Longlining started in 1982. Between 1985 and 1990 much of the long line activity was re-directed from hake to kingklip as the latter was significantly more valuable. Due to concerns about the status of hake stocks, longlining for hake was terminated in 1990. Hake longlining was reintroduced as an experimental fishery in 1994. Commercial fishing rights under the MLRA were issued in 1999 and 2000, but these allocations were set aside by the courts. Stability was achieved in 2001 with the allocation of four-year commercial hake longline fishing rights.

The hake longline fishery generates some 3 600 permanent jobs and a further 3 200 part-time jobs. Historically disadvantaged persons occupy more than 90 percent of these jobs. The average annual income for crew is R38 500.

The hake longline fishery is not a highly capital intensive fishery. The longline industry lands prime quality hake for export to Europe and the value of prime quality hake is approximately 50 percent higher than trawled hake. The total value of fish landed in the hake longline fishery is estimated to be worth more than R130 million per annum. The market value of vessels operating in the fishery is estimated to be about R750 million.

The Department manages the hake longline fishery as part of a “*hake*” collective. In terms of the MLRA, a “*global*” total allowable catch (“*TAC*”) for hake is set annually by the Minister of Environmental Affairs and Tourism. The hake longline and handline fisheries share 10 percent of the global TAC. The hake deep sea trawl fishery is allocated 83 percent of the TAC and the balance is fished by the hake inshore trawl fishery. Until 2004, 1 000 tons was set aside for foreign fishing. This allocation will be discontinued.

Hake longline fishing takes place along the west and south east coasts. The fishery operates out of harbours from Port Nolloth to Port Elizabeth. The fishery operates in offshore and inshore waters. Inshore hake longlining is restricted to the use of no more than 4 000 hooks per line. Offshore longlining may only take place in depths greater than 110 metres and is restricted

to the use of no more than 20 000 hooks per line. Vessels and operating costs differ between inshore and offshore operations.

Hake stocks are currently managed according to a conservative strategy. The TAC for hake has been reduced each year since 2003 and further reductions may be necessary.

3. The medium-term rights allocation process

The hake longline fishery was identified in 2001 as a fishery that was ideally suited for the empowerment of small and medium enterprises and historically disadvantaged fishers. In 2001 and 2002, the Department allocated 207 commercial hake longline rights for a four year period. Historically disadvantaged persons now control 90 percent of the TAC and 80 percent of right-holders are small- and medium-sized enterprises. The Department's objectives with regard to the empowerment of historically disadvantaged persons and small- and medium-sized enterprises were achieved in this allocation process.

4. Over-arching sectoral objectives

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

- Maintain or improve the transformation profile of this fishery;
- Encourage further investment in vessels, infrastructure and jobs, particularly by historically disadvantaged persons;
- Reduce by-catch and eliminate bird strikes;
- Facilitate further research into the impact of longlining on hake stocks;
- Continue to affirm applicants whose registered place of business is in the Eastern Cape; and
- Support the economic viability and environmental sustainability of the fishery.

5. Duration of rights

Having regard to –

- the transformation profile of the fishery;
- the number of full time jobs provided (and to further encourage the conversion of part-time employment into permanent jobs);
- the need to maintain the economic stability that currently prevails in the fishery; and
- the fact that the hake resource is well managed with reliable and current data,

the Department will allocate commercial rights for a period of 15 years (01 January 2006 to 31 December 2020). Every right-holder will, however, be tested at regular intervals against predetermined performance criteria (**see Paragraph 13 below**).

6. New entrants

South Africa's hake stocks are presently managed in terms of a conservative management plan as there are concerns that the current level of fishing effort may not be sustainable in light of decreasing catch rates and increasing catch efficiency. In the longline fishery, the accommodation of large numbers of new entrants has also resulted in much uncertainty and a lack of substantial investment in infrastructure and human resources.

The Department intends to reduce the number of right-holders and vessels from the current 207 right-holders and 104 vessels. The level of transformation in the fishery is satisfactory and a large number of SMEs operate in the fishery. New entrant applicants will therefore only be selected over poorly performing right-holders.

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

7.1 *Exclusionary criteria*

In addition to the exclusionary criteria stated in the General Fisheries Policy relating to improper lodgements and material defects, the following exclusionary criteria will be applied to both right-holder applicants and new entrant applicants:

- (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 (ie. 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 (and sentenced to imprisonment without the option of the payment of a fine) will not be allocated a hake longline 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 hake longline fishing right. Other breaches of the MLRA will adversely affect the evaluation of applications, as specified below.
- (c) **Paper quotas:** A paper quota 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 8 below*).
- (e) **Non – utilisation:** Those right-holders that have failed to utilise their medium-term commercial hake longline right between 2002 and 2004 will not be re-allocated a 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, 89 percent of right-holders in this fishery are black owned and managed. These right-holders collectively control 90 percent of the TAC. Further, small and medium sized enterprises make up 80 percent of right-holders.

The Department's objective during the process of allocating long-term fishing rights in this fishery is to maintain or improve on the present levels of transformation. Accordingly, 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

Applicants will be evaluated having regard to investments made in the hake longline 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 marketing infrastructure. The Department will reward right-holder applicants that have invested in hake marketing initiatives.

New entrant applicants will have to show whether they have invested in a vessel and in what form. New entrant applicants must also show whether they have invested in any marketing initiatives or whether they have access to marketing facilities.

(c) Fishing performance

Right-holder applicants will be assessed by having regard to their hake longline fishing performance and record during the medium-term rights allocation period.

New entrant applicants will be assessed by having regard to whether they have the ability, knowledge and skills to fish for hake using the longline method.

(d) By-Catch and Dumping

The amount of by-catch, particularly of kingklip (*Genypterus capensis*), harvested by participants in the hake longline fishery remains of concern to the Department. Measures to limit the catches of the high value by-catch species

such as kingklip are necessary because it is inevitable that such species will be subjected to some degree of targeting. Present catch rates indicate that catches of Kingklip are above sustainable levels, and that kingklip abundance on the South Coast is particularly low.

The Department has therefore determined the maximum annual by-catch allowance for kingklip to be 3 000 tons. This by-catch allowance shall apply to the hake fishery as a whole. Right-holder applicants will be required to demonstrate what by-catch mitigation and reduction measures they have been implementing, or would invest in, to ensure adherence with the above by-catch limitation.

The dumping of fish is prohibited and right-holders that are found to be dumping fish may not have a right allocated or if allocated a right, the right may be revoked in terms of section 28 of the MLRA.

(e) Local economic development

Investment in a number of South Africa's smaller coastal towns is required. The Department will accordingly prefer those applicants, particularly smaller right-holder applicants that elect to land their catches and have them processed in centres outside of the large metropolitan areas of Port Elizabeth and Cape Town. Larger hake longline right-holders that have invested in facilities in Cape Town and Port Elizabeth will not be penalised.

The Department will favourably consider those right-holder applicants that undertake to invest in and land their catches at smaller fishing harbours, particularly, Port Nolloth and Mossel Bay.

(f) Jobs

The hake longline fishery provides an estimated of 6 800 jobs. On average, sea-going employees ear approximately R38 500 per year. Generally speaking, fair labour practices prevail in this sector.

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

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

In the case of existing right-holders, jobs created per ton of fish allocated during the medium-term rights allocation process will be assessed and taken into account. The Department will also have regard to the wage differentials between the highest and lowest paid employees.

(g) Reliance on hake longlining

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

(h) 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 (non-payment of levies owed to the Department) will be penalised in the comparative balancing process as set out below. The latter will be excluded. However, should right-holder applicants still qualify for a right, a fishing permit will not be issued until the total amount of levies payable (plus interest) has been paid to the Department.

(i) Compliance

Right-holders, including their directors or controlling shareholders, who are being investigated for breaches of the MLRA will not be allocated a hake longline fishing 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 result in the applicant being negatively scored.

7.3 Quantum criteria

As far as right-holder applicants are concerned, the Department will use as a basis the quantum allocated to right-holders during the 2005 season, and proportionately add to this amount the allocations of unsuccessful right-holder applicants and the allocations of those right-holders that did not apply. The following quantum pools will be applied:

- **Vessel owners:** Ten percent of the hake longline TAC will be set aside for affirming those small- and medium-sized enterprises that invested (100 percent) in their own hake longline fishing vessels prior to 30 January 2005; and
- Forty percent of the TAC will be re-distributed on the basis of **scores attained**, including transformation.

Successful new entrant applicants will be allocated a base quantum equivalent to that allocated to the lowest quantum allocated to successful right-holder applicants.

8. Suitable vessels

A suitable vessel in the hake longline fishery is a vessel that:

- has a maximum SAMSA certified length of approximately 30 metres for offshore hake longliners and 15 metres for inshore hake longliners;
- has a functioning vessel monitoring system;
- has an approved streamer line (tori line) which must be flown during the setting of each longline. The streamer must be deployed directly above the main line, provided that where two streamers are used, each streamer must be deployed on either side of the main line; and

- is modified in a way that ensures offal is dumped on the opposite side from where lines are hauled.

9. Multi-sector involvement

Right-holders in the hake longline fishery are not precluded from holding rights in any fishery in the Cluster A and Cluster B fisheries. Right-holders in the hake longline 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.

10. Application fees and levies

The application fee for the hake longline 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 provide a benchmark ; 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.

11. Management measures

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

11.1 Ecosystem approach to fisheries management

The 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 recognising that fishing and various land-based activities impact on the broader marine environment. This part of the hake longline fishing policy does not attempt to

provide a policy statement on EAF in the hake fisheries. The EAF in the hake fisheries will be detailed further in the Fishery Management Manual for the hake longline fishery. South Africa remains committed to the target date of 2010 for the implementation of an EAF in the commercial fisheries, including hake.

11.2 Fisheries management areas

The hake longline fishery targets two species of hake along a substantial part of the coastline. Currently, an offshore and inshore component is permitted to operate on the southern coast. The expansive area in which they operate, coupled with a significant decline in the catch per unit effort, has resulted in hake longliners increasingly sharing fishing grounds with hake trawlers. The sharing of fishing grounds is problematic.

Section 15 of the MLRA makes provision for the declaration of fisheries management areas. The Department will consider declaring fisheries management areas in an attempt to manage the pressures being placed on hake and kingklip stocks and to reduce user conflict between longliners and trawlers.

11.3 Consolidation of participants

Subsequent to the allocation of the 15 year commercial fishing rights in this fishery, the Department will facilitate the consolidation of the number of right-holders active in the fishery. Right-holders may want to 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 11.5 below*).

11.4 Vessels and fishing effort

There are presently 104 hake longline fishing vessels that operate in South African waters. As many right-holders do not own the vessels they use, the Department

anticipates that many right-holders will seek to introduce further vessels after the allocation long-term fishing rights. The fishing stock is already subjected to unsustainable effort levels. The Department will therefore carefully evaluate the cumulative effect of the introduction of further and new vessels into the fleet. Right-holders will not be permitted to introduce vessels capable of expending effort far in excess of their allocations. In addition, the Department will consult the Fishery Industrial Body on all applications to introduce further or new vessels into the fishery.

11.5 *Monopolisation*

While the Department will encourage the consolidation of right-holders in this fishery, the Department is opposed to monopolies which may operate to the detriment of smaller right-holders. The Department will not at this stage determine a maximum threshold of the TAC that any one right-holder may hold or control but will monitor whether any larger right-holder acts in a manner contrary to fair competition practices.

11.6 *TAC Ratios – trawl:longline*

The current TAC ratio of trawl:longline will be maintained. The ratio, however, will be reviewed once further data becomes available on the relative impacts of trawling and longlining.

12. Performance Measuring

The Department will undertake formal performance measuring exercises for the duration of the commercial fishing rights. It is envisaged that the first set of performance measuring exercises will take place two years after the allocation of rights, and thereafter every four years.

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

- transformation;
- investment in vessels and gear;

- sustainable utilisation, and in particular by-catch mitigation and reduction and the biological and ecological impacts of longlining;
- compliance with applicable laws and regulations.

13. 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.

14. 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.