

FISHING RIGHTS ALLOCATION PROCESS

FRAP 2015/2016

Public Consultation on Draft Policies, Application forms and Fees

07 July 2015 – 04 August 2015

FOR MORE INFO CALL – 021 402 FRAP (3727)

Email FRAPPolicies2015@daff.gov.za

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Process steps

1. Internal policy review
2. Publication of draft s (12 June 2015)
3. Public consultation (07 July -12 August 2015)
4. Finalisation of policies (13 August – 4 September 2015)
5. Call for applications (7 September - 9 October 2015)
6. Receipting of applications (9 Nov -4 Dec 2015)
7. Announcement of results (29 February 2016)
8. Announcement and lodging of appeals (1 March -15 April 2016)
9. Publication of appeal decisions (31 August 2016)



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Policy Table of Contents

1. Introduction
2. Profile of the fishery
3. The 2005/2006 long- term fishing rights allocation process
4. Objectives
5. Granting of rights
6. Multi-sector involvement
7. Evaluation criteria
8. Provisional lists, representations and consultations
9. Announcement of decisions
10. Payment of application and grant of right fees
11. Management measures
12. Permit conditions
13. Glossary of terms



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Sectors

Offshore (4)

1. Hake Inshore Trawl
2. Horse Mackerel
3. Large Pelagic
4. Patagonian Toothfish

Inshore (6)

1. West Coast Rock Lobster (Nearshore)
2. West Coast Rock Lobster (Offshore)
3. NetFish
4. KZN Sardine Beach Seine
5. Seaweed
6. Abalone

and Fish Processing Establishments



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Policy considerations

1. Introduction
2. Sector objectives
3. Terms of granting a right
4. Transformation Targets
5. Evaluation criteria
6. Criteria for FPEs
7. Applicants involvement and relationship with other applicants
8. Terms of announcing decisions



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Policy considerations

1. Introduction (*paragraph 1*)

- During 2005 and 2013 the sector specific policies has made reference to the General Policy on the Allocation and Management of Fishing Rights “General Policy” as the one document to be read whilst reading the sector specific policies.
- Having noticed overlaps or links with other policies, the FRAP2015/2016 sector specific policies are referring the reader to 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 as well.



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Policy considerations

Sector objectives (*paragraph 4*) (standard across sectors)

- (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;



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Sector objectives (standard across sectors)

- (e) prefer applicants who rely on the harvesting of fish for a significant portion of their gross annual income above applicants deriving income from sources outside the 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.



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Policy considerations

Terms of granting a right (*paragraph 5*)

1. Form of right holders (*paragraph 5.1*)

Section 18 of the MLRA provides that only South African persons may hold fishing rights. Rights will be granted to individuals or entities (CCs & PTY) or co-ops and/or all three categories as stipulated in sector specific policies.

2. Duration of rights (*paragraph 5.2*)

Fishing rights will be granted for the maximum period of 15 years in order to encourage investment.



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Policy considerations

Terms of granting a right

3. Total Allowable Catch (TAC) and Total Applied Effort (TAE) (*paragraph 5.3*)

No split of TAC and TAE has been recommended in FRAP 2015/16 and that the maximum TAC and/or TAE has been put forward in each commercial fishery. It is the understanding that these policies shall deal with the allocation of commercial rights only and that other sectors shall be dealt with in the same respective manner in respective legislation.

“See section 5.3 in the respective sector specific policies”

4. Transferability of rights (*paragraph 5.4*)

The FRAP 2015/2016 policies propose that:

“Rights are not transferable during the 1st two years of being granted. Special considerations may be given in cases of death, medical condition or physical disability during the two year period.”



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Policy considerations

Terms of granting a right

5. Total Allowable Effort (TAC) and Total Applied Effort (TAE)

Sector	TAC/TAE	Sector	TAC/TAE
Hake Inshore Trawl	9545.924 tons	Abalone	96 tons
Horse Mackerel	38115 tons (directed)	KZN Sardine Beach Seine	35 (operators)
Large Pelagics	1191 tons	Netfish	120 (operators)
Patagonian Toothfish	575 tons	Seaweed	16098 tons
West Coast Rock Lobster (Offshore)	1120.25 tons	West Coast Rock Lobster (Nearshore)	680.6 tons

Large Pelagics: (a combination of Albacore, Southern bluefin and Swordfish)



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Policy considerations

Terms of granting a right

5. New Entrants

- The term new entrant was used in 2005 to separate first time applicants from applicants who held rights in sectors being allocated.
- The term was removed in FRAP 2013 policies as it was perceived that it will discriminate first time applicants and may provide unintended advantage to applicants who previously held rights in the sectors being allocated.
- FRAP 2015/16 policies therefore are drafted to adopt the 2013 approach where applicants completed the same application forms. Such was made with the understanding that once rights expiry it reverts back to the state for re allocation and no person shall be entitled claim ownership of a right that has expired. Therefore all applicants start on a clean slate.



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Policy considerations

Transformation Targets (*paragraph 7.2 (a)*)

With the difficulty in setting these targets in previous years the FRAP 2015/2016 policies proposes that;

- “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”



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Policy considerations

Transformation Targets (*paragraph 7.2 (a) (i)*)

With the difficulty in setting these targets in previous years the FRAP 2015/2016 policies proposes that;

- Applicants will amongst other criteria be assessed and scored on –
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 (applicable to entities).



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Policy considerations

Evaluation criteria (*paragraph 7.2 (e)*)

The 2015/2016 policies proposed that access to a suitable vessel be used as a balancing criterion rather than exclusionary. Forms of access to a vessel are also highlighted and include full ownership, part ownership and/or agreement.

Applicants involvement and relationship with other applicants (*paragraph 7.2 (f)*)

To guard against monopolies the FRAP 2015/2016 policies proposes that, when allocating rights the delegated authority shall be cautious of :

- **Same household involvement** (in case of same family members with regard to individuals being granted rights)
- **Entity and their subsidiaries involvement** (in case of umbrella companies with subsidiaries)
- **Brother-sister corporations** (in case of entities with common shareholders or members)



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Policy considerations

Criteria for FPEs

- Previous performance will not be considered for FPE in that applicants will not be penalised for not utilising rights granted or exemptions issued
- Rights to operate fish processing establishments will be granted for a period of 15 years. The Department envisaged an open ended rights allocation process for FPEs where applicants may apply in any given time and when their right has expired and that the rights will be granted for 15 years each time an application is received.



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Policy considerations

Terms of announcing decisions (*paragraph 9*)

- Provision to publish a provisional list was made in 2005; however this fell out during 2013 process. It is the idea of the 2015/2016 process to revive the opportunity to publish a provisional list for comments to allow the Delegated Authority to review decisions should it be necessary.
- Therefore, A provisional list may be published for comment on whether the provisional successful applicants are dependable on the resource and on the basis of comments the delegated authority will make final decision.



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Application forms

Application forms (Generic form and FPE form) has been published and interested parties are urged to comment.

During the consultation, the forms will briefly screened and dicussed.



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Submission of comments (30 days from 12 June 2015)

Comments in respect of sector polices and application forms should be directed to:

By mail

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Forestry and Fisheries

Branch: Fisheries Management
Customer service centre
Private bag X2
Roggebaai
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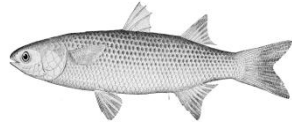
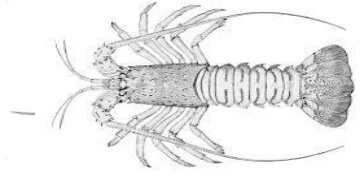
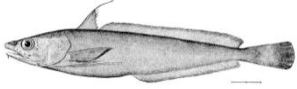
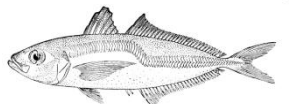
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Thank you

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FEES

Background and discussion

Grant of right fees for all sectors

In terms of section 25(1)(2) of the Marine Living Resource Act, 1998 (Act No.18 of 1998), the Minister of Agriculture, Forestry and Fisheries may with the concurrence of the Minister of Finance, determine levies and fees. Fees are administered under the Marine Living Resource Fund(hereafter referred as the MLRF)

The Grant of rights is payable by any person who is given the privilege to harvest the countries natural marine resource for commercial purposes to profit. this is once off **fee and must not be mistaken with a levy that is payable over the period of the right.**



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Fees

In 2005 the fees were determined for most sectors, by using the partial cost recovery methodology .

This methodology was accepted in 2005 through public participation and approved by the minister of finance.

The rights that are expiring now in 2015 were allocated in 2005 and fees have never been reviewed.



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FEES

Currently we have proposed an increase of 26% for all the sectors.

The reason for the increase of the fees in 2015 is due to the fact that there is an increase in administration cost which is a result of inflation over the last 10 years.

It is estimated that this processes will cost government in the region of R45M

In determining the contribution by industry to the FRAP cost we have tried to apply the following principles:

- a) The fees must be reasonable/affordable
- b) The fees must support government objectives
- c) The structure must be transparent
- d) To recover some of our cost.



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FEES

According to the Government Gazette the fees for this fishery will be determined having regards to:

- a) The cost of the entire Fishing Rights Allocation Process(FRAP) including Consultation, Receipting, Evaluation of application, Verification, Appeals and Reviews (Administration)
- b) The value of the fish being allocated over the duration of the right.
- c) We estimate that industry will contribute about R10M towards the R45 M and the remainder will be covered by government.



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Fisheries	Past fee (rand)	Application fee (rand)	Quota (grant of right) fee payable by successful applicants (rand)			
			Per ton	Per crew member	Per vessel	Per area
Hake Deep Sea Trawl	32,400	40,986	68.31			
Hake Inshore Trawl (hake)	8,800	11,132	68.31			
Hake Inshore Trawl (sole)	2,000	2,530	170.775			
Horse Mackerel	21,900	27,703.5	41.745			
Small Pelagics (Pilchard)	6,400	8,096	8.096			
Small Pelagics (Anchovy)	2,000	2,530	4.68			
Patagonian Toothfish	21,000	26,565	826.045			
South Coast Rock Lobster(wholemass)	8,800	11,132	996.82			
KZN Prawn Trawl	7,700	9,740.5			19,481	
West Coast Rock Lobster (Off Shore)	2,000	2,530	683.1			



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Fisheries	Past fee (rand)	Application fee (rand)	Quota (grant of right) fee payable by successful applicants (rand)			
			Per ton	Per crew member	Per vessel	Per area
Hake Long Line	2,500	3,162.5	204.93			
Squid	5,200	6,578		889.295		
Tuna Pole	1,300	1,644.5		142.945		
Seaweed	1,900	2,403.5				4,301
Longline Demersal Shark	500	6325.5			474.375	
Linefish Traditional	400	505		258.06		
Handline Hake	1300	1,644.5		1,033.505		
West Coast Rock Lobster (near shore)	300	379.5				
Oysters	100	126.5				
White Mussels	100	126.5				
Net Fishing (small nets/gill nets/beach seine/trek)	200	253				
Large Pelagics	6,700	8, 475.5			17,250	
Abalone		1,725				
KZN Seine/Sardine		253				



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