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12 June 2015

**DRAFT POLICY ON THE ALLOCATION AND MANAGEMENT OF FISHING RIGHTS IN THE NETFISH
FISHERY: 2015**

**THIS POLICY MUST BE READ WITH THE GENERAL POLICY ON THE ALLOCATION AND
MANAGEMENT OF FISHING RIGHTS: 2013
(available at www.daff.gov.za)**

**This document is also available in Afrikaans, isiXhosa and isiZulu
Hierdie dokument is ook in Afrikaans, isiXhosa, en isiZulu beskikbaar
Lencwadi iyafumeneka nangolwimi lwesiBhulu, lwesiXhosa nolwesiZulu
Lencwadi iyatholakala nangolwimi lwesiBhunu, lwesiXhosa nolwesiZulu**

(In case of any inconsistency, the English text prevails)

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1. Introduction

This policy on the allocation and management of fishing rights in the Netfish fishery is issued by the Minister of Agriculture, Forestry and Fisheries (“the Department”) (“the Minister”) and shall be referred to as the “**2015: Netfish Fishery Policy**”. This policy must be read in conjunction with the General Policy on the Allocation and Management of Fishing Rights: 2013 (“the 2013: General Policy”) and all other current sector specific Policies including Policy for the Small Scale Fisheries Sector in South Africa and the Policy for the Transfer of Commercial Fishing Rights.

This policy sets out the objectives criteria and considerations that will guide the allocation and management of fishing rights in the Netfish fishery (“the fishery”). This policy will guide the Delegated Authority in taking decisions on applications in this fishery.

2. Profile of the fishery

2.1. Brief description of the fishery

The Netfish fishery comprises of two distinct fisheries differing in the methods employed during fishing operations. These fisheries are the gillnet fishery and the beach seine (treknet) fishery operating relatively in the open sea and the beach respectively. Although there are some other species targeted, the main target species is *Liza richardsonii* commonly known as harders (mulletts). Other target species include St Joseph sharks in the west coast and some linefish species in the Falsebay area. The gillnet fishery is restricted from Port Nolloth to Yzerfontein whereas the beach-seine fishery is stretched up to Gordon's Bay. As part of the management strategy the fishery is subdivided into areas with discrete effort and species restrictions. The number of nets permitted, the number of operators per area, the fish size limit, the target fish species and the time of fishing are common effort restrictions in the fishery.

The gillnet fishery commonly employs motor driven vessels operating in open sea with some operators fishing in bays and lagoons (in this case Langebaan Lagoon) notwithstanding fishing in the Bergriver estuary by a limited number of traditional fishermen (see figure 1). Gillnet fishing in estuaries is detrimental to the resource as it results in increased juvenile mortality as a result of fishing. The beach seine fishery is restricted to non-motorised vessels (row boats) (see fig 2) which are mainly used to deploy the nets when fish has been spotted. Blind tows are discouraged in the beach seine fishery as they usually result in non-target fish catches.

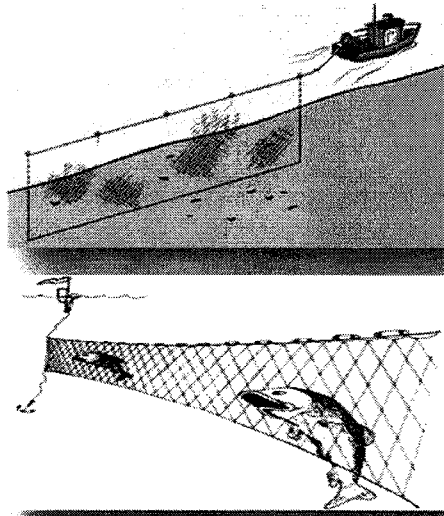


Figure 1: Illustration of a gillnet operation

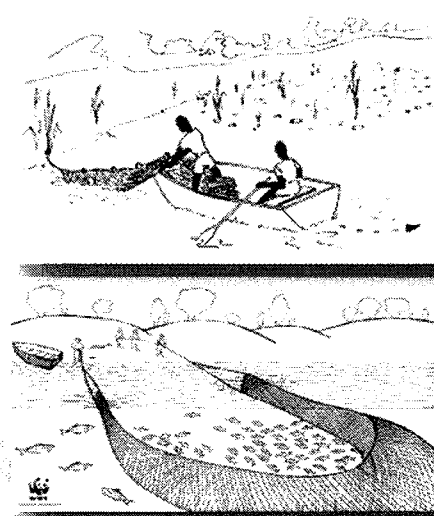


Figure 2 : Illustration of a beach seine operation

The resource is currently deemed over exploited but due to limited stock assessment information it is challenging to predict the current levels.

2.2. Current resource users

There are currently 120 right holders in the fishery operation from Port Nolloth to the west of Cape Hangklip. The area Draaihoek to Cape Colombine, including Paternoster has the most operators in the sector with a total of 80 gillnets and four (4) beach seine. The global commercial TAE is summarised below and detailed TAE distribution appears in Table 2.

Table 1. Number of Netfish operators (RHs/EHs) by region (2015 TAE)

Net Type	Area	Target species	RH/EH
Beach seine/trek	Western Cape (WC)	Harders and or yellowtail	28
Gill/Drift net	Western Cape (WC)	Harders, St Joseph shark	117
Total			145

Table 2. Recommended TAE (number of Right Holders/Exemption Holders) for each Netfish area. (shaded: areas where effort is not fully allocated/not allocated and interim relief).

Area Name	Locality	Beach- Seine	Gill/ Drift	Total	Rights/ Exemptions	Interim Relief
A	Port Nolloth	3	4	7	4	0
B	Hondeklipbaai	0	2	2	0	0
C	Doringbaai - Wadrioutsoutpansmond	2	8	10	4	0
D	Wadrioutsoutpansmond - Elandsbaai - Draaihoek	3	6	9	6	0
E	Draaihoek, (Rocheban) -Cape Columbine, including Paternoster	4	80	84	84	0
F	Saldahna	1	5	6	5	0
G	Langebaan Lagoon	0	10	10	10	3
H	Yzerfontein	2	2	4	1	0
I	Bokpunt (Melkbos) – Milnerton	3	0	3	1	0
J	Houtbay beach	2	0	2	0	0
K	Longbeach - Scarborough	3	0	3	1	0
L	Smitswinkel Bay, Simonstown, Fishoek	2	0	2	2	1
M	Muizenberg - Strandfontein	2	0	2	2	0
N	Strandfontien - Monwabisi	0	0	0	0	0
O	Macassar	1	0	1	1	0
OE	Olifants River Estuary (exemptions).	0	45	45	45	0
BE	Berg River Estuary	0	0	0	0	0
KZN	KwaZulu Natal (Sardine)	35	0	35	24	0
SEC	South East Coast (Struisbaai)	0	0	0	0	1
	TOTAL	63	162	225	190	5

3. The 2005/2006 long- term fishing rights allocation process

In the 2005/2006 long-term fishing rights allocation process rights were allocated to a total of 120 operators, 50% of which was white and 97% were males.

4. Objectives

4.1. The objectives of allocating fishing rights in the Netfish fishery are to:

- (a) promote transformation through allocation of fishing rights to historically disadvantaged persons which shall include designated groups (youth, women and people with disabilities), broaden meaningful participation (increase participation, value-creation, and linkage);

- (b) ensure sustainable livelihoods through the promotion of fair employment;
- (c) promote adherence to fair labour practices and improved working conditions;
- (d) promote food security and poverty alleviation;
- (e) prefer applicants who rely on the harvesting of Netfish for a significant portion of their gross annual income above applicants deriving income from sources outside the Netfish fishery
- (f) facilitate the recovery of over-exploited and collapsed fish stocks; and
- (g) achieve optimum utilisation and ecologically sustainable development of marine living resources.

5. Granting of rights

Fishing rights are granted in terms of section 18 of the Marine Living Resources Act, 1998 (Act No. 18 of 1998) ("MLRA"). Unless otherwise determined by the Minister only South African persons shall acquire or hold rights in terms of section 18 of MLRA. All rights granted shall be valid from the date of allocation for a period not exceeding 15 years, where after it shall automatically terminate and revert back to the State to be reallocated in terms of this policy. In terms of section 14 of the MLRA the Minister shall determine commercial Total Allowable Catch (TAC), Total Applied Effort or combination thereof. It shall be further noted that in terms of section 16 of the MLRA the Minister may suspend any fishing in the fishery or impose effort restriction in order to address a state of emergency.

5.1. Form of right holder

- (a) Section 18 of the MLRA provides that only South African persons may hold fishing rights.
- (b) Having regard to the nature of operations and resource accessibility, only the following South African persons will be considered in the Netfish Fishery:
 - (i) South African natural persons (individual).

5.2. Duration of right

Having regard to the right allocation process and need to encourage investment the Netfish Fishery, Fishing rights will be granted in the Netfish fishery for the maximum period of 15 years .

5.3 Total Applied Effort allocation

Considering the history, current resource users, the sustainable operations and the viability of the fishery the Delegated Authority will only allocate rights to a maximum of 120 applicants.

5.4 Transfer of Rights Allocated in terms of this Policy

In terms of section 21 of the MLRA the Minister may approve the transfer of fishing rights in whole or in part. However Netfish rights in terms of this Policy shall not be transferred within the first two

(2) years of allocation except in the case of death, disability or medical reasons occurring after the right has been allocated. In addition, failure to activate or apply for any permits, declare any catches during the first two (2) years shall result in an automatic cancellation of the right by Minister.

Rights can only be transferred in terms of the Policy for the Transfer of Commercial Fishing Rights (Government Gazette No 32449, 31 July 2009) or relevant amendments thereof.

6. Multi-sector involvement

Applicants in the Netfish fishery will not be precluded from holding commercial fishing rights in other local commercial fishing sectors. This shall mean any person can apply for right in any fishery sector regardless the applicant has applied for a right or holds a right in any fishery sector. However the Delegated Authority reserves the right to grant a right to an applicant in any sector.

7. Evaluation criteria

Applications for Netfish rights will be screened in terms of a set of "exclusionary criteria". All applicants will thereafter be separately scored in terms of a set of weighted "comparative balancing criteria". A cut-off will then be determined in order to select the successful applicants and effort will be allocated to each successful applicant.

7.1. Exclusionary criteria

Apart from the criteria described in the 2013: General Policy pertaining to the lodgement of applications and material defects, the Delegated Authority will exclude applicants that fail to meet the following requirements:

(a) Compliance

Applicants that have been convicted of a serious offence of the MLRA (without the option of the payment of a fine) will be excluded. Applicants that have had any fishing right cancelled or revoked in terms of the MLRA will also be excluded. Minor infringements of the MLRA, including payment of admission of guilty fines, may be taken into account as a balancing criterion and may also adversely affect an application.

(b) Paper Quotas

Applications from paper quota applicants, as defined in the 2013: General Policy, will be excluded.

(c) Non-utilisation

Applicants that had a Netfish right and did not harvest any Netfish during the period of 2006 to 2014 shall be excluded.

(d) Personal involvement in harvesting of the resource

Applicants will be required to demonstrate that they will be personally involved in the fishery. They will be required to actively participate in the harvesting of the resource and the business operations. Only applicants incapable of participating due to a permanent physical disability will be exempted from this requirement. Consideration will be given to female applicants who may not be personally involved in the harvesting of the resource but who are dependent on the fishery for their livelihood.

7.2. **Balancing criteria**

Applicants will be evaluated in terms of the following balancing criteria which will be weighted in order to evaluate and assess applications:

a) **Transformation**

The South African population percentage composition of demographic groups (79.6% Black, 9% Coloured, 8.9% White, and 2.5% Asian) may amongst other transformation criteria be used to prefer applicants from others when allocation of fishing rights and Rights Holder's apportionment of the Total Allowable Catch (TAC) and/or Total Applied Effort (TAE) is being considered.

Applicants will be assessed and scored on:

- (i) The percentage of people from designated groups and Historically Disadvantaged Individuals (HDIs) representation at top salary, board of directors, members and senior official and management levels;
- (ii) Compliance with the Employment Equity Act 55 of 1998 and the representativity of designated groups and Historically Disadvantaged Individuals (HDIs) at the various levels of employment below senior official and management level;
- (iii) Affirmative procurement;
- (iv) Compliance with legislation on skills development and the amounts spent on the training of Black persons and youth and participation in learnership programmes; and
- (v) Corporate social investment.

(b) **Fishing performance**

The fishing performance of applicants holding fishing rights in the Netfish fishery will be examined to determine if they have effectively utilised their fishing rights. Effective utilisation shall mean activation of the catch permit, landing of catch and subsequent submission of catch data for at least five years during the period 2007-2014.

(c) **Local economic development**

- (i) The Delegated Authority will take into consideration the landing and processing of catches outside the metropolitan areas to promote local economic development.

- (ii) The Delegated Authority shall, in order to ensure that all fishing communities share in the marine living resources, use locality of landing sites and fish processing establishments as scoring or tie-breaking criteria.
- (d) **Job creation**

Job creation and increases in jobs as a result of the allocation of long-term fishing rights will be rewarded and in particular, compliance with the Basic Conditions of Employment Act, 1997 (No. 75 of 1997) (BCEA), such as providing their employees with:

 - (i) permanent employment;
 - (ii) medical aid and pension / provident fund; and
 - (iii) safe working conditions in accordance with the applicable legislative requirements;
- (e) **Access to a suitable vessel**

An applicant will be required to demonstrate a right of access to a vessel suitable for the harvesting of traditional linefish. Access may be in the form of ownership, part-ownership, catch agreement, charter agreement, or bank guarantee in the case of a purchase of a vessel or to build a vessel. If an applicant intends purchasing a vessel then additional proof of a purchase agreement must be provided. If in the case of a new build vessel then the vessel plans and cost from the vessel building company must be provided.
- (f) **Applicants involvements and relationship with other applicants**
 - (i) **Same household involvement**

A household which shall include individuals who are married or that is co-habiting, their parents and their children may not be granted more than one right so as to avoid fronting and monopolies and to broaden access to the netfish resource. Applicants may be required to disclose their relationship to applicants in Beach Seine/treknet and gillnet fishery as well as in other commercial fisheries. If more than one member of a household applies for a right, the main head of the family will be preferred.

7.3. Suitable vessels/nets

- (a) A suitable vessel in the Netfish fishery is a vessel that:
 - (i) is either a skiboat or traditional rowboat; and
 - (ii) is certified by South African Maritime Safety Authority ("SAMSA") as being safe for Netfishing.
 - (iii) Upon allocation of fishing right such a vessel shall be fitted with a functional Vessel Monitoring System ("VMS") except for vessels under 5 meters in length.

8. Provisional lists, representations and consultations

- 8.1. The Delegated Authority may issue provisional lists for comment on any aspect relating to an application in any fishery sector.
- 8.2. The Delegated Authority may request comment on any of the information provided by an applicant and on the basis of the comments received make a final decision.
- 8.3. The Delegated Authority may invite representations regarding the assessment of the applications before making final decisions.

9. Announcement of decisions

The Delegated Authority shall after making a final decision on the applications inform all applicants of the outcome of their individual applications giving specific reasons for such decision. Further General Reasons for decisions in a specific fishery sector will be published informing all applicants on how the decisions were formulated and reached. The General Reasons shall also include an annexure referred to as decision sheet outlining all applicant scores in the Netfish sector.

10. Payment of application and grant of right fees

- 10.1 The fees for this fishery will be determined having regard to:
 - (a) The cost of the entire fishing rights allocation process, including consultation, receipting, evaluation of applications, verification, appeals and reviews; and
 - (b) The value of the fish being allocated over the duration of the right;
- 10.2 The non-refundable application fee shall be payable before submitting the application form and only proof of payment shall be brought to the receipting centre.
- 10.3 The grant of right fee is payable by all successful applicants upon the granting of rights.

11. Management measures

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

11.1. Ecosystem approach to fisheries

This fishery will be managed in accordance with the ecosystem approach to fisheries ("EAF"). An ecosystem approach to fisheries management is a holistic approach that maintains or improves the health of an ecosystem and balances the diverse societal needs and values. This approach also defines the ecosystem in its broadest sense and includes ecological, social, economic and governance systems.

11.2. Observer Programme

- (a) The right holder of a commercial Netfish fishing right shall accommodate an observer on board the right holder`s nominated vessel when required to do so by the department or its agent.
- (b) The right holder may bear the costs of the observer deployment when required by the Department.
- (c) The right holder shall allow the Observer unrestricted access to monitor fishing activity and compliance with permit conditions and all applicable laws.
- (d) Should the Department reasonably believe that an Observer is being prevented from carrying out his or her obligations in any way or threatened in any way while on board, the Department may implement proceeding under section 28 of the MLRA.

11.3. Performance measuring

Successful applicants will be subjected to performance measuring for the duration of the fishing rights. The purpose of performance measuring will be to ensure that the objectives of the fishery are being met and that management methodologies and procedures remain current and suitable for the fishery.

11.4. Offences

Successful applicants that fail to utilise their Netfish fishing right for one season without any reasonable explanation or that contravenes the provisions of the MLRA will be subjected to proceedings of section 28 of the MLRA

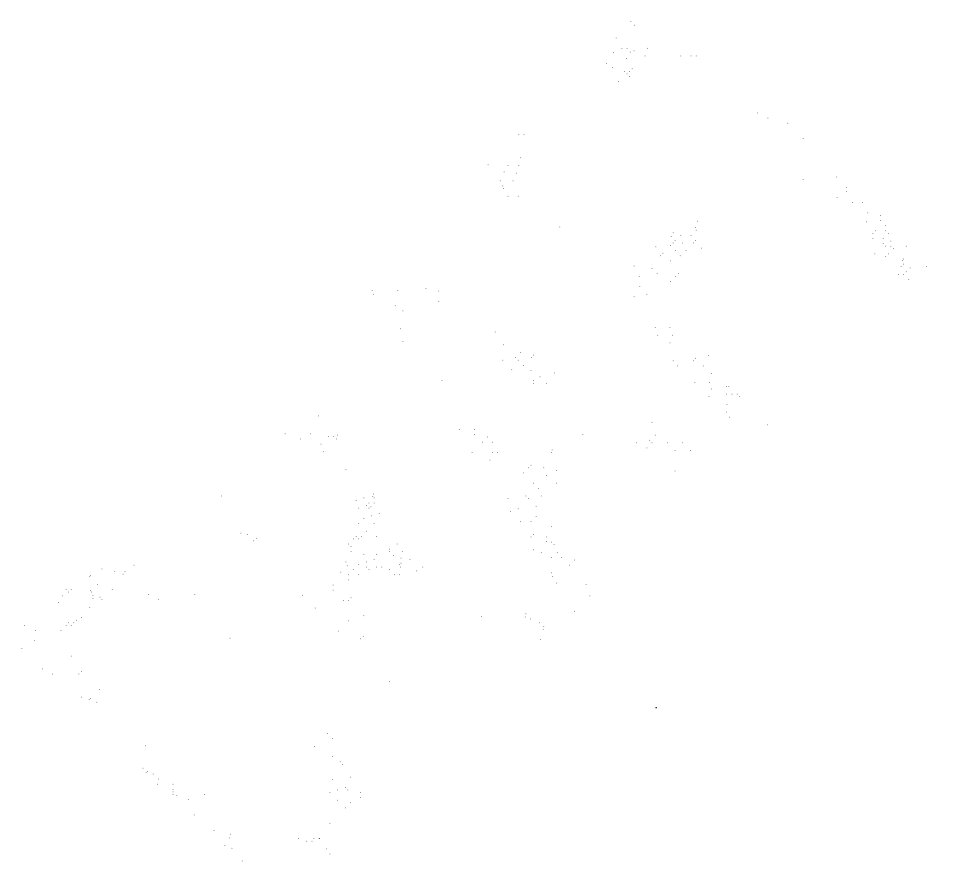
12. Permit conditions

Permit conditions for this fishery will be issued annually. The permit conditions will be determined after consultation with the successful applicants in this fishery and will be revised as and when it may be necessary.

13. Glossary of terms

- 13.1. "Application period" means the period commencing with the publication of the invitation to apply for a fishing or harvesting right in the sector to the date on which the appellate authority finally decides the appeals in the sector.
- 13.2. "MLRA" means the Marine Living Resources Act, 1998 (Act No. 18 of 1998), which is the Act "To provide for the conservation of the marine ecosystem, the long-term sustainable utilisation of marine living resources and the orderly access to exploitation, utilisation and protection of certain marine living resources; and for these purposes to provide for the exercise of control over marine living resources in a fair and equitable manner to the benefit of all the citizens of South Africa"
- 13.3. "Race, gender and disability" refers to the race, gender and disability as defined in the Employment Equity Act 55 of 1998.
- 13.4. "Rights" means fishing or harvesting rights granted in terms of section 18 of the Marine Living Resources Act, 1998 (Act No. 18 of 1998).
- 13.5. "Right Holder" means a person that was granted a fishing right during the period 2005 – 2006 in a specific fishery, or became a right holder in a fishery by way of an approved transfer of a fishing right.
- 13.6. "The 2013: General Policy" means the General Policy on the Allocation and Management of Fishing Rights: 2013.
- 13.7. "the Department" means the Department of Agriculture, Forestry and Fisheries.
- 13.8. "The Minister" means the Minister of Agriculture, Forestry and Fisheries.
- 13.9. "Total allowable catch" means the maximum quantity of fish of individual species or groups of species made available annually or during such other period of time as may be prescribed, for combined recreational, small-scale, commercial and foreign fishing.
- 13.10. "Total applied effort" means the maximum number of fishing vessels, the type, size and engine power thereof or the fishing method applied thereby for which fishing vessel licences or permits

to fish may be issued for individual species or groups of species, or the maximum number of persons on board a fishing vessel for which fishing licences or permits may be issued to fish individual species or groups of species.



IMPORTANT

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