



DEPARTMENT OF AGRICULTURE, FORESTRY AND FISHERIES

BRANCH FISHERIES MANAGEMENT

**DRAFT REVISED POLICY FOR THE ALLOCATION AND MANAGEMENT OF
FISHING RIGHTS IN THE OYSTER FISHERY: 2013**

**THIS POLICY MUST BE READ WITH THE DRAFT REVISED 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 document is ook in Afrikaans, isiXhosa en isiZulu beskikbaar

Lencwadi iyafumaneka nangolwimi lwesiBhulu, lwesiXhosa nolwesiZulu

Lencwadi iyatholakala nangolwimi lwesiBhulu, lwesiXhosa nolwesiZulu

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1. Introduction

- 1.1. This policy on the allocation and management of fishing rights in the Oyster Fishery is issued by the Minister of Agriculture, Forestry and Fisheries (“the Minister”). This policy must be read with the General Policy on the Allocation and Management of Fishing Rights: 2013 (“the General Policy”).
- 1.2. The purpose of this policy is to set out the considerations that will apply to the allocation of oyster harvesting rights. Many of these considerations are not new. They have been applied by the Department of Agriculture, Forestry and Fisheries: Branch Fisheries Management (“the Department”) in the past when allocating rights and managing this fishery and to an extent this policy represents a codification of those considerations.
- 1.3. Certain post rights allocation management policy considerations are broadly elaborated on in this policy. An Oyster Fishery Management Plan will be finalised with all right holders during the course of 2014. This plan will stipulate in detail the management methodology and procedures for the fishery.
- 1.4. The Minister intends to delegate the section 18 power to allocate Oyster fishing rights in terms of section 79 of the Marine Living Resources Act 18 of 1998 (“the MLRA”) to an official of the Department. This policy document will guide the delegated authority in taking decisions on applications in this fishery.

2. Biological Status of Oysters

- 2.1. The Cape Rock oyster, which is targeted in this fishery, has an extensive geographic distribution occurring on rocky reefs from Cape Agulhas to Mozambique. These oysters are found in the intertidal zone and up to about 6m water depths. The Cape Rock oyster is found naturally and is sold as “wild oysters” in South Africa restaurants. A cheaper oyster is the Pacific oyster which is imported and widely used in mariculture.
- 2.2. Oysters along the KwaZulu-Natal coast have been found to take 33 months (almost 3 years) to reach marketable size (60 mm Right Valve Length). Oysters are broadcast

spawners. Oysters along the KwaZulu-Natal coast spawn throughout the year with peaks during spring and summer.

- 2.3. Harvesting of oyster takes place during spring low tides and traditionally was restricted to the intertidal zone, however in recent years there has been a gradual expansion of harvesting depth towards the fringes of the subtidal zone. This is due to a decline in oyster density in the intertidal zone and a gradual increase in gear efficiency ("*creeping effort*"). Oysters are dislodged from rocks by means of a pointed steel crowbar or harvesting iron.

3. Sector Profile

- 3.1. The oyster fishery was previously managed as two separate fisheries related to their areas of operation, namely the KwaZulu-Natal coast and the Southern Cape coast. Since 2002 the oyster fishery has been managed as a single national fishery. Under the new management system, four oyster-harvesting areas are officially recognised, namely KZN North, KZN South, Port Elizabeth and the Southern Cape. Differences between the regulations and harvesting patterns in the regions continue to exist.
- 3.2. In KwaZulu-Natal (North and South coasts), the management approach previously adopted by the KwaZulu-Natal Provincial Government was retained. This entailed maintaining a system of effort limitations whereby the numbers of pickers are restricted and a daily bag limit of 190 oysters per picker per day is enforced. Moreover, the KZN North and South coasts are further sub-divided into four zones each, which are harvested on a rotational basis. This requires that zones remain fallow for at least three years at a time (the optimal length of time required for oyster recruits to reach marketable size) thereby allowing for recovery of the oyster stock. This system applies to all oyster fishing sectors.
- 3.3. The oyster fishery along the Southern Cape coast is not managed by means of rotational harvesting, but by means of limiting the number of pickers, with no daily bag limit. Furthermore, effort has been split across areas according to the extent of accessible oyster reef. In Port Elizabeth, no harvesting of the oyster beds is practised, and only washed-up oysters are being collected. The fishing season for the oyster fishery would

be determined by the department and currently the period for fishing season starts from the 1st of March until the end of February of the following year.

3.4. The Total Applied Effort (“TAE”) for the oyster fishery is determined based on scientific recommendation. The TAE for the oyster fishery during the period between 2005 and 2013/2014 has been set at 145 pickers and apportioned as follows:

- (a) KZN North (25 pickers);
- (b) KZN South (15 pickers);
- (c) Southern Cape (102 pickers); and
- (d) Port Elizabeth (3) pickers.

3.5. The TAE along the southern Cape coast is further divided across zones, based on the extent of accessible oyster reef, and as follows:

- (a) Heidelberg (“Witsand”): 10 pickers;
- (b) Riversdale/Mossel Bay: 58 pickers; and
- (c) George/Knysna: 34 pickers.

3.6. However the fishing rights in the oyster fishery were valid for a period of three years from 2005 and extended for a maximum period of two years in terms of the MLRA. Subsequent to that the fishery was managed on exemptions. The TAE was never fully allocated and or utilized during the duration of the oyster rights and or exemptions. In 2005, rights to fish or harvest oyster were granted to 106 individual successful applicants. The split of the 106 right holders in relation to the TAE portions above mentioned was as follows:

- (a) KZN North: 23 right holders;
- (b) KZN South: 8 right holders;
- (c) Southern Cape: 71 right holders and
- (d) Port Elizabeth: 4 right holders.

3.7. The 71 right holders in the Southern Cape was further split as follows:

- (a) Heidelberg (“Witsands”): 9 right holders;
- (b) Riverside/Mossel Bay: 52 right holders and
- (c) George/Knysna: 10 right holders;

3.8. Black persons constituted 75% of the right holders and white person 25%. Off the 75% black persons, 50% was black male and 25% black female. Off the 25% white persons, 20% was white male and 5% was white female.

3.9. Oyster TAE for the fishing seasons during the duration of next rights to start in 2014 will be determined by the Department in terms of the MLRA.

4. Objectives

4.1. Read with the General Fisheries Policy, the purpose of this policy is to determine the criteria in terms of which oyster fishing rights will be allocated. The objectives of allocating fishing rights in this fishery are to:

- (a) Promote equitable (race, gender, disability) access to and benefits from, oyster fishery, taking into consideration the historical background of the fishers;
- (b) Allocate oyster rights in terms of the criteria for the allocation of oyster fishing rights;
- (c) Co-manage oyster fishery with other spheres of government and the fishing industry in a manner that recognizes government priorities, strategic objectives of the spheres of government, the interests of fishing industry and most importantly in a manner that would please, praise and glorify the one who provided and gave man the power to rule over the fish (including oysters), and
- (d) Ensure the long-term sustainable and balanced maximum benefit from social, economic, biological and environmental objectives that are related to the oyster fishery

5. Duration of Rights

5.1. Fishing or harvesting rights for oysters will be allocated for a period of 7 years (from 2014 until 2020).

5.2. The fishing or harvesting right for oysters shall automatically expire and be invalid should:

- (a) the right be cancelled or revoked in terms of Section 28 of the MLRA; and or
- (b) the duration of the right granted in terms of Section 18 of the MLRA expires.

6. New Entrants

- 6.1. Since the oyster rights that were allocated in 2005 had expired the Department intends to allocate the oyster rights during 2013 rights allocation process to successful applicants including new entrants who had not been granted oyster rights or exemption during the period between 2005 and 2012.

7. Evaluation criteria

Applications for oyster rights will be evaluated in terms of a number of exclusionary and balancing criteria.

7.1 Exclusionary Criteria

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

- (a) **Form of the Applicant**

Only South African natural persons (i.e. individuals) or legal entities may apply for fishing or harvesting rights for oysters. The delegated authority should not allocate fishing or harvesting rights for oysters to individual applicants who are listed as shareholders of the legal entity that also submitted an application for the fishing or harvesting right for the oysters; and to more than one legal entities with the same or similar shareholders.
- (b) **Applications from families**

In general, only one right will be allocated per family. Where more than one application is received from family members who live at the same address, then all the applications may be excluded. More than one right may be allocated per family where applicants

clearly and convincingly demonstrate that they have established separate small commercial operations.

(c) Compliance

Applicants that have been convicted of a serious transgression of the MLRA (leading, for example, to a sentence of imprisonment without the option of the payment of a fine) will not be allocated a right. Applicants that have had any fishing right cancelled or revoked in terms of the MLRA will also not be allocated a right. If the applicant was a member of a close corporation or a shareholder of a company that held a medium- or long term right, then the applicant will not be granted a right if the medium- or long term right holder or one of its members, directors or controlling shareholders was convicted of a serious transgression or had a right cancelled or revoked. Other breaches of the MLRA will adversely affect the evaluation of applications; will be negatively scored, as set out below.

(d) Paper Quotas

A paper quota as defined in the General Policy will be excluded. Large groups of identical or very similar applications that are sponsored by consultants or fishing companies and other entities will be excluded as fronts (paper quotas) regardless of the merits of individual applications.

(e) Non-utilisation of the resource

Those right holders that have failed to utilise their oyster right or exemptions between 2005 and 2012 will not be re-allocated a right.

(f) Personal Involvement

Applicants will have to be personally involved in the harvesting of oysters if they are not disabled.

(g) Multi-sector involvement

In general, it is not a policy objective to preclude or discourage the holding of rights in more than one fishery.

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

The Department will consider allocating rights to all citizens of South Africa taking into consideration the race, gender and disability.

(b) Investment in the Fishery

The Department will consider what investments, if any, applicants have made or planning to make in this sector, whether in the form of processing or in the form of marketing, locally and internationally.

(c) Harvesting Performance

Right holder applicants will be assessed having regard to their oyster harvesting performance and record during the 2005 rights allocation process.

New entrant applicants will be assessed having regard to their ability, knowledge and skills to harvest oysters.

(d) Reliance on Oysters

The Department will prefer applicants who rely on oyster harvesting for a significant proportion of their gross annual income. Applicants who derive any income from sources outside of the fishing industry may be penalised. Potential new entrants will be required to demonstrate their historical dependency on the oyster fishery for their livelihood.

(e) Local Economic Development

The Department will prefer to allocate rights to those applicants who live near the area where the oysters are harvested. In this regard, the Department will require the applicant to have lived in that area for a minimum period of four years.

- (f) Compliance
Minor infringements of the Marine Living Resources Act, including its Regulations, by the applicant will be negatively scored.

8. Harvesting Oysters

8.1. Right holders and pickers will be allowed to harvest oysters using:

- (a) wetsuits;
- (b) weight-belts;
- (c) masks; and
- (d) snorkels.

8.2. Right holders and pickers may not use:

- (a) fins;
- (b) artificial breathing apparatus; and
- (c) floating devices.

9. Application Fees

9.1. The fee payable on application for an oyster right is R100 (one hundred rand). This fee is non-refundable and must be paid in full.

9.2. The annual levies payable for the oyster fishery will be determined accordingly. The levies payable will be utilised by the Department for mitigating the annual costs of management, compliance and research.

10. Provisional Lists

10.1. Before the delegated authority makes a final decision on the allocation of oyster rights, he or she may issue a provisional list of successful applicants for each area for comment.

11. Permit Conditions

- 11.1. 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.

12. Performance measuring

- 12.1. The oyster fishery will be assessed continuously during the duration of the oyster rights. Right holders who are not complying with the MLRA, permit conditions and or guidelines will be dealt with accordingly.

13. Policy Review

- 13.1. The Department is committed to ongoing and continued review of the effectiveness of the Oyster Policy in addressing the socio-economic and economic needs of the fishing industry and affected fishing communities and the ecological sustainability of the resources.
- 13.2. Research and ongoing monitoring by both the Department and stakeholders will play an important role in identifying weaknesses and flaws in the policies and the implementation thereof.
- 13.3. The Department will put in place a monitoring and evaluation system to ensure that useful, reliable, and timely feedback on the effectiveness of the policies is provided to the Department and relevant stakeholders.