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## GENERAL NOTICE

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### NOTICE 425 OF 2006

DRAFT FOR PUBLIC COMMENT

#### **DRAFT WHITE SHARK CAGE DIVING POLICY AND REGULATIONS**

DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND TOURISM

MARINE LIVING RESOURCES ACT, 1998 (ACT NO. 18 OF 1998)

#### **PUBLICATION OF POLICY AND REGULATIONS IN TERMS OF SECTION 77(2)(y) OF THE MARINE LIVING RESOURCES ACT, 18 OF 1998:**

I, Marthinus van Schalkwyk, the Minister of Environmental Affairs and Tourism, hereby publish for notice and comment, the draft policy on the Allocation of White Shark Cage Diving Permits and the Management of the White Shark Cage Diving Industry, together with draft regulations aimed at regulating the white shark cage diving industry in terms of section 77(2)(y) of the Marine Living Resources Act, 18 of 1998 ('the Act').

Interested and affected parties may submit written comment to Mrs J du Toit at the Department of Environmental Affairs and Tourism: Branch Marine and Coastal Management ('the Department'), Private Bag X2, Roggebaai, 8012. Written comments may be posted by registered mail to above address or emailed to [jdutoit@deat.gov.za](mailto:jdutoit@deat.gov.za). All written comments must be received by the Department by no later than 16h00 on Friday 21 April 2006. Comments received after this time may not be considered.

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

**DRAFT POLICY AND REGULATIONS FOR THE ALLOCATION OF PERMITS AND  
MANAGEMENT OF THE WHITE SHARK CAGE DMMG INDUSTRY**

This Draft Policy is also available at [www.deat.gov.za](http://www.deat.gov.za)

**March 2006**

## DRAFT FOR PUBLIC COMMENT

## Table of Contents

1	Introduction.....	4
2.	White Shark Cage Diving and Boat-based white shark viewing.....	4
3.	What informs this policy?.....	5
4.	Why regulate White Shark Cage Diving? .....	5
5.	Overview of this Sector .....	6
6.	Overall Sectoral Objectives.....	6
7.	Duration of Permits.....	6
8.	Available Permits and Areas of Operation.....	7
9.	Who can apply .....	7
10.	Suitable Vessels .....	7
11.	Criteria for the Evaluation of WSCD Applications.....	7
11.1	Exclusionary Criteria.....	7
11.2	Balancing Criteria .....	9
	(a) Transformation.....	9
	(b) Investment in the Sector .....	9
	(c) Local Economic Development.....	9
	(d) Jobs.....	9
	(e) Reliance on White Shark Cage Diving.....	10
	(f) Non-payment of Fees.....	10
	(g) Operational Plan.....	10
	(h) Compliance.....	10
12	Management Measures.....	10
12.1	Management Plan.....	10
12.2	Vessels.....	10
12.3	Consultation.....	11
13.	Ongoing applications for Permits.....	11
14.	Permits for Film Shoots, Advertisements and Photography.....	11
15.	Observer Programme.....	11
16.	Permit Conditions.....	11
17.	Annexure A Policy Implementation and Application Procedure.....	12
18.	Annexure B: Draft Regulations.....	14

## DRAFT FOR PUBLIC COMMENT

**1. Introduction**

This draft policy on *The Allocation of White Shark Cage Diving Permits and the Management of the White Shark Cage Diving Industry* (the White Shark Cage Diving Policy) is issued by the Minister of Environmental Affairs and Tourism (the Minister) for public comment.

This policy is issued together with a set of draft *Regulations for the Management of the White Shark Cage Diving*, Annexure B (the White Shark Cage Diving Regulations). Interested and affected parties are invited to comment on both the policy and the Regulations.

The non-consumptive use of sharks, which includes diving amongst and the viewing of sharks, has proliferated in South Africa over the last decade. For some species, the non-consumptive use of sharks far outweighs consumptive utilization.

The aim of this policy is to regulate White Shark Cage Diving. The White Shark policy does not cover the non-consumptive or consumptive use of other species of shark. The consumptive use of sharks are regulated by the Marine Living Resources Act 18 of 1998 (MLRA) and the *General Regulations* promulgated in GN 1111 in GG 19205 of 2 September 1998, as amended. Further regulations and policy will be adopted to regulate the non-consumptive use of other species of shark.

**2 White Shark Cage Diving and Boat-based white shark viewing**

White shark cage diving is the observing of a free-swimming white shark (*Carcharodon carcharias*) from within a submerged protective cage. However, white sharks on or near the surface may also be observed from vessels. Although the White Shark Cage Diving Regulations only provide for the issuance of one type of permit, the holder of a white shark cage diving permit may also engage in a boat-based white shark viewing operation. The use of the acronym 'WSCD' in this policy, unless otherwise specified, covers both viewing from a cage or from a boat.

Unregulated WSCD started in South Africa in 1991. After 1995, and in line with global trends, the South African WSCD industry grew quickly. For example in 2004 more than 26 000 tourists went on WSCD trips. A recent independent socio-economic study undertaken showed that 8 WSCD operators in the Gansbaai area alone generated an income of almost R30m over a twelve month period from direct ticket sales.

It became apparent that the practice would have to be regulated based on sound conservation and ecosystem management principles. Being a rare apex predator, the great White shark has been mythically portrayed and sensationalised in the media as a vicious man-eating killer. Its numbers have dwindled as it was targeted by zealous hunters. WSCD has contributed and must increasingly continue to contribute to a better understanding of the importance of this predator in our marine ecosystem.

WSCD in South Africa has to date been poorly regulated and managed. White shark cage diving has been authorised in terms of exemptions issued under section 81 of the MLRA. The poor regulatory framework has not been conducive to investment in the sector. New entrants have not sought access to the resource and black economic empowerment lags behind the levels achieved in the commercial fisheries. The South African white shark cage diving industry is capable of substantial growth, particularly in the increasingly competitive extreme sport and eco-tourism markets,

## DRAFT FOR PUBLIC COMMENT

## 3. What Informs this policy?

This policy is informed by South Africa's Constitution (Act No. 108 of 1996), the country's international obligations, environmental best practice and the legislative framework for the allocation of non-consumptive use permits.

Section 24 of the South African Constitution provides for "ecologically sustainable development and use of natural resources." In terms of international practice, the sustainable use of natural resources includes both consumptive and non-consumptive use of such resources.

All available global data series show significant decreases in white shark population numbers over time, even in areas where the species has long been protected. As a result, great white sharks have been on the IUCN Red List of Threatened Species for many years and have been listed on Appendix I and II of the Convention for the Conservation of Migratory Species and Appendix II of the Convention of International Trade in Endangered Species of Wild Fauna and Flora (CITES). This requires white sharks to be accommodated within the management framework provided for in the applicable South African legislation and regulations.

The **MLRA**, which provides for the conservation of the marine ecosystem and the long-term sustainable utilisation of marine living resources, makes provision for the regulation of both consumptive and non-consumptive uses of marine resources and provides the legislative framework for the exercise of control over marine living resources in a fair and equitable manner to the benefit of all South Africans. In addition, the new draft White Shark regulations are promulgated to complement this policy (in this regard see [www.deat.gov.za](http://www.deat.gov.za)).

## 4 Why regulate White Shark Cage Diving?

The need to manage the WSCD industry in terms of sound scientific and sustainable principles is based on the white shark's vulnerability because of its slow growth rate, late maturing age, small litter sizes and low reproductive capacity. In addition, the white shark has been aggressively hunted due to its false reputation as a man-eater.

Detailed or comprehensive evidence concerning the white shark is scarce. White sharks tend to occur more frequently in temperate coastal waters, although the species has an almost global distribution. Recent scientific evidence has indicated that adults can migrate across ocean basins. This lack of detailed knowledge combined with the fact that available global data shows a decline in numbers, even in protected areas, requires WSCD to be managed so that it does not interfere with the normal functioning of these sharks.

The scientific management of white sharks, based on observation, research and study, remains an inexact science with new rules for best practice evolving and adapting as new evidence comes to light. However, a sound approach, and one which has gained wide acceptance in marine management, is contained in Principle 15 of 1992 Rio Declaration:

***"In order to protect the environment, the precautionary approach shall be widely applied by States according to their capabilities, Where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation."***

## DRAFT FOR PUBLIC COMMENT

In addition to ensuring the biological and ecological sustainability of the non-consumptive use of great white sharks, non-consumptive marine based eco-tourism is increasingly being recognised as an important alternative form of livelihood as consumptive fish utilisation is unable to sustain current socio-economic needs of coastal communities.

### 5. Overview of this Sector

White sharks have been fully protected in South Africa since 1991. Between 1991 and 2000, white shark cage diving was unregulated. However, after consulting with WSCD operators, operators were issued permits under section 13 of the MLRA for the first time in 2000. When these permits expired in 2001, exemptions were issued to operators due to a delay in the issuing of new permits. These exemptions expired on 30 June 2004 and were again re-issued.

In the past, few requirements were laid down for the allocation of permits. Permits were issued to natural as well as juristic persons provided that they were South African persons, as required by section 1 of the MLRA. In 2001, additional requirements were applied. These additional requirements included that nominated WSCD vessels had to be SAMSA registered for WSCD and skippers and guides had to be qualified.

There are currently 12 authorised WSCD operators, each restricted to operating one vessel. The WSCD operators currently operate in terms of exemptions issued under the Act.

### 6. Overall Sectoral Objectives

The objectives of allocating permits are to:

- Improve the regulatory and compliance framework;
- Promote the more effective monitoring of the impact of shark cage diving on great white sharks and the ecosystem;
- Promote the growth of the South African white shark cage diving industry through the allocation of additional permits.
- Notably improve the transformation profile of the WSCD industry;

The transformation of the WSCD industry remains one of the most important sectoral objectives. There has been little in the way of tangible transformation in the industry. The transformation profile of this sector is intended to be reviewed at least every two years.

The Department will assist in the promotion of South African WSCD operations by working with South African Tourism (SATOUR) and applicable provincial tourism bodies.

### 7. Duration of Permits

The delegated authority may only allocate permits under section 13 of the Act for a maximum period of 1 year. Permit holders will be re-allocated their permits each year, provided that they, in the opinion of the Deputy Director General, fully comply with all permit conditions. There should be a review of the number of WSCD operators in each of the designated areas specified in paragraph 8 below after 6 years from the date of allocation of the first set of WSCD permits.

## DRAFT FOR PUBLIC COMMENT

**8. Available Permits and Areas of Operation**

The attraction of white sharks for the purposes of cage diving and surface viewing will only be allowed in the following areas:

- Seal Island, False Bay (3 commercial permits);
- Dyer Island, Gansbaai (8 commercial permits);
- Quoin Rock, Quoin Point (1 commercial permit);
- Seal Island, Mossel Bay (1 commercial permit); and
- Algoa Bay, Port Elizabeth area (1 commercial permit).

Permit holders in the Seal Island, Mossel Bay and Quoin Point areas will not be allowed to operate during the Western Province summer school holiday for safety reasons.

**9 Who can apply**

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. Natural persons (i.e. individuals or sole proprietors) will not be granted permits. Current natural person exemption holders must apply in the form of a close corporation or company and will be treated as exemption holder applicants. The policy implementation and application procedures have been outlined in Annexure A attached.

**10. Suitable Vessels**

A suitable white shark cage diving vessel is a vessel that:

- is registered by SAMSA as being suitable for white shark cage diving; and
- has a functioning vessel monitoring system.

**11. Criteria for the Evaluation of WSCD Applications****11.1 Exclusionary Criteria**

Every applicant will be expected to adhere to certain requirements pertaining to the completion and submission of application forms. If these requirements are not adhered to, the delegated authority will exclude the application. These will be stated in detail in the *Instructions* attached to the White Shark Cage Diving application form but may include:

- Using only the applicable application form;
- Paying the application fee in full; and
- Signing the application form and attesting to the declaration.

In addition, the following exclusionary criteria will be applied:

- (a) The applicant must demonstrate access to a suitable vessel (see *paragraph 10*, above).
- (b) Applicants must also employ or contract with a skipper certified by the South African Maritime Authority (SAMSA) as capable of skippering the nominated suitable vessel with passengers.

## DRAFT FOR PUBLIC COMMENT

New entrant applicants will have to provide an undertaking confirming that they will comply in this regard before a permit is issued.

- (c) A WSCD applicant must employ or contract with a tour guide registered as such in terms of the Tourism Act 72 of 1993, and trained as a white shark cage diving tour guide. All tour guides must be certified as Level 2 General Guides, as a minimum by the South African Qualifications Authority. New entrant applicants will have to provide an undertaking confirming that they will comply in this regard before a permit is issued.
- (d) Applicants that nominate a suitable vessel that is certified to carry more than 5 persons must employ or contract with a skipper and at least one tour guide. Applicants that nominate a suitable vessel that is certified to carry 5 persons and less must employ or contract with a skipper who may also be the tour guide.
- (e) Every WSCD applicant must employ or contract with a qualified divemaster who must be on board every WSCD trip. The divemaster may be the same person as the tour guide.

New entrant applicants will have to provide an undertaking confirming that they will comply with the above requirements before a permit issued.

- (f) All applicants must demonstrate that they have public liability insurance. New entrant applicants will have to provide an undertaking confirming that they will purchase public liability insurance up to an amount to be determined by the delegated authority.
- (g) Exemption holder applicants that failed to utilise their WSCD permits or exemptions, or that failed to regularly submit logbooks or undertook an average of less than 50 trips per season over the duration of the exemption period will not be allocated a permit.
- (h) If an applicant, or its members, directors or controlling shareholders has been convicted of a serious infringement of the MLRA, the regulations, permit conditions or other serious fishery related offences during the exemption period, the applicant will not be allocated a WSCD permit. This does not include the payment of an admission of guilt fine. Rights will also not be allocated to an applicant if the applicant, or its members, directors or controlling shareholders, has had any fishing right cancelled or revoked in terms of the MLRA, or assets seized under the Prevention of Organised Crime Act 121 of 1998 or the MLRA. Decisions may be renewed on applications if an applicant (or its members, directors or controlling shareholders) is being investigated for a breach of the MLRA.
- (i) Exemption holder applicants that are unable to show significant investment or participation in the white shark cage diving sector will not be allocated a permit. As a minimum, significant investment or participation by exemption holders (as at 31 July 2005) will comprise:
  - Investment in a suitable white shark cage diving vessel and equipment, whether as sole owner or as a shareholder (provided that the value of the shareholding is equal to or more than 5% of the market value of the vessel); and
  - Some of the natural person shareholder(s) or members must have actively participated in the operation of the business.

New entrant applicants will be required to demonstrate that they have obtained access to a suitable white shark cage diving vessel and that they are committed to participate in the operation of the business. This commitment will be determined having regard to, inter alia, knowledge of the sector and the ability to safely carry on the business of white shark cage diving.

## DRAFT FOR PUBLIC COMMENT

**11.2 Balancing Criteria**

Although the following criteria will generally be applied to both exemption holder applicants and new entrant applicants, the weighting that will be applied to each of the categories will differ.

**(a) Transformation**

One objective with allocating permits in this sector is to notably 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;
- 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 skills development laws;
- Enterprise development; and
- Corporate social investment.

**(b) Investment in the Sector**

Applicants will be evaluated having regard to investments made in the white shark cage diving sector.

As far as current exemption holder applicants are concerned, the delegated authority will specifically consider:

- Investments in suitable vessels and equipment. In this regard, investment in the form of shareholding will be considered.
- Investment in marketing. In this regard, the delegated authority will reward exemption holder applicants that have invested in marketing South Africa and their local area as a white shark cage diving tourist venue.
- Utilisation of the exemption. In this regard, the Department will score negatively exemption holders that have under-utilised their exemptions without a valid reason.

New entrant applicants will be required to demonstrate whether they have or intend to invest in a suitable vessel and equipment. New entrant applicants must also indicate how they intend marketing white shark cage diving to both local and international tourists.

**(c) Local Economic Development**

White shark cage diving permits are allocated on an area basis. A number of new areas have now been added. Accordingly, further white shark cage diving operators may now be accommodated. The intention is to stimulate further growth of the WSCD industry in coastal towns. The delegated authority may reward those exemption holder applicants that demonstrate that they have made investments in infrastructure in the area from which they have operated.

**(d) Jobs**

The delegated authority will reward those exemption holders that have provided (or new entrants that undertake to provide) their employees with –

## DRAFT FOR PUBLIC COMMENT

- Secure employment during the entire white shark cage diving season;
- Medical aid and pension; and
- Safe working conditions.

**(e) Reliance on White Shark Cage Diving**

The delegated authority will reward WSCD applicants who rely on white shark cage diving for their main source of income.

**(f) Non-payment of Fees**

The delegated authority will negatively score all WSCD applicants that have not paid their fees related to white shark cage diving.

Should such applicants nevertheless qualify for a permit, the responsible authority will not issue the permits until all fees owing have been fully paid up.

**(g) Operational Plan**

Applicants will have to compile an operational plan on which they will be evaluated. An operational plan should include the following at a minimum:

- The expected frequency of trips and numbers of passengers;
- The marketing strategy;
- The anticipated duration of trips;
- The areas of intended operation; and
- A description of the anticipated trip activity, safety precautions and tourist education.

**(h) Compliance**

Minor infringements of the MLRA, including its Regulations, by the applicant, its directors or controlling shareholders or members will result in the applicant being negatively scored.

**12. Management Measures**

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

**12.1 Management Plan**

This sector will be managed in accordance with an approved by the department. This management plan will be developed by the department through consultation with all the relevant stakeholders. The department also intends adopting an ecosystem based management approach in the future. An ecosystem approach to fisheries management and non-consumptive sector use is a holistic and integrated policy recognising that fishing and various other activities impact on the broader marine environment. South Africa remains committed to the target date of 2010 for the implementation of an EAF in this sector.

**12.2 Vessels**

Each successful applicant will be restricted to one vessel per permit and the use of the vessel nominated in the application form. Should the permit holder subsequently wish to change the nominated

## DRAFT FOR PUBLIC COMMENT

vessel, the permit holder shall be obliged to advise the Department of the change and to provide proof that the vessel is certified by **SAMSA** as being suitable for white shark cage diving.

Should the vessel change occur without SAMSA certification, the permit holder will not be allowed to operate until SAMSA has formally certified the replacement vessel as being safe for white shark cage diving.

### 12.3 Consultation

The Department intends to consult with all stakeholders regarding aspects of compliance and management of ~~the~~ sector with the applicable permit holders, the recognised industrial body and managers of marine protected areas.

### 13. Ongoing applications for Permits

Should a permit be revoked, cancelled or reduced, that permit (if cancelled or revoked) or the balance of effort (if reduced in duration) may be allocated to any other person who, in answer to an invitation placed in the Government Gazette, satisfies the criteria set out in this policy.

Should further effort be made available, applications for the unallocated permits will be invited in the Government Gazette. The unallocated permits shall be allocated in terms of this policy, unless changed or amended in the Government Gazette.

### 14. Permits for Film Shoots, Advertisements and Photography

Should any person wish to undertake a film shoot, advertisement or any form of photography for commercial purposes involving sharks, such a person must apply for a permit and may do so at any time. The person may only utilise the services of an authorised and permitted WSCD operator to undertake such an activity.

### 15. Observer Programme

All permit holders will be required to carry observers upon written instruction by the Department. The costs of accommodating the observer will be for the permit holder's account.

### 16. Permit Conditions

The Deputy Director-General shall issue each WSCD permit subject to such conditions considered necessary for the attainment of the objectives of this policy. The Deputy Director-General may amend any permit condition, after consulting with the permit holder.

## DRAFT FOR PUBLIC COMMENT

## Annexure A

**POLICY IMPLEMENTATION AND APPLICATION PROCEDURES**

The procedures described below are intended to inform prospective applicants of each of the procedures applicable to consultation on this policy and the intended procedures to be followed subsequent to the invitation to apply for WSCD permits.

**(i) Public participation in policy formulation**

The Minister will consider all comments received on this policy and where necessary revise policy in the light of the comments. The final policies will be published in the Government Gazette and on [www.deat.gov.za](http://www.deat.gov.za). The policy will set out the basis in terms of which permits will be allocated. The relevant policy will also be distributed along with the application forms used in the permit allocation process. It will be assumed that applicants read and follow this policy when applications are evaluated.

**(ii) Communication Processes**

After applications are invited, the Minister and the delegated authority will not communicate with individual applicants, other than in the manner set out in this policy document. Communication will take place only through electronic media and the Government Gazette. Questions of clarification will be entertained by way of e-mail, which will be provided after application forms are distributed. In addition, communication will be facilitated through industrial bodies, if registered in terms of section 8 of the Marine Living Resources Act.

**(iii) Application forms**

The application form will be designed to be as user friendly as possible.

**(iv) Language**

This Policy, the application form and all explanatory notes to the application forms will be available in English. See [www.deat.gov.za](http://www.deat.gov.za).

**(v) Fees**

Application fees are charged in order to defray the costs of the allocation process.

**(vi) Distribution of application forms and manner of payment of application fees**

Applicants will be able to obtain application forms electronically ([www.deat.gov.za](http://www.deat.gov.za)) or at a centralised venue in Cape Town. Payment of the application fee will be required prior to the issuing of an application form to an applicant. Payment of the application fee must be made into the following bank account stipulated on the application form.

**(vii) Departmental Assistance**

Applicants will be able to submit queries on the Final Policy and Application Form to the Department electronically ([jdutoit@deat.gov.za](mailto:jdutoit@deat.gov.za)). The query period will be open for a specified time, after which all queries will be collated and responses will be published on the Departmental website prior to the closing date for applications. The Department's customer services centre may also be contacted on 0861 123 626.

## DRAFT FOR PUBLIC COMMENT

**(viii) Receipt of Application Forms**

Applications will be received at a central Cape Town venue only.

**(ix) Number of Copies**

All applicants will be required to submit one hard copy of the application and annexures, together with the original application.

**(x) Oral Hearings, Calls for Further Information and Investigations**

The delegated authority may call an applicant for an oral hearing or for further written information to be provided when there is uncertainty regarding a material issue in an application.

The Rights Verification Unit may investigate a matter where it appears that an applicant may have provided false information or documents or failed to disclose material information or misrepresented information or in any other matter if requested to do so by the delegated authority or the Minister.

**(xi) Capturing of information on a database and development of detailed criteria and weighting**

Information submitted by applicants will be captured on a database. The policy and the database will be used for the development of detailed criteria and weighting for the purposes of assessing the applications.

**(xii) Notification of decision and the reasons therefore**

All applicants will be notified in writing of the delegated authority's decision on their applications. Letters to unsuccessful applicants will include the reason for the application being unsuccessful. All applicants will further be furnished with a document recording the process followed in allocating the permits, which will include the detailed criteria and weighting applied in the allocation of permits.

**(xiii) Appeals**

An applicant will be permitted to submit a written appeal against the decision to refuse their application within the prescribed period.

## DRAFT FOR PUBLIC COMMENT

## ANNEXURE B

**DRAFT REGULATIONS FOR THE MANAGEMENT OF WHITE SHARK DIVING IN TERMS OF SECTION 77(2)(y) OF THE MARINE LIVING RESOURCES ACT, 18 OF 1998:**

To provide for a regulatory framework for the allocation of permits for and the management of white shark cage diving and to provide measures for the enforcement of these regulations and to prescribe penalties in respect of contraventions.

### Definitions

1. In these regulations any word or expression given a meaning in the Act has that meaning, unless such word or expression is defined in these regulations. Unless the context indicates otherwise -

**Acoustic device** means a device capable of producing sound;

**The Act** means the Marine Living Resources Act, 18 of 1998, inclusive of amendments and regulations promulgated thereunder;

**Chief Director** means the Chief Director responsible for Fisheries and Coastal Management in the Branch Marine and Coastal Management;

**Chumming** means to attract great white sharks by any means;

**Deputy Director-General** means the Deputy Director-General of the Branch Marine and Coastal Management;

**Feed** means to supply food or other objects which will be perceived as food by great white sharks;

**Free dive** means to dive in the vicinity of great white sharks without the protection of a cage;

**Great white shark or white shark** means the species *Carcharodon carcharias*;

**Shark** means all species of *Conrichtheans*;

**White shark cage diving operator** means a person that is permitted to carry on the business of a white shark cage diving operation in terms of regulation 6; and

**WGS 84** means the World Geodetic System of 1984 (G730), which is a geographic co-ordinate system.

### Objectives

2. The objectives of these regulations are to:

- (1) Promote the non-consumptive use of great white sharks, particularly for eco-tourism;
- (2) Promote the economic growth of the white shark cage diving industry;

## DRAFT FOR PUBLIC COMMENT

- (3) Provide for control over diving to view great white sharks or the boat based viewing of great white sharks so that these activities may take place in a manner that does not threaten the safety of divers or the well-being of the sharks; and
- (4) Provide for control over the number of white shark cage diving operations in order to manage any adverse impact on white shark behaviour.

**General Prohibitions**

3. (1) No person shall, except on the authority of a permit –
  - (a) Engage in fishing, collecting, killing, attempting to kill, disturbing, harassing or chumming or attracting using bait or other means, keeping or controlling of, or be in possession of, any great white shark: Provided that if caught or killed unintentionally, such shark shall be kept in the whole state, and shall be handed to a fishery control officer as soon as possible; or
  - (b) Purchase or sell any great white shark or any part or product thereof.
- (2) No person may carry on a white shark cage diving operation except on the authority of a permit issued under regulation 6.
- (3) No person may undertake white shark cage diving except under the supervision of a white shark cage diving operator.
- (4) No person may free dive with great white sharks.
- (5) No person may approach closer than 50 metres to a natural predation on seals by a great white shark.
- (6) No person shall advertise, or cause to be advertised, white shark cage diving operations or services or boat based white shark viewing operations or services, unless such an operation or service is permitted in terms of these regulations.

**Areas of operations**

- 4 (1) White shark cage diving operations shall be restricted to specified areas, to be designated by the Deputy Director-General by Notice in the Government Gazette.
- (2) The Deputy Director-General may increase or decrease the size of and number of areas of operation by Notice in the Government Gazette.

**Limitation of number of operations**

- 5 (1) The Deputy Director-General may by Notice in the Government Gazette determine the maximum number of white shark cage diving operations for each area designated in terms of regulation 4.
- (2) The Deputy Director-General shall be entitled to increase or decrease the number of white shark cage diving operations in any area of operation.

## DRAFT FOR PUBLIC COMMENT

## White Shark Cage Diving Operation Permits

6. (1) Applications to operate a white shark cage diving operation shall be made to the Deputy Director-General on a stipulated application form and accompanied by a stipulated application fee.

(2) No person shall operate a white shark cage diving operation unless such person has been granted a white shark cage diving permit issued in terms of these regulations.

(3) A white shark cage diving operator may conduct a boat based white shark viewing operation with the same vessel and the same permit issued for shark cage diving.

(4) The Deputy Director-General may not issue a white shark cage diving operation permit unless the applicant demonstrates that it has –

(a) Access to a vessel suitable for white shark cage diving;

(b) Employ one or more tourist guides registered as such under the Tourism Act, 72 of 1993; and

(c) Complies with any other essential requirement stipulated by way of written policy issued by the Deputy Director-General.

(5) A white shark cage diving operation permit is valid for a period of twelve months but may be renewed.

(6) White shark cage diving operation permits may be issued subject to conditions.

(7) The Deputy Director-General shall renew the permit of a white shark cage diving operator provided that a stipulated fee is paid and the operator, has, in the opinion of the Deputy Director-General, complied with all permit conditions.

## Prohibitions when White Shark Cage Diving

7. (1) When white shark cage diving, no person shall –

(a) Feed any fish;

(b) Dump any material into the sea other than in the manner provided for in regulation 8;

(c) Dive outside the cage;

(d) Remove any material from a wreck, coral reef or any part of the sea;

(e) Use any acoustic device to attract sharks; or

(g) Touch, tag or interfere with any shark.

## Chumming

8. (1) No person other than a white shark cage diving operator may engage in chumming to attract great white sharks.

## DRAFT FOR PUBLIC COMMENT

- (2) Chumming may only be conducted within the areas stipulated in Annexure A.
- (3) Chumming may only be conducted in the manner set out in the white shark cage diving permit conditions.

## Vessels and cages

- 9 (1) White shark cage diving operations may only be undertaken on a vessel certified by the South African Maritime Safety Authority as being safe and suitable for this purpose.
- (2) Further specifications for vessels and cages to be used for white shark cage diving, may be imposed by the Deputy Director General in permit conditions.

## Display of certificates

- 10. (1) White shark cage diving operators shall fix and display a certificate stipulated by the Deputy Director-General in a visible place on the boat when engaging in operations or services.
- (2) When advertising shark cage diving operations or services reference must be made to the operator's permit number.

## Permit for Filming or Photographing Great White Sharks

- 11. (1) No person shall film or photograph great white sharks for sale unless such person has been granted a filming and photography permit in terms of these regulations.
- (2) Applications for a filming and photography permit shall be made to the Deputy Director-General on a stipulated application form and accompanied by a stipulated application fee.
- (3) The Deputy Director-General may not issue a permit unless the applicant demonstrates –
  - (a) that the filming or photographing of the great white sharks will be undertaken with a white shark cage diving operator; and
  - (b) in compliance with any other requirements stipulated by way of written policy.
- (4) Filming and photography permits shall be valid for a maximum period of twelve months.
- (5) Filming and photography permits may be issued subject to conditions.

## Great White Shark research

- 12. (1) No person may approach great white sharks, tag them, or in any other manner interfere with them, in order to do research other than on the written authority of the Deputy Director General.

## DRAFT FOR PUBLIC COMMENT

**Offences and penalties**

**13.** (1) Any person who contravenes a provision of these Regulations shall be guilty of an offence and liable on conviction to a fine not exceeding R50000, or to imprisonment *for* a maximum period not exceeding ~~two~~ years, or to ~~both~~ such fine and imprisonment.

(2) Should a white shark cage diving operator contravene any provision of these Regulations ~~or~~ fail to adhere to a permit condition, the Deputy Director General may refuse to renew such a permit, or shall issue a notice to the white shark cage diving operator to provide reasons why its permit should not be revoked, cancelled, suspended or reduced in accordance with the provisions of section 28 of the Act.

**Repeal of Regulations**

**14.** Regulation 30(1) of GN Regulation 11 11 of 2 September 1998 is hereby repealed.

**Commencement**

**15.** These Regulations shall come into effect on the date of publication in the Government Gazette.

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