

**MATTERS RELATED TO THE 2010
FUNDING REFORM DECISIONS OF
GOVERNMENT**

MINISTERIAL POLICY GUIDELINE NO. 21

**ISSUED PURSUANT TO
SECTION 246 OF THE *FISH RESOURCES
MANAGEMENT ACT 1994* AND
SECTION 24 OF THE *PEARLING ACT 1990***

Published by
Department of Fisheries
168 St. Georges Terrace
Perth WA 6000

February 2012
ISSN 1446-8085

Matters Related to the 2010 Funding Reform Decisions of Government

February 2012

Ministerial Policy Guideline No. 21

ISSN 1446-8085



Government of **Western Australia**
Department of **Fisheries**

CONTENTS

SECTION 1 INTRODUCTION..... 1

SECTION 2 ROLE OF MINISTERIAL POLICY GUIDELINES..... 2

**SECTION 3 FUNCTIONS OF THE CEO AND OTHER FISHERIES PERSONNEL
..... 3**

**SECTION 4 MATTERS THAT MUST BE TAKEN INTO ACCOUNT IN THE
FORMULATION OF FEE SETTING RECOMMENDATIONS..... 4**

MINISTERIAL POLICY GUIDELINES..... 7

SECTION 1 INTRODUCTION

This guideline forms a further part of a framework for the administration of the fishing and related industries in Western Australia.

It documents, for the assistance of the Chief Executive Officer (CEO) and other fisheries personnel, and for the information of the industry and the community, decisions taken by the Government in June 2010 in relation to access fees for commercial fishing and aquaculture activities authorised under the *Fish Resources Management Act 1994* (FRMA) and pearling activities under the *Pearling Act 1990*, and associated Ministerial undertakings relating to access and lease fees prescribed under the FRMA and *Pearling Act 1990*.

As in section 246 of the FRMA, these guidelines are in force until amended or revoked by the Minister for Fisheries.

SECTION 2 ROLE OF MINISTERIAL POLICY GUIDELINES

Ministerial Policy Guidelines are issued for the assistance of the CEO, fisheries officers and staff of the Department of Fisheries (fisheries personnel) and for the information of industry and the community relating to the administration and enforcement of the FRMA, the *Pearling Act 1990* and any other Act the administration of which is committed to the Minister

In performing a function under an Act referred to above, fisheries personnel must take into account any guidelines that I have made that are relevant to the performance of that function. However, nothing in a Ministerial Policy Guideline derogates from the duty of fisheries personnel to exercise discretion in a particular case, precludes fisheries personnel from taking into account matters not set out in this guideline, or taking into account a guideline if it is inconsistent with a provision of the Act under which the function is conferred (see section 246(5) of the FRMA and section 24(3) of the *Pearling Act 1990*).

SECTION 3 FUNCTIONS OF THE CEO AND OTHER FISHERIES PERSONNEL

This Guideline is intended to assist the CEO and other fisheries personnel in undertaking functions relating to:

- the determination of the Gross Value of Production (GVP) by the CEO and the formulation of recommendations to the Minister for the purpose of setting access fees for commercial fisheries;
- the formulation of recommendations to the Minister for the purpose of setting of aquaculture licence and lease fees under the FRMA; and
- the formulation of recommendations to the Minister about the setting of licence and lease fees under the *Pearling Act 1990*.

SECTION 4 MATTERS THAT MUST BE TAKEN INTO ACCOUNT IN THE FORMULATION OF FEE SETTING RECOMMENDATIONS

This Guideline indicates to the CEO and other fisheries personnel, the fishing industry and the community, matters that must be taken into account in formulating recommendations to me in relation to the determination of the GVP, access fees and other matters related to the Government's 2010 funding reform decisions.

Between 1995 and June 2010, licensees in the State's "major" commercial fisheries (including pearling) were charged access fees based on full cost recovery of management, compliance and research services. Licensees in "minor" fisheries paid fees on the basis of a percentage of GVP of their fishery.¹

In addition, both the major and minor commercial fisheries contributed to the Development and Better Interests Fund annually, based on 0.65% of the GVP of the State's fisheries so that at least \$3.5 million dollars was contributed to the DBIF, with each fishery contributing at a rate that was proportionate to that fishery's share of the GVP. The arrangements referred to above were published in a policy paper entitled *Future Directions for Fisheries Management in Western Australia*, also known as the *Cole – House Agreement* as signed by the then Chairman of the WA Fishing Industry Council (WAFIC), Mr John Cole AM, and Hon. Monty House MLA, Minister for Fisheries.

In June 2010, Government introduced a new uniform system for determining access fees for the State's commercial fishing, calculated at 5.75% of the GVP for respective fisheries. Fees for access to marine waters for pearling and aquaculture purposes will also apply. The new system applies to licence renewal fees as they fall due in the licensing period after 1 July 2010.

Revenue from access fees can only be used for the purposes set out in the Fisheries Research and Development Account (established under the *Fish Resources Management Act 1994*), which covers commercial fishing and aquaculture management, enforcement, education, research and monitoring of fishing activity. The Account cannot be used for recreational fishing.

The review of commercial access fees follows a review of recreational fishing fees that resulted in the restructure of existing licence categories, including the abolition of umbrella licences, an increase in the fee for most categories and the introduction in March 2010 of a new Recreational Fishing from Boat licence.

Following the determination of the new commercial access fee, the Government provided WAFIC with the following associated undertakings:

- The access fee for commercial fisheries will be set at 5.75% of the GVP for respective fisheries.
- Part of the access fee equivalent to 0.5% of the GVP for each fishery will be provided to WAFIC for industry representation, and an additional 0.25% of the access fee will be provided to the Fisheries Research and Development Corporation for fisheries research.
- GVP will be calculated on a three-year average (including years of zero catch). There may be exceptional circumstances (e.g. in the situation of a "new" fishery with no previous catch) where GVP may need to be calculated on a different period or basis.

¹ Note that there were some exceptions to this model, including, for example, the abalone industry which paid an agreed flat fee.

- GVP information collected and calculation methodology will be independently reviewed.
- Unallocated catch (unreported by-product) will not be included in GVP calculations in 2010/11. By-product will be included in future calculations of GVP.
- It is recognised that some fisheries may require assistance in adjusting to the new fee arrangements. Where fees increase, they will not exceed 100% in any given year with the full increase being phased in over up to five years. In circumstances where fees reduce, the full benefit will be realised in the next renewal. In the case of fisheries with highly variable GVP, arrangements will be developed to “smooth out” the fees.
- Holders of Exemptions, Regulation Licences, Fishing Boat Licences and those operators subject to Section 43 exceptions will not be subject to the new funding arrangements in 2010/11. For fisheries where access is governed by these methods, 2010/11 fees will be set commensurate with fees in previous years. Access fees will be charged in future years, however the rate applied may differ from that of other fisheries.
- Specimen Shell and Marine Aquarium Fisheries (for which GVP data is not available) will be charged access fees in 2010/11 that are commensurate with those charged in 2009/10. Future access fees for these fisheries will be calculated following a GVP review process and may include setting a GVP surrogate.
- Access fees will be allocated across zones in individual fisheries according to previous arrangements and simplified, where appropriate, to reduce the variability in allocation across zones.
- Changes to allocations of access fees across zones in an individual fishery will be considered in exceptional circumstances and where WAFIC provides a compelling case. Instead of GVP, aquaculture licence holders (including the aquaculture component of pearling) will be charged an access fee for use of marine environmental resources (areas of water) based on a dollar per hectare basis.
- Consistent with part of the (wildstock) access fee being provided for industry representation, a portion of the access fee charged for use of marine environmental resources (areas of water) will also be considered for the provision of relevant industry representation.

Independent Review

Independent performance audits will be conducted regularly on the methodology used to obtain catch and value information, and calculate GVP. Industry, through WAFIC, will be provided with an opportunity to comment on independent GVP audits/evaluations, prior to the GVP being determined by the Minister. Licensees, through WAFIC, may request a review by the CEO if they believe the GVP figures provided in the independent report are not reasonable.

Cost Recovered Services

Where a particular fishery requires services that exceed those required to meet core sustainability requirements, the services will be provided on a cost recovery basis unless otherwise negotiated between WAFIC and the CEO. Principles and criteria that are needed to satisfy core sustainability requirements and those that are over and above will be identified. Priorities for cost recovered projects and processes for contracting out will be developed, where appropriate.

Access Rights

Commercial fishing access rights will be strengthened using legislative and other instruments, including the proposed new aquatic resources management legislation.

Co-management

The Department will work with licensees and/or WAFIC, on possible co-management arrangements for individual fisheries, where such arrangements allow the Department to continue to meet its statutory management and reporting obligations.

Industry Consultation

WAFIC and the Department will develop protocols aimed at improving industry consultation through formal management meetings and other agreed processes.

Planning, Priority Setting and Reporting

WAFIC will be provided an opportunity to input into the Department's annual planning and priority setting process, including providing input on industry priorities for management and research. WAFIC will be advised of progress on project outcomes and deliverables.

Review

The funding model will be reviewed by Government in liaison with industry after five years at which time the access rate and other elements of the model may be adjusted.



NORMAN MOORE MLC

MINISTER FOR FISHERIES

MINISTERIAL POLICY GUIDELINES

- No.1** Guideline for determining who is a fit and proper person to hold an aquaculture licence or lease under the *Fish Resources Management Act 1994 (in press)*
- No.2** Foreign interests in rock lobster processing authorisations (July 1996). Notice published in the Gazette of 11/6/96
- No.3** Determining a “fit and proper person” for rock lobster authorisations (July 1996). Notice published in the Gazette of 11/6/96
- No.4** Determining what is “in the better interests of the industry” for rock lobster processing authorisations (July 1996). Notice published in the Gazette of 11/6/96
- No.5** The Aquaculture and Recreational fishing stock enhancement of non-endemic species in Western Australia. Notice published in the Gazette of 14/5/02
- No.6** *Vacant*
- No.7** *Vacant*
- No.8** Assessment of Applications for authorisations for Aquaculture and Pearling in Coastal Waters of Western Australia (December 1997). Notice of issue of guideline not published. Notice of amendment published in *The West Australian* of 3/3/99
- No.9** *Vacant*
- No.10** The Abalone Managed Fishery in Western Australia (April 1999, revised March 2002). Notice of issue of guideline not published. Notice of amendment published in the Gazette of 16/4/02.
- No. 11** *Vacant*
- No. 12** Assessment of Applications for the Granting, Renewal or Transfer of Fishing Tour Operators Licences and Aquatic Eco-Tourism Operators Licences (January 2000). Notice published in the Gazette of 18/5/01
- No. 13** *Vacant*
- No. 14** *Vacant*
- No. 15** *Vacant*
- No. 16** Shark Bay Snapper Fishery in Western Australia. Notice published in the Gazette of 11/6/02
- No. 17** Pearl Oyster Fishery (issued pursuant to section 24 of the *Pearling Act 1990*). As amended to August 2001 - third amendment. Notice published in the Gazette of 24/5/02
- No. 18** Assessment of Applications for Rock Lobster Processing Authorisations and Imposing Licence Conditions (This Guideline replaces Ministerial Policy Guideline No. 4).
- No.19** Matters Of Importance In Respect Of The “Fit And Proper Person” Criterion For Authorisations Under The *Fish Resources Management Act 1994*
- No. 20** Assessment Of Applications For Authorisations With Regards to Rock Lobster Aquaculture (November 2004).
- No. 21** Matters Related to the 2010 Funding Reform Decisions of Government.

