



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

**POLICY FOR THE ALLOCATION AND MANAGEMENT OF
COMMERCIAL FISHING RIGHTS IN THE
HAKE HANDLINE FISHERY: 2005**

**THIS POLICY MUST BE READ WITH THE GENERAL POLICY ON THE
ALLOCATION AND MANAGEMENT OF LONG-TERM COMMERCIAL FISHING
RIGHTS: 2005 (available at www.mcm-deat.gov.za)**

TABLE OF CONTENTS

1.	Introduction	3
2.	Sector profile	3
3.	The medium-term rights allocation process	4
4.	Over-arching sectoral objectives	5
5.	Duration of rights	5
6.	New entrants	5
7.	Evaluation criteria	6
7.1	Exclusionary criteria	6
7.2	Balancing criteria	8
(a)	Transformation	8
(b)	Investment in the fishery	8
(c)	Fishing performance	9
(e)	Local economic development	9
7.3	Empowerment of hake handline fishers	10
7.4	Effort allocations	10
8.	Suitable vessels	11
9.	Multi-sector involvement	11
10.	Application fees and levies	11
11.	Management measures	12
11.1	Ecosystem approach to fisheries management	12
11.2	Management on a regional basis	12
11.3	Access to traditional linefish stocks	12
12.	Performance measuring	12
13.	Observer and monitoring programme	13
14.	Provisional lists	13
15.	Permit conditions	13

1. Introduction

This policy on the allocation and management of commercial fishing rights in the hake handline fishery is issued by the Minister of Environmental Affairs and Tourism ("the Minister"). This policy must be read with the General Policy on the Allocation and Management of Long-Term Commercial Fishing Rights: 2005 ("the General policy").

The purpose of this policy is to set out the considerations that will apply to the allocation of long-term commercial hake handline fishing rights. Many of these considerations are not new. They have been applied by the Minister and delegated authorities of the Department of Environmental Affairs and Tourism: Branch Marine and Coastal Management ("the Department") when allocating rights in the past and to some extent this policy documents these considerations.

Certain post-rights allocation management policies are also presented in this policy. A Hake Handline 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. In particular, the Department intends to manage this fishery on a regional basis subsequent to the allocation of long-term commercial fishing rights.

The Minister intends to delegate the section 18 power to allocate hake handline commercial fishing rights in terms of section 79 of the Marine Living Resources Act 18 of 1998 ("the MLRA") to a senior official of the Department. The policy documents will guide the delegated authority in taking decisions on applications in this fishery.

2. Sector profile

The hake handline fishery developed along the southern Cape coast where, in the late 1980's, traditional linefishers began targeting hake as demand for prime quality ("PQ") hake increased on the international market.

Originally, hake handline fishers used deck boats that were capable of fishing overnight. As the fishery grew, some fishers started using skiboats, which can stay out at sea overnight, and can be winched up onto a trailer and be driven to areas closest to where the hakes are located. The deck boats were harbour bound. The introduction of skiboats significantly increased effort in the hake handline fishery, particularly as use of these vessels allows hake handliners to follow the hake along the South African coastline.

During the 1980s and 1990s the fishery was not properly regulated or managed. The lack of a regulatory framework, coupled with increased demand for PQ hake in the late 1990's, resulted in a number of persons,

including recreational and commercial fishers operating in other fisheries, entering this fishery to take advantage of the high prices and catches rapidly escalated. During the late 1980s hake handline catches were estimated to be approximately 150 tons. By the 1990's this had increased to between 1 100 tons and 1 400 tons annually. By the year 2000, approximately 5000 tons were landed with catches peaking at an estimated 7300 tons in 2001.

In December 2000, the Minister announced a biological emergency in the traditional linefish fishery. The Minister also decided to split the management of the handline fisheries into three separate fisheries – the tuna pole, the hake handline and the traditional linefish fisheries. In that year, the Minister set a total applied effort (“TAE”) for the fishery for the first time in the hake handline fishery. The TAE limited the number of crew and vessels that could target hake using a handline to 130 vessels and 785 crew. In addition, a precautionary maximum catch limit (“PMCL”) of 5500 tons is set aside under the global hake total allowable catch.

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. The hake handline and longline 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 allocated to the hake inshore trawl fishery. Until 2004, 1 000 tons was set aside for foreign fishing. This allocation will be discontinued.

The hake handline fishery operates out of small fishing harbours and slipways along the southern Cape and Eastern Cape coasts, as far north as Port Alfred. The handline fishery, like the hake long line fishery, lands PQ hake for export to Europe. The fishery operates in inshore waters targeting shallow water hake, *Merluccius capensis*.

Hake stocks are currently managed in terms of a recovery strategy and the TAC for hake has been reduced each year since 2003. Current catch rates of shallow water hake are unsustainable.

3. The medium-term rights allocation process

In 2003, 86 commercial hake handline fishing rights were allocated. The rights authorised 86 vessels and more than 700 crew to target hake using the handline method. This was the first time that commercial fishing rights were allocated in this fishery and the first time that the hake handline fishery was subjected to comprehensive regulation.

The objective of the medium-term allocation process was to allocate commercial hake handline fishing rights to fishers who are reliant on the fishery for their livelihoods. Every effort was made to exclude recreational or part-time fishers and those who derived income from other fisheries, or who were employed in other sectors of the economy.

Of the rights allocated, 26 percent were allocated to black persons. Approximately 25 percent of the skippers in this fishery are black, while 76 percent of crew are black.

Most of the right-holders are individuals. Legal entities, such as close corporations and companies, make up a small percentage of the right-holders. All the right-holders in the fishery could be described as small- and medium-sized enterprises (“SMEs”).

4. Over-arching sectoral objectives

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

- Notably improve the transformation profile of the hake handline fishery;
- Allocate commercial fishing rights to fishers who are dependant on the hake handline resource for their main source of income;
- Endeavour to allocate a fair proportion of rights to applicants based at fishing harbours that are historically associated with hake handline catches;
- Support the economic viability of the fishery; and
- Ensure the environmental sustainability of the fishery.

5. Duration of rights

Having regard to the transformation profile of the fishery, commercial rights will be allocated for a period of eight years (1 January 2006 to 31 December 2013). The Department will regularly evaluate right holders against predetermined performance criteria (**see paragraph 12 below**).

6. New entrants

The hake handline fishery is currently over-subscribed. There are many more handline fishers than the resource is able to sustain. However, the poor transformation profile of this fishery, coupled with the fact that many hake

handline fishers, particularly black skippers, did not apply for commercial rights in 2001, means that rights may be allocated to new entrant applicants rather than to medium term right holders.

7. Evaluation criteria

Applications will be screened in terms of a set of “*exclusionary criteria*”. Right-holder applicants and new entrant 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 to select the successful applicants.

7.1 Exclusionary criteria

Apart from the criteria described in the 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) **Form of the applicant:** Commercial fishing rights in the hake handline sector will only be granted to entities incorporated in terms of the Close Corporations Act of 1984 and natural persons (i.e. sole proprietors or individuals). Trusts and companies will not be granted rights. Right holders that are currently holding rights in the form of companies or trusts must apply in the form of a natural person or close corporation and will be treated as medium term right holder applicants provided that they comply with the guidelines set out in the General Policy

- (b) **Compliance:** If an applicant or its members has been convicted of a serious infringement of the MLRA, the regulations, permit conditions or other serious fishery related offences during the medium-term right period, the applicant will not be allocated a hake handline fishing right. 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 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. If a medium term right was held by a company, a right will also not be allocated to the successor if a director or controlling shareholder has been convicted of a serious infringement of the MLRA, the regulations, permit conditions or other serious fishery related offences during the medium-term right period, or 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 reserved on applications if there is a pending criminal investigation, or section 28 proceedings, which may affect the outcome the application.

- (c) **Paper quotas:** Paper quotas as defined in the General policy will be excluded. Large groups of identical or very similar applications that are sponsored by consultants or commercial fishing companies and other entities, will be excluded as fronts (paper quotas), regardless of the merits of individual applications.

A household (comprising parents and children) may not be granted more than one right so as to avoid fronting and to broaden access to the hake handline resource.

- (d) **Non-utilisation:** The delegated authority may refuse to re-allocate a right if a right holder applicant failed to fully utilise a medium-term right. The delegated authority may also refuse to allocate a right to an applicant who was a member of a close corporation or a director or shareholder of a company that held a medium term right and that failed to fully utilise the right.

- (e) **Personal involvement in harvesting of the resource:** Applicants will have to demonstrate that they (or a member of the close corporation) are involved on a full-time basis in the hake handline fishery in the sense that they are active fishers and participate in the operation of the hake handline business. Only applicants incapable of participating due to a permanent physical disability will be exempt from this requirement. Women applicants will not be exempt from having to participate on board.

- (f) **Vessel access:** Applicants will be required to demonstrate a right of access to a suitable vessel (*see paragraph 8 below*).

- (g) **SAMSA Health Certificate:** Applicants must provide proof that the South African Maritime Safety Authority ("SAMSA") considers them (or a member of the close corporation) to be medically fit to go out to sea.

7.2 **Balancing criteria**

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

(a) Transformation

The medium term rights allocation records suggest that this fishery is comparatively less transformed than other fisheries. Black applicants will be positively scored. In the case of close corporations, the percentage black ownership will be assessed. In addition, applicants will also be assessed on:

- The percentage black and women representation at management levels (particularly with regard to skippers) and the percentage black and women employees;
- Whether the applicant complies with skills development laws and whether the applicant has invested in the training and development of crew and black crew, in particular;
- Whether the applicant regularly shared profits with crew and black crew, in particular;
- Affirmative procurement;
- 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.

Right-holder applicants will be assessed as follows:

- Investment in vessels will be recognised, as long as the investment demonstrates a real commitment to participate in the sector. Shareholding in vessels obtained at minimum or no cost to the applicant will not be recognised as investment. Right-

holder applicants will not be rewarded for having concluded charter agreements or catching or purchasing agreements.

- Investment in marketing initiatives will be considered. The delegated authority will have regard to whether the applicant is capable of marketing hake.

As far as new entrant applicants are concerned, the delegated authority will consider investments made in other sectors in the form of vessels and fixed assets. In addition, new entrant applicants will have to show whether they have access to hake handline markets.

(c) Fishing performance

Right-holder applicants will be assessed by having regard to their performance in the hake handline fishery during the medium-term rights allocation process. In particular, right-holder applicants that targeted traditional linefish stocks in preference to hake will be penalised.

New entrant applicants will be assessed by having regard to whether they have the ability, knowledge and skills to participate in the hake handline fishery.

(d) Jobs

Right-holder applicants who can demonstrate that they have provided temporary or permanent employment during the medium-term period, will be rewarded.

(e) Local economic development

Investment in a number of South Africa's smaller coastal towns is required for economic growth. The delegated authority will positively score those applicants that elect to land their catches in the harbours along the Cape south coast and the Eastern Cape coast which have historically been associated with hake handline fishing.

(f) Historical involvement

Right-holder applicants and potential new entrants will be rewarded for historical involvement in the fishing industry. An example of historical involvement would be a skipper or a crewmember

who has worked in the handline fishery in the past.

(g) Reliance on the resource

The delegated authority should positively score applicants who rely on hake handline fishing for a significant proportion of their gross annual income. Applicants or their members who derive income from sources outside of the fishing industry may be negatively scored. Potential new entrants will be required to demonstrate their historical dependency on the hake handline fishery for their livelihood.

(h) Compliance

Minor infringements of the MLRA, the Regulations and permit conditions will be negatively scored.

7.3 Empowerment of hake handline fishers

The Department will require all fishing crew who are intending to work on hake handline boats to register with the Department on the Crew Register. Hake handline right holders will be required to select their crew members from amongst those who are listed on the Crew Register. The Department will only register persons on the Crew Register if they have successfully undertaken a SAMSA safety training course, demonstrate a reliance on hake handline fishing and are able to demonstrate some form of historical involvement in hake handline fishing.

Crew will be registered free of charge and the registration process will commence in the last quarter of 2005. Registered crew may only fish from vessels authorised to catch hake handline. This does not mean that persons registered on the Crew List may not crew on vessels in other fisheries.

7.4 Effort allocations

The Department will allocate one vessel to each successful applicant and the number of crew as determined by the South African Maritime Authority ("SAMSA") to be safe for that vessel.

Further, although this fishery is managed in terms of a TAE (130 vessels and 785 crew), a precautionary maximum TAC of 5 500 tons is also used to manage this fishery. Records reveal that over the duration of the medium-term period, this precautionary maximum catch limit was never reached. Accordingly in the future more fishing rights may be allocated, provided that once the fishery lands 5 500 tons, all hake handline fishing will be halted for that season.

8. Suitable vessels

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

- has a minimum SAMSA registered length of approximately 5 metres and a maximum SAMSA registered length of approximately 12 metres. Essentially, the delegated authority will allocate rights to skiboats and deck boats;
- has a functioning vessel monitoring system; and
- is certified as being HACCP (“Hazard Analysis and Critical Control Point”) compliant.

9. Multi-sector involvement

If the applicant is a close corporation, the applicant will not be allocated a hake handline right if the applicant was allocated a commercial fishing right in any Cluster A or B fishery. If the applicant is a natural person, the applicant will not be allocated a hake handline right if the applicant is a member of a close corporation, or a director or the controlling shareholder of a company that was allocated a commercial fishing right in any Cluster A or B fishery. Further, right holders (including their members, where applicable) in the hake handline fishery may not hold a right in any Cluster C or Cluster D fishery, other than traditional line fish. In instances where the holding of multiple rights is not allowed applicants should indicate their preference.

10. Application fees and levies

The application fee for this fishery will be determined having regard to:

- The cost of the entire rights allocation process, including consultation, receipting, evaluation of applications, verification, appeals and reviews; and
- The value of the fish being allocated over the duration of the right.

The annual levies payable with effect from 1 January 2006 will be determined after consultation with right holders. The levies payable will be utilised by the Department for mitigating the annual costs of management, compliance and research.

11. Management measures

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

11.1 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. The EAF will be detailed further in the Hake Handline Fishery Management Manual. South Africa remains committed to the target date of 2010 for the implementation of an EAF in the commercial fisheries.

11.2 Management on a regional basis

The Department intends changing the management strategy of this fishery subsequent to the allocation of long-term fishing rights. It is the Department's intention to manage this fishery on a regional basis, restricting the movement of vessels within specific regions.

11.3 Access to traditional linefish stocks

Hake handline fishers will not be permitted to fish for traditional linefish stocks such as kob (*Argyrosomus* spp.) and other over-exploited or collapsed line fish stocks. Hake handline fishers will, however, be allowed to target snoek should it become available.

12. 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;
- investment in vessels, marketing and gear;
- compliance with applicable laws and regulations.

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.

13. Observer and monitoring programme

The Department's current monitoring programme will be expanded to this fishery. Right-holders will be required to bear the costs of the observer and monitoring programmes.

14. Provisional lists

Before the delegated authority makes final decisions on the successful applicants, he or she should issue a provisional list of successful applicants. The provisional list will be circulated to each fishing area. Interested and affected parties in these areas may then be invited to comment on the list and, in particular, inform the delegated authority if any persons who historically fished for hake handline have been excluded from the provisional list or whether any person included on the provisional list is not reliant on the hake handline resource.

15. Permit conditions

Permit conditions for this fishery will be issued annually. The permit conditions will be determined after consultation with right holders in this fishery and will be subject to revision as and when it may be necessary.