

Department of Agriculture, Forestry and Fisheries

Presentation to the Portfolio Committee on
Agriculture, Forestry and Fisheries

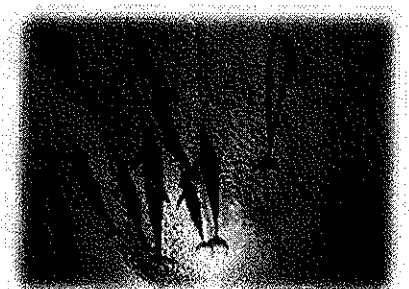
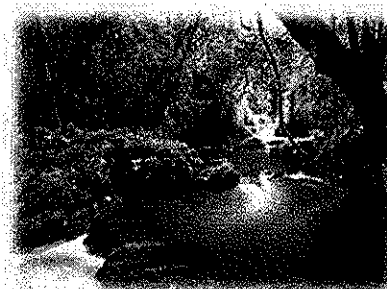
Overview of the Draft Small-Scale Fisheries Regulations

9 June 2015



agriculture,
forestry & fisheries

Department:
Agriculture, Forestry and Fisheries
REPUBLIC OF SOUTH AFRICA





- DG – Director General
- MLRA – Marine Living Resources Act
- TAE – Total Applied Effort
- TAC – Total Allowable Catch

Acronyms

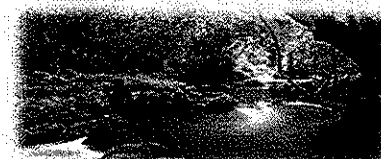
Presentation Outline

- **Background**
- **Overview of Regulations**
- **Co-operative Constitution**
- **Process in finalizing the Regulations**
- **Submission of Comments**



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Background

- The MLRA Amendment Act, which now recognizes the small-scale fishing sector, was signed into law by the President in May 2014.
- The MLRA Amendment Act can only be promulgated once the Regulations have been prescribed to address certain matters contained in section 19.

- Several internal workshops were held in 2014 to develop the Draft Regulations.
- The Draft Regulations were subsequently vetted by the Office of the Chief State Law Advisor and minor amendments have been incorporated into the final draft.
- Minister approved the final draft to be published for public comment.
- The Draft Regulations was published on 6 March 2015 in the Government Gazette for public comment.



Overview of Regulations

- **Regulation 1 (definitions)**
- **Regulation 2 (purpose of regulations)**
 - to ensure equitable access to fish by small-scale fishing communities;
 - to recognise a multi-species approach in the granting of rights.
 - to transform the inequalities of the past fisheries system; and
 - to address poverty, food security and socio-economic development.
- **Regulation 3 (identification, verification & registration).**
 - includes expression of interest process
 - small-scale fisher verification criteria that will be used.



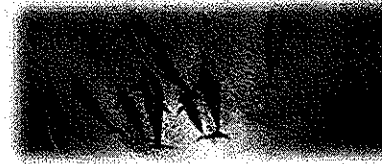
Overview of Regulations

- Regulation 4 (co-operatives and the granting of fishing rights)
 - Minister determines the number of co-operatives
 - Allocate to co-operatives that are registered in terms of the Co-operatives Act, 2005 and is approved by Minister as a primary small-scale fisheries co-operative.
 - The regulation only provides for verified small-scale fishers to be members of the co-operative and prohibits members of co-operatives to be owners of a commercial right.
 - Duration of the right not may not exceed 15 years.
 - Small-scale fishing rights cannot be transferred.
 - Approval of the co-operative constitution (Annex) and management plans.
 - Makes provision for access to a basket of species.



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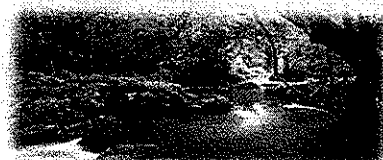
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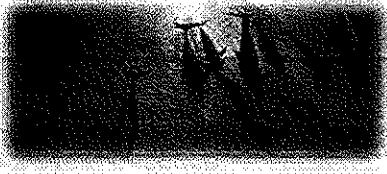
Overview of Regulations

- **Regulation 5 (additional members of a co-operative)**
- Makes provision for additional members to be added to the co-operative after three years of awarding the small-scale fishing right to the co-operative.
- It also makes provision for replacement members to be considered in the case of death or resignation of existing members.
- Additional members must meet the criteria to be recognised as a small-scale fisher. Replacement members would either have to meet the criteria or must be a family member of the deceased co-operative member.
- Minister is required to approve the amendments to co-operative membership.



Overview of Regulations

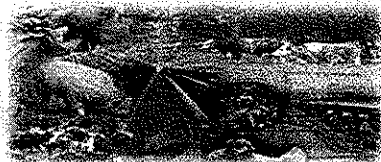
- **Regulation 9 (multi-species approach)**
- Co-operatives are required to request initial access to a basket of species.
- Minister approves species for own use and those for commercial use per co-operative based on criteria listed in the Regulation 9.
- Prescribes management measures for species utilization, including Total Allowable Catch (TAC) and Total Applied Effort (TAE).
- In the first year of allocation the co-operatives are given first choice to agree on apportionment of TAC and TAE between co-operatives in the same region. If no agreement reached then Minister would be required to determine the apportionment.



Overview of Regulations

- **Regulation 10 (small-scale fishing areas)**
- Fishing areas will be established based on the type of species requested.
- Minister may demarcate multiple fishing areas per co-operative.

- **Regulation 11 (co-management structures)**
- Minister to establish local, regional and national co-management committees and to appoint members.
- Committees required to share responsibility in the management of resources.
- Must be composed of small-scale fisher members, government officials and affected parties.
- Appointment is for a maximum of three years.



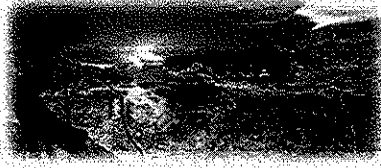
Overview of Regulations

- **Regulation 12 (conflict resolution mechanism)**
 - Internal conflict to be dealt with following the co-operatives internal dispute resolution mechanism. Minister is not responsible to resolve internal disputes.
 - Minister may facilitate mediation and arbitration proceedings for conflict between a small-scale co-operative and a third party.

- **Regulation 13 (compliance)**

- Section 28 proceedings

- Constitution of co-operatives to specify action to take against members that contravene provisions of the MLRA. DG to be informed of such action taken.



Co-operative Constitution

▪ Regulation 14 - (short title)

- The constitution is an important document that governs the functioning of the co-operative.
- It also explains what members can do and cant do within the entity.
- By prescribing a constitution template all co-operatives will have to use the same template.
- The constitution is based on other constitution models currently used for co-operatives today, and hence most of the work has been done for the co-operative by the Department.
- However, the template has been tailored specifically to address small-scale fisheries matters. Some important points to note are:
 - Only verified small-scale fishers can be members of the co-operative;
 - No shareholding of members are applicable;
 - By-laws need to specify: conflict resolution mechanisms, division of labour, remuneration of work, distribution of profits, utilization of species, marketing plan, the involvement of women, youth and people with disability.



Process in Finalizing Regulations

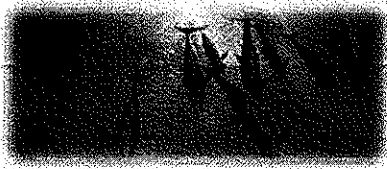
- Draft Regulations (English version) was published on 6 March 2015 and was uploaded to the Department's website.
- Translated versions (Afrikaans, isiXhosa, isiZulu) was uploaded onto the Department's website.
- The public had 30 days from time of publication to provide comment on the draft Regulations
- Road shows to explain the regulations to stakeholders was conducted between 16-23 March 2015.
- Minister invited a second round of comments (30 days) on the 28 April 2015.
- All comments received and associated responses will be recorded.
- Comments that are accepted will be incorporated in the final Regulations.
- Minister will be required to approve the final Regulations.
- It is envisaged to have the MLRA Amendment Act and the Final Regulations to be promulgated on 31 July 2015.



Submission of Comments

- Email: ssfregs@daff.gov.za
- FAX: 021 402 3622
- Post: Small-Scale Fishing Regulations, Customer Service Centre, DAFF, Fisheries Management, P/Bag X2, Roggebaai 8012
- Hand deliver:
 1. Customer Service Centre, DAFF, Fisheries Management, Foretrust Building, Martin Hammerschlag Way, Cape Town
 2. Ezemvelo KZN Wildlife Office, 25 Stellawood Road, Umbilo, Durban
 3. 21 Stanley Street, Central, Port Elizabeth
 4. 9 St Peters Road, Southernwood, East London
 5. 433 Bridge Street, Mnyaka Building, Port St Johns
 6. Lot 147, Ramse Avenue, Port Edward





THANK YOU!