



SECTION B

**Fishing Permit Conditions For: Hake; Sole; Horse
Mackerel and Demersal Shark**

Fishing season: 2014

These permit Conditions must be read with applicable sector specific permit conditions ("SECTION C") for 2014.

DATE OF APPROVAL: 17-12-2013

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1. APPLICABLE ACTS, POLICIES, DELEGATIONS AND PERMIT CONDITIONS

1.1. This permit is issued subject to the provisions and regulations of the following laws (as amended where applicable). These laws include, but are not limited to:

1.1.1 The Marine Living Resources Act, 1998 (Act No. 18 of 1998) ("MLRA") and regulations promulgated thereunder;

1.1.2 The National Environmental Management Act, 1998 (Act No. 107 of 1998) (NEMA), and regulations promulgated thereunder;

1.1.3 The National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004) (NEMBA) and regulations promulgated thereunder;

1.1.4 The National Environmental Management: Protected Areas Act, 2003 (Act No. 57 of 2003) (NEMPA) and regulations promulgated thereunder;

1.1.5 The National Environmental Management: Integrated Coastal Management Act, 2008 (Act No. 24 of 2008) (NEMA:ICMA) and regulations promulgated thereunder;

1.1.6 The Sea Birds and Seals Protection Act, 1973 (Act No. 46 of 1973) (SBSPA) and regulations promulgated thereunder;

1.1.7 The Fire Arms Controls Act, 2000 (Act No. 60 of 2000) (FACA) and regulations promulgated thereunder;

1.1.8 The International Convention for the Prevention of Pollution from Ships Act, 1986 (Act No. 2 of 1986) (ICPPSA) and regulations promulgated thereunder;

1.1.9 South African Maritime Safety Authority Act, 1998 (Act 5 of 1998) (SAMSAA) and regulations promulgated thereunder;

1.1.10 The Animals Protection Act, 1962 (Act No. 71 of 1962) and the Regulations promulgated thereunder;

1.1.11 The Standards Act, 2008 (Act No. 8 of 2008) and the Regulations promulgated thereunder;

- 1.1.12 The National Regulator for Compulsory Specifications Act, 2008 (Act No. 5 of 2008) and the Regulations promulgated thereunder;
- 1.1.13 National Ports Authority Act, 2005 (Act No. 12 of 2005) and the Regulations promulgated thereunder; and
- 1.1.14 The Merchant Shipping Act, 1951 (Act 57 of 1951) and the Regulations promulgated thereunder; and
- 1.1.15 The Companies Act, 2008 (Act No. 71 of 2008) and the Regulations promulgated thereunder.
- 1.2 This permit is issued subject to the further provisions of the following policies:
- 1.2.1 The General Policy on the Allocation of Commercial Fishing Rights, 2005; and
- 1.2.2 The Policy for the Transfer of Commercial Fishing Rights: 2009.
- 1.3 The Director: Offshore & High Seas Fisheries Management shall be entitled to amend these permit conditions.
- 1.4 Any reference to the Permit Holder in these permit conditions includes the entity or person in whose name the commercial fishing right is allocated to ("the Right Holder") by the Minister or the delegated authority.
- 1.5 Any reference to the Department in these permit conditions means the Department of Agriculture, Forestry and Fisheries.
- 1.6 These permit Conditions must be read with the applicable Sector Specific Permit Conditions For: Hake; Sole; Horse Mackerel and Demersal Shark ("SECTION C") for 2014.

2. VALIDITY OF PERMIT

- 2.1. This permit shall be valid for the period indicated in Section A ("the permit").
- 2.2. This permit shall automatically expire and be invalid if one or more of the following occur:

- 2.2.1 the right and/or permit be cancelled, revoked or suspended in terms of Section 28 of the MLRA;
- 2.2.2 the quantum of fish allocated to the Permit Holder (as specified in Section A) be caught; or
- 2.2.3 the precautionary catch limit for any bycatch species allocated to either the Permit Holder or the fishing sector be caught, or
- 2.2.4 The effort allocated to either the Permit Holder or the fishing sector be utilized, or
- 2.2.5 the fishing season be terminated or end, and
- 2.2.6 the permit be revoked, cancelled or suspended in terms of Section 28 of the MLRA.

3. FISHING AND RESTRICTED AREAS

- 3.1. This permit is valid only in South African waters (excluding tidal lagoons, tidal rivers and estuaries), closed areas and marine protected areas as stipulated in Chapter 3 of MLRA Regulations.
- 3.2. No fishing shall take place within False Bay, north of a straight line drawn from the lighthouse at Cape Hangklip to the lighthouse at Cape Point.

4. NOTIFICATIONS

- 4.1. The Permit Holder shall inform the relevant Fishery Control Officer ("FCO") (see Table 1 below) in writing (by Fax or email) of the following at least 2 hours prior to landing and 24 hours prior to the time of discharge of the vessel in port of the following:
 - 4.1.1. the vessel details (name of vessel);
 - 4.1.2. On behalf of which Permit Holder(s) the catch is to be allocated/apportioned. Note that the apportionment of a landing among Right Holders can be adjusted retrospectively to balance catches to allocations. Such changes shall be made in writing and submitted to the Department, clearly marked **Quota Reconciliation**;

- 4.1.3 the estimated total catch (all species combined) onboard, as well as the estimated catch of: hake, horse mackerel, sharks, monk and kingklip, together with restricted species such as oreo dories, orange roughy and alfonsino.
 - 4.1.4 any dead protected or prohibited species or excess bycatch,
 - 4.1.5 the estimated time of arrival of the vessel ("ETA");
 - 4.1.6 the port of arrival;
 - 4.1.7 the intended time of discharge of the fish and/or fish products; and
 - 4.1.8 confirmation of product left onboard from FCO should the vessel not be fully discharged.
- 4.2 In the event of a vessel needing to berth for a deemed emergency:
- 4.2.1 The Permit Holder shall inform the FCO at least 1 hour prior to the vessel berthing.
 - 4.2.2 All holds on vessels must allow for FCO's to seal such holds should the FCO be required to do so in the performance of his/her duties.
 - 4.2.3 No Permit Holder shall discharge fish without written permission from the Department.
- 4.3 Fishing gear lost at sea must be documented and the navigational position of the lost gear recorded in the Fishing logbook provided by the Department.

Table 1: Designated landing sites for the landing of catches made by Permit Holders

Designated Landing Sites	Adresses for FCO Offices	Fishery Control Office
Cape Town Harbour	Fisheries Fore Trust Building Cape Town	Tel: 021 402 3430/3361 Fax: 021 402 3367 Cell: 073 323 2364 E-Mail Address:BuyekezwaP@daff.gov.za
Hout Bay Harbour	Harbour Road Fisheries Office Hout Bay	Tel: 021 790 1140 Fax: 021 790 2808 Cell: 073 660 6280 E-Mail Address: LucasF@daff.gov.za
Mossel Bay Harbour	104 Plaza Aquada Marsh Street Mossel Bay	Tel: 044 691 0096 Fax: 044 691 1617 Cell: 083 663 9155 E-Mail Address: ThisiweF@daff.gov.za
Plettenberg Bay	Fisheries Offices Central Beach Plettenberg Bay	Tel: 044 382 1938 Fax: 044 382 6567 Cell: 084 404 6483 E-Mail Address: HesleneO@daff.gov.za
Port St Francis	St Francis Harbour Port St Francis	Tel: 042 293 1757 Fax: 042 293 2968 Cell: 084 607 1783 E-Mail Address:
Saldanha Bay harbour	Saldanha Bay Harbour President Street Saldanha Bay Harbour	Tel: 022 714 1710 Fax: 022 714 3997 Cell: 082 771 8910 E-Mail Address: WadeT@daff.gov.za
St Helena Bay	Sandy Point Harbour St Helena Bay	Tel: 022 736 1188/1125/1188 Fax: 022 736 1530 Cell: 078 714 7422 E-Mail Address: WillemB@daff.gov.za
Gansbaai Harbour	Gansbaai Harbour Office	Tel: 028 384 0321 Fax: 028 384 1546 Cell: 082 972 2062 E-Mail Address: GilbertME@daff.gov.za
Port Elizabeth Harbour	21 Stanley Street Centrtral P.E	Tel: 041 586 4051 Fax: 041 585 0385 Cell: 082 771 8906 E-Mail Address: DennisM@daff.gov.za

5. EFFORT LIMITATIONS AND GEAR RESTRICTIONS

5.1. The Department has developed, in consultation with the Recognised Industrial Bodies (paragraph 12.2) a set of criteria and/or rules for the purposes of:

5.1.1. limiting effort and/or the prevention of the development of over capacity; and

5.1.2. matching a Right Holder's available effort capacity to its allocation, or, in the case of joint ventures and/or catching agreements, matching the vessels capacity to the catch limit allocated to it.

5.2. The sector specific requirements in respect of effort limitations and gear restrictions are set out in Section C of the permit conditions.

5.3. For TAC managed fishing sectors, when submitting applications for a Permit to undertake commercial fishing, Permit Holders shall submit a copy of the fishing plan required under Section C together with the application.

5.4. Foreign-flagged vessels may not be utilised.

5.5. The Permit Holder shall take cognisance of sustainable fishing practices and of the impacts of its fishing method on the ecosystem. In this regard steps shall be taken to minimise seabird mortality; to minimise damage to the seabed, and to minimise the incidental mortality of non-commercial species.

6. VESSELS SPECIFICATIONS

6.1. The applicable letter for each specific sector shall be displayed on the vessel next to the area number at all times. The following sectors are required to display the following letters:

6.1.1. Hake Deep-Sea Trawl – D;

6.1.2. Hake Inshore Trawl – I;

6.1.3. Horse Mackerel – E;

6.1.4. Hake Longline (West Coast) – L;

- 6.1.5.Hake Longline (South Coast) – L;
- 6.1.6.Hake/Horse Mackerel Fishery – D;
- 6.1.7.Hake Handline – HH;
- 6.1.8.Demersal Shark Longline- L
- 6.1.9.Small pelagic/Horse mackerel-P
- 6.2. The Permit Holder shall not use any fishing vessel unless it bears the registration letters and numbers assigned thereto by the Director-General. Such letters and numbers shall be painted in uppercase in white on a black background or in black on a white background on both bows in characters not less than 15 cm in height, 10 cm in breadth (figure "1" excepted) and 2 cm in thickness (width of stroke). The space between adjacent letters and figures shall be between 2 cm and 5 cm.
- 6.3. Radio call signs shall be clearly visible and displayed as stipulated in terms of regulation 78 promulgated under the MLRA.
- 7. VESSEL MONITORING SYSTEM (VMS)**
- 7.1. The Permit Holder's nominated fishing vessel/s shall be fitted with functional vessel monitoring system/s ("VMS") approved by the Department.
- 7.2. The Permit Holder / Vessel Owner / Skipper shall ensure that the VMS is fully operational and that the VMS continues to transmit to the Department's Operations room. The Permit Holder shall notify Departmental Operations Room prior to sailing as per clause 7.4 or submit a list of vessels sailing for the forthcoming week to Operations Room by FAX (021 402 3663) or email (daffops@daff.gov.za) by no later than the Thursday of the week prior.
- 7.3. Whilst at sea, the VMS shall report continuously and uninterruptedly to the Operations Room. Should the power supply to the VMS be interrupted or the equipment not be operational for any reason whatsoever and the problem persists, the vessel shall return to port within twenty-four hours of being informed of the problem, unless special arrangements have been made with the Department's Operations Room to allow the vessel to continue fishing. Such special arrangements may include:

- 7.3.1 Periodic reporting of the vessel's position faxed to 021-402 3663 as determined by the Departmental Operations Room;
- 7.3.2 Notice of estimated time of arrival;
- 7.3.3 Notice of port of arrival;
- 7.3.4 Mandatory inspection of the catch by a Fishery Control Officer/Monitor on landing; and
- 7.3.5 A hard copy of the vessel's positions for the voyage for verification purposes.
- 7.3.6 The Department will keep a record of the frequency of VMS breakdowns in order to discourage repeated misuse/abuse of this dispensation.
- 7.4 Vessels wishing to switch off their VMS units whilst alongside in port, shall do so only after a minimum of 6 (six) hours after berthing, and shall switch on their units a minimum of 6 (six) hours prior to the estimated time of departure from port. The Permit Holder needs to notify Departmental Operation Room prior sailing.
- 7.5 In cases of emergency, the Permit Holder shall notify the Department before the fishing vessel enters or intends to enter into a Marine Protected Area or any other area closed for fishing. The notification shall describe the nature of the emergency and the reason required for entering the area. Such notification can be made telephonically to 021- 402 3077/ 021 402 3076 by telefax to 021 402 3663 or by e-mail to: daffops@daff.gov.za

8. SUBMISSION OF INFORMATION

- 8.1. The Permit Holder shall submit to the Department:
- 8.1.1 notification (clearly marked **Right Holder Information**) of any change of contact details (including postal address and contact telephone numbers) within 30 days of such change;
- 8.1.2 the Right Holder must submit a completed electronic copy of the "Summary of Landings" form to: HakeT@daff.gov.za (for deepsea trawl, inshore trawl and dual

hake/horse mackerel); HakeLL@daff.gov.za (for hake longline) or TrawlMW@daff.gov.za (for midwater trawl) for each of the periods 1 January – 30 June 2014 and 1 July – 31 December 2014 by 31 July 2014 and 31 January 2015 respectively. The form must list all landings (indicating name of vessel, sailing date and docking date) and indicate the distribution of the landed weight among Right Holders, including instances where no landed weight was allocated to a Right Holder. If the vessel has not fished for a particular month then this should be indicated on the "Summary of Landings" form. Requests for provision of the template of the "Summary of Landings" form may also be made to these email address.

8.1.3 performance measuring information as stipulated in **paragraph 17**.

8.2 The Permit Holder shall provide any other economic, socio economic or financial information in the format as and when requested by the Department.

8.3 The Permit Holder shall submit to the Department the catch and effort data in the Fishing Log book provided by the Department.

8.4 Catch Statistics to be submitted by the Permit Holder are dealt with under Section C of the permit conditions.

9. RECORD KEEPING

9.1. The Permit Holder shall hold at its principal place of business the original permit issued for the current fishing season. The Permit Holder shall at all times over the duration of the right have available a true certified copy of this permit on board each vessel utilised to harvest the fish.

9.2. The Permit Holder shall keep a copy of all the catch discharge sheets or landing slips for a minimum period of sixty (60) months.

10. LEVIES

10.1. The Permit Holder shall pay the prescribed levies for the fish landed for prescribed species as stipulated in the Government Gazette (Gazette No.33518, dated 10 September 2010 as amended from time to time).

10.2. All levies and fees shall be paid monthly in arrears and by the last working day of the month

following the month in which fish was harvested. A penalty of 10% of the levies payable will be imposed on late submissions of levy declarations and payment of levies due.

10.3. The Department shall refuse to issue fishing subsequent permits to Right Holders who have any levies or fees outstanding for a period in excess of 30 days, or shall cancel, suspend or revoke the current Right Holder's fishing permit until all outstanding levies have been paid to the Department.

10.4. The permit holder shall submit together with all levy payments:

10.4.1 A levy declaration form;

10.4.2 A copy of the 'catch discharge sheet' (contained in the fishing log) for each landing included in that month's levy payment. The catch discharge sheets shall clearly indicate the vessel name and docking date for each landing, and;

10.4.3 In cases where a vessel is harvesting the allocation of more than one Permit Holder, a copy of the distribution of 'catch among rights allocations' sheet (contained in the fishing log) for each landing included in that month's levy payment. The catch discharge sheets shall clearly indicate the vessel name and docking date for each landing.

10.5 A nil return shall be submitted for every month where no fish has been landed.

10.6 All returns, including the information specified in 10.4 and 10.5 shall be submitted to the Directorate: Revenue Management via fax number 086 613 6256 or email to revenue@daff.gov.za or posted to:

Department of Agriculture, Forestry and Fisheries

Branch: Fisheries Management

Customer Service Centre

Ground Floor, Foretrust Building

Martin Hammerschlag Way

Foreshore, Cape Town,

8001

10.7 Payment of levies can be made to the cashier at the Fisheries Customer Service Centre, Ground Floor, Foretrust Building, Martin Hammerschlag Way, Foreshore, Cape Town. Alternatively payment shall be made via direct deposit at any First National Bank (FNB)

branch or Electronic Funds Transfer (EFT) to the following banking details:

Bank: First National Bank

Branch code: 204109

Account name: Marine Living Resources Fund Deposit Account

Account number: 62123256382

Deposit reference: Right Holders may use their Party/Customer number as a deposit reference.

Enquiries can either be emailed to SaraB@daff.gov.za or SiyasangaQ@daff.gov.za or revenue@daff.gov.za or telephone number (021) 402 3016/3209 respectively.

- 10.8 Failure to comply with clauses 10.1 – 10.7 may result in the initiation of legal proceedings (which may include section 28 proceedings and or criminal proceedings).

11. VIOLATIONS

- 11.1. A breach of the provisions of the MLRA or these permit conditions by the Permit Holder may result in the initiation of legal proceedings (which may include section 28 proceedings and or criminal proceedings). A breach includes, but is not limited to:

11.1.1 furnishing information to which the Department is entitled, which is not true or is not complete;

11.1.2 contravening or failing to comply with a permit condition imposed;

11.1.3 contravening or failing to comply with a provision of the MLRA;

11.1.4 failing to effectively utilise the permit.

- 11.2 The Department may refuse to re-issue a subsequent permit should the conditions stipulated in this permit not be adhered to.

- 11.3 The Permit Holder shall not land, sell, receive or process any fish taken by any means in contravention of the MLRA.

- 11.4 The Permit Holder shall safely store all inorganic waste material, garbage and pollutants on

- board the vessel. Should the Permit Holder discard any inorganic waste material, garbage or pollutants into the sea, this permit may be suspended for a period determined by the Department and the Permit Holder shall take those steps considered necessary in terms of NEMA to remedy any pollution caused.
- 11.5 There shall be no transshipment of catches without the written authorisation of the Department except when it is permissible under applicable Sector Specific Permit Conditions ("Section C"). Any transshipment without written authorisation may result in initiation of legal proceedings (which may include Section 28 proceedings and or criminal proceedings).
- 11.6 This permit is issued subject to the dates and condition of the Department's Vessel Capacity Management Regime for this fishery.
- 11.7 The Permit Holder shall harvest only the amount of fish allocated to it in terms of the Total Allowable Catch ("TAC") allocated to it under Section A ("the Permit"). Fishing over or under these limits may result in, but not limited to, the initiation of proceedings under Section 28 of the MLRA.
- 11.8 The vessel fishing in terms of this permit shall not leave the harbour without a valid catch permit issued in terms of section 13 of the MLRA.
- 11.9 The Permit Holder is obliged in terms of the MLRA to report to the Minister any contravention of the MLRA or permit conditions by any other person. Any such contravention shall be reported to the Department in writing and should be faxed to (021) 425-7324, Attention: The Chief Director: Monitoring, Control and Surveillance.
- 11.10 Should the Permit Holder inadvertently exceed its catch allocation, or per trip by-catch allowance (as specified in Section C i.e. applicable the sector specific Permit Conditions), the vessel shall notify the Department through the local Fishery Control Officer (see Table 1 above) in writing (with reasons for such over-catch) at least 24 hours prior to the vessel arriving in port. The Department may then seize the excess catch and, will not initiate further legal sanctions against the Permit Holder provided that such excess catches do not occur on a frequent basis. Failure to notify the Department timeously may result in legal action against the Permit Holder.
- 11.11 At any time during the course of the fishing trip or discharging, a Fishery Control Officer may request the skipper of the vessel to provide the cargo manifest or any other documents

relating to fishing operations. The skipper shall comply with this request.

12. CONSULTATION AND COMMUNICATION

12.1. The Permit Holder may contact the Department in one of the following ways (all correspondence shall be clearly marked as to the subject matter thereof):

<p><u>By Mail</u></p> <p>Subject: Customer Services Centre, Private Bag X2, Roggebaai, 8012</p>	<p><u>By Hand</u></p> <p>Subject: Customer Services Centre, Ground Floor, Foretrust Building, Martin Hammerschlag Way, Foreshore, Cape Town</p>	<p><u>By Email</u></p> <hr/> <p><u>By Fax</u></p> <p>021 402 3362</p> <hr/> <p><u>By Telephone</u></p> <p>021 402 3180 or 021 402 3670</p>
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12.2 The Department will prefer to consult and communicate with the Recognised Industrial Body (Bodies) representative of Right Holders for the applicable fishery.

12.3 Communication regarding all permits and licences shall be addressed to the Department and clearly marked **Permits and Licences**.

13. OBSERVER PROGRAMME

13.1. The Permit Holder may carry one or more Observers on board its vessel in accordance with the requirements of the Department's observer program. When an Observer is carried on a vessel, the Observer shall sign and write his/her full name on the cover of the logbook.

13.2. The Observer shall be fully accommodated on board the vessel and provided with food and facilities of a level accorded to officers.

13.3. The Permit Holder shall allow the Observer unrestricted access to monitor fishing activity and compliance with permit conditions and all applicable laws.

- 13.4. Should the Department reasonably believe that an Observer is being prevented from carrying on his/her obligations in any way or threatened in any way while on board, the Department may call the vessel into Port and take steps to immediately suspend fishing activities by the Permit Holder(s).

14. PROCESSING AND SALE OF FISH

- 14.1. The Permit holder must read the applicable Permit Conditions for Fish Processing Establishment (FPE) for the 2014 fishing season.

15. TRANSFER OF FISHING RIGHTS

- 15.1. The Permit Holder shall only transfer the long-term commercial fishing right allocated to him/her or it in terms of section 21 of the MLRA, read together with the Policy for the Transfer of Commercial Fishing Rights (Government Gazette No 32449, 31 July 2009).
- 15.2. Any transfer of shares or sale of shares in a company and/or membership interest that results in a change in control or ownership of the Permit Holder shall be approved by the Department in terms of section 21 of the MLRA.
- 15.3. Failing to comply to comply with conditions 15.1 and/ or 15.2 may lead to the initiation of further legal proceedings including but not limited proceedings in terms of section 28 of the MLRA.

16. TRANSPORTATION OF FISH

- 16.1. The Permit Holder shall not transport fish without being in possession of the following:
- 16.1.1. a valid transport permit or
 - 16.1.2. in the case where the fish is weighed and recorded at an authorized FPE an official delivery note or sales invoice, reflecting the name of the seller and buyer, fish weight and species.
- 16.2. The Permit Holder shall deliver the fish harvested to its nominated FPE as soon as reasonably possible after landing utilizing, where possible, the shortest main route between the landing site and the FPE.

17. FISHING PERFORMANCE MEASURING

- 17.1. The Department will **continue conducting** performance measuring exercises in 2014 in various fisheries.
- 17.2. The criteria against which Right Holders will be measured have been finalised after consultation with the Right Holders. Apart from the assessment of individual Right Holders, the purpose of performance measuring will be to ensure that the objectives of the fishery are being met and that management methodologies remain current and suitable for the fishery.
- 17.3. Permit Holders shall be obliged to participate in the performance measuring exercises and provide the Department with true and accurate information relating to these exercises and the failure to do so may lead, but not limited, to the suspension of this permit or the initiation of legal proceedings, which may include section 28 proceedings.

SIGNATURE: 

DIRECTOR: OFFSHORE & HIGH SEAS FISHERIES MANAGEMENT

DATE: 17-12-2013

