

FOSAF AND TROUT SA'S COMMENTS ON "APPENDIX "A"

THE REGULATION OF TROUT IN TERMS OF THE ALIEN AND INVASIVE SPECIES REGULATIONS, 2014

By

Ian Cox and Ilan Lax

Index

1.	Introduction	2
2.	Protected Areas	3
3.	Catchments ("Green Zones") in which Trout will not be Listed as Invasive Species	4
4.	Regulation of Trout as Alien Species, in terms of Section 66 of the Act	6
4.1	General.....	6
4.2	Release outside green zones.....	6
4.3	Release in rivers in green zones.....	7
5.	The legal position regarding the management of alien species and section 66	7
5.1	The management of alien species	7
5.2	Section 66.....	8
5.3	Exemption of restricted activities not permissible	8
5.4	Management by Condition.	9
6.	The legal position and the registration of trout aquaculture facilities	9
7.	Appendix A and the proposed management of alien species: general remarks	10
8.	Draft Conditions	11
8.	Appendix A and the proposed management of alien species: the tables	16
8.1	Regulation of Trout as Alien Species, for Release of Live Specimens	16
8.2	Regulation of Trout as Alien Species, for Distribution of Live Specimens	16
8.3	Regulation of Trout as Alien Species, for Transportation of Live Specimens	17
9.	Catchments ("Orange Zones")	17
10.	Regulation of Trout as Category 2 Invasive Species, in Terms of Section 71 of the Act	18
10.1	Restricted Activities for Trout as Invasive Species for Selected Restricted Activities	18
10.2	Existing Permits or Authorizations from Provinces	19
11.	Aquaculture Facilities	19
12.	Unrestricted Fishing for Trout in terms of the AIS Regulations	20
13.	Issuing of Permits when buying Immovable Property with Existing Permit Rights	20

14.	Farming for Rainbow Trout in Salt-water Facilities	20
15.	Risk Assessments for Species being brought into South Africa	20
17.	Continued Temporary Application of Provincial Controls of Trout	21
18.	Media Statement on the Regulation of Trout	21
	Appendix A: The Regulation of Trout in terms of the Alien and Invasive Species Regulations, 2014	22

1. Introduction

- 1.1 Appendix A is the latest in a series of similar documents that the Department of Environmental Affairs (the DEA) has made available as part of the process of finding a way to manage trout in a manner that balances the social and economic benefits of the trout industry and the need to grow this industry on the one hand against the need to preserve biodiversity on the other.
- 1.2 The Annexure is a product of the process that gave rise to it and is thus driven by subject matter rather than being in the form of law, be it a listing promulgated in terms of section 70 of the National Environmental Management: Biodiversity Act, 10 of 2004 (the NEM:BA) or, a regulation promulgated in terms of section 97 of the NEM:BA. The formulation of that the resultant proclamation will require what are often conflicting ideas set out in the Appendix to be pulled together into a cohesive legal framework.
- 1.3 We are encouraged by the progress that has been made in respect of the mapping exercise that is underway. Practical solutions are being found in consultation between all stakeholders.
- 1.4 We suggest the most practical and effective way forward to achieving a legal framework that is simple, effective and which enjoys the support of all parties is through a cooperative process similar to the one that is presently underway with regard the mapping of trout waters. We say so because the scheme that is proposed is not without its legal pitfalls. We believe that a cooperative process is the best way to avoid those pitfalls and with this in mind we suggest that the DEA, DAFF and trout industry legal teams meet with a view to finding a practical consensus on the way forward.
- 1.5 Our present view on the way forward is that:
- (a) Although we recognise that green zones can be demarcated by regulation, the simplest and quickest way forward is to proclaim green zones as a conditional exemption of trout as an alien under section 66.
 - (b) Orange zones can be listed under section 70 as not being green zones.
- 1.6 We see sense in this as it will avoid the need to amend the regulations thus limiting the reach of what is proposed.
- 1.7 Trout will still be exempted as aliens within this scheme, but on terms that impose conditions with regard to the sale and release of trout in green zones.

- (a) Green zones will be as described in the conditional exemption and, further demarcated to distinguish between those rivers where regular release is the norm and those where release is only to take place occasionally.
 - (b) Trout will be listed as category 2 invasive species in orange zones.
- 1.8 While we do not necessarily agree in a spirit of compromise we respect the DEA’s concerns that:
- (a) the totally unregulated release of trout in Green Zones involves an unacceptable risk of trout being released in an unmanaged way in Orange Zones; and
 - (b) the unmanaged stocking of trout into rivers even in green zones may result in harm.
- 1.9 We see this risk as minimal if not non-existent. If it has not happened in the last 125 years it is unlikely to happen now. Live trout are in any event very expensive, costing around R70.00 to R80.00 per kg. So unmanaged and irresponsible stocking will be very costly. Overstocking in any event reduces fish sizes which in turn reduces the attractiveness of the fishery from a trout tourism point of view.
- 1.10 The solution that is proposed, accords with what was agreed at the Phakisa process and given that what was discussed in Howick has the support of the provincial authorities, we believe the solution proposed will address all parties’ concerns in a balanced way
- 1.11 In this vein we also express concern regarding the management of trout as alien by permit. We do not believe this is legally sustainable for the reasons set out in paragraph 5.

2. Protected Areas

Our comments on what is proposed as regards protected areas are set out in tabular form below. Throughout reference is made to the original numbering as contained in Appendix A. Though we do not believe there is any scientific or legal basis for declaring trout as invasive in protected areas on the basis that those areas are protected, we confirm that listing rainbow and brown trout as invasive species under category 2 is an acceptable compromise in protected areas, excluding privately owned mountain catchment reserves, unless the affected landowners agree/consent to trout being listed as invasive in their reserve.

	Appendix A	Trout SA and FOSAF’s Comments
1	Rainbow trout and brown trout (“trout”) will be listed Category 2 invasive species in National Parks, Provincial Reserves, Mountain Catchment Areas and Forestry Reserves specified in terms of the National Environmental Management: Protected Areas Act, 2003 (Act No. 57 of 2003).	Trout SA notes that most of these areas will be in such reserves and that the intention is to issue permits to management authorities where applicable. This is accepted in the spirit of compromise. However, those privately owned reserves like Mount Anderson, where trout are a major driver of the reserves’ existence, must be excluded from this listing. (See 1.2)
1.1	Long-term, multiple-release Permits may be issued for trout in these Protected Areas, in areas where they occur.	Agreed

1.2	Areas in which trout occur, that have been voluntarily included in Mountain Catchment Areas, may be demarcated as “green zones”, upon application, where trout are not listed as an invasive species.	This must be framed the other way around. Trout SA and FOSAF point out that as presently drafted the DEA acquires a liability to compensate such reserves for the loss of value that will be occasioned by trout being listed in those reserves. See Section 4(1) which states: <i>If in terms of a direction limitations are placed on the purposes for which land may be use d, the owner or occupier of such land shall be paid such compensation in respect of actual patrimonial loss suffered by him as may be determined in an agreement concluded between the Minister, in consultation with the Minister of Finance, and such owner or occupier.</i>
1.3	The Department retains the right to pursue the local extirpation or management of alien or invasive fish in specific, discrete stretches of rivers, based on conservation priorities in terms of critically endangered or endangered indigenous fish, amphibian, invertebrate or other indigenous species, or for other ecosystem management purposes.	Noted. However, this is an unnecessary statement given the DEA’s rights and duties under NEM:BA.

3. Catchments (“Green Zones”) in which Trout will not be Listed as Invasive Species

3.1 Again our comments on what is proposed as regards green zones are set out in tabular form below.

3.2 We agree that:

- (a) Trout should not be listed as invasive in green zones.
- (b) That green zones are those areas where trout occur.
- (c) That in identifying green zones those upper catchments where trout do not exist on account of some natural barrier or other condition should not be included in the green zones.

3.3 We note that:

- (a) these principles are supported by DAFF and are supported in principle by the provinces with whom we met in Howick on 17 October 2014.
- (b) The process of mapping the green zones is proving an effective tool in finding consensus between the parties and should be supported.

3.4 We disagree with the fine print introduced in this draft and which we comment on below.

3.5 We suggest that it would be sensible to let that mapping process run its course. The practical process of give and take may well provide consensus and a solution that everyone can accept.

	Appendix A	Trout SA and FOSAF's Comments
2	Trout will not be listed as invasive species in catchments, or portions of catchments, that can be legally demarcated by the Department as "green zones" (areas where trout already occur and have completely invaded the entire catchment or portion of such catchment).	The principal that has been agreed with the trout industry and DAFF (and now supported in principle by the provinces with whom we met in Howick on 17 October 2014) is that Trout must not be listed as invasive species in areas where they already occur. These are the so called green zones. The references to "legally demarcated" and "completely invaded" are not part of that agreement. These should thus be deleted.
2.1	The Department's decision on what will initially be classified as green zones may be guided by input at a working group meeting proposed between the authorities (DEA, SANBI, DAFF and the Provinces), their scientific advisors, and trout industries (including Trout-SA, Aquaculture SA, FOSAF, SASACC, WCADI and any other stakeholder groups).	The principle is as stated above. The Department as the lawmaker must exercise its discretion to list reasonably having regard to this principle. The purpose of the mapping exercise that took place in Howick was to identify areas where the parties agree that trout occur and those where they do not agree that trout occur. The later would be treated as orange but could, following a process of ground truthing, be re-listed as green if it is shown that trout do occur in that area. The parties also agreed that mere disagreement was not enough to establish the whereabouts or absence of trout. This would have to be backed up with some evidence. This is of particular concern given the number of areas where the occurrence of trout was disputed for reasons relating to the officials' desire to protect biodiversity in an area rather than being based on the occurrence of trout.
2.2	Trout will be managed in such areas as alien species, with the regulation of three alien species restricted activities for the distribution/sale (see #4), transportation and release of live specimens of trout. This may be done through a DEA Permit or through a conditional exemption by specifically accredited Permit-holders (see #3, 4 & 5).	Trout cannot practically be managed as alien by permitting restricted activities. See paragraph 4. Trout will have to be managed as aliens in terms of a conditional exemption. Otherwise agreed.
2.3	National Parks, Provincial Nature Reserves, Mountain Catchment Areas or Forestry Reserves (proclaimed in terms of the Protected Area Act) will not be demarcated as green zones within these catchments, except for #1.2, where the owners of a property that has been voluntarily included in Mountain Catchment Area, and in which trout already occur, may apply to have the	See 1.2 above

	farm zoned as a “green zone”.	
2.4	Initial maps will be finalized over a two-day meeting, to establish undisputed areas in which trout occur, and only these areas will be considered for demarcation as green zones in the listing of trout in the amendment to the Notice to the Alien and Invasive Species Regulations, 2014, in terms of the National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004, as amended).	Only 5 hours was available for this purpose but the process is working and should be complete by February. It is anticipated that most areas of disagreement as to where trout occur and how to deal with particular areas of biodiversity concern should be ironed out in this process.
2.5	The portions of catchments must be able to be captured unambiguously in law, including with GPS positions.	Agreed
2.6	The demarcation of the green zones may be updated by the Department on an annual basis.	Agreed
2.7	The Department retains the right to pursue the local extirpation or management of alien or invasive fish in specific, discrete stretches of rivers, based on conservation priorities in terms of critically endangered or endangered indigenous fish, amphibian, invertebrate or other indigenous species, or for other ecosystem management purposes	See table 1.3 above. Not agreed as a statement of principal though it is anticipated that the mapping process will result in the parties agreeing that areas of significant concern that have low economic and social benefit for the industry being excluded from the green zone.

4. Regulation of Trout as Alien Species, in terms of Section 66 of the Act

4.1 General

- (a) The proper treatment of this issue requires a general analysis that does not fit comfortably into a tabular form. Hence the form of the comments that are set out below.
- (b) The issues that are addressed are legally complex and will likely require discussion between the parties’ legal teams.

4.2 Release outside green zones

- (a) The trout industry understands the DEA’s concern that a process that allows the totally unregulated release of trout may carry the risk of trout being released in an unmanaged way into areas where trout do not already occur.
- (b) The trout industry sees little risk of this happening but equally does also not want it to happen.
- (c) Both parties see benefit in accurate records being kept of where trout are released albeit for different reasons.

4.3 Release in rivers in green zones

- (a) The provinces expressed concern at the mapping meeting that took place in Howick on 17 October 2014 that treating rivers in the same way as dams in green zones may result in the irresponsible and potentially harmful release of trout into rivers.
- (b) Both parties noted that outside certain “put and take” river fisheries, largely situated in Mpumalanga, release into rivers was the exception rather than the rule, being limited in the main to release to replace populations that had become ravaged by drought, habitat destruction, water abstraction and/or pollution.
- (c) While the trout industry saw little risk in trout being released into rivers in an irresponsible manner given both:
 - (i) the prohibitive cost in doing so; and
 - (ii) the fact that such release tends to reduce fish size and thus the attractiveness of the fishery;

it nonetheless appreciated the Provinces’ concern that this be managed.

4.4 Practical solution

- (a) The practical solution that was proposed at the meeting that took place in Durban during the Phakisa conference remains the consensus position of the parties as regards release into dams. **Note that Appendix “A” departs from this position in that reference is made to such release requiring a long term permit.**
- (b) The general consensus of the Howick meeting was that a similar regime could apply to rivers in “green zones” with the added requirement of prior “consultation” with the relevant provincial environmental/conservation authority in respect of such rivers other than identified “put and take “ river fisheries where regular release is the norm.

5. **The legal position regarding the management of alien species and section 66**

5.1 The management of alien species

- (a) Alien species are managed by a process of permitting restricted activities under the NEM:BA unless those species are exempted in terms of section 66.
- (b) Section 65(1) states: *A person may not carry out a restricted activity involving a specimen of an alien species without a permit issued in terms of Chapter 7.*
- (c) Section 65(2) states: *A permit referred to in subsection (1) may be issued only after a prescribed assessment of risks and potential impacts on biodiversity is carried out.*

5.2 Section 66

- (a) Section 66(1) deals with the exemption of an alien species from the operation of section 65. It states (emphasis added):

66. Exemptions

- (1) *The Minister may, by notice in the Gazette and **subject to such conditions as the Minister may specify** in the notice, exempt -*
- (a) *any alien species specified in the notice; or*
 - (b) *any alien species of a category specified in the notice; or*
 - (c) *any person,*
- from the provisions of section 65.*
- (2) *Any person may carry out a restricted activity involving a specimen of an exempted alien species without a permit mentioned in section 65(1).*
- (3) *The Minister must regularly review a notice published in terms of subsection (1).*
- (4) *The notice in terms of subsection (1) may—*
- (a) *apply generally—*
 - (i) *throughout the Republic or a province, as the case may be, or only in a specified area or a specified category of areas;*
 - (ii) *to all persons or only to a specified category of persons;*
 - (iii) *to all species or only to a specified species or specified category of species; or*
 - (b) *differentiate between—*
 - (i) *areas or categories of areas;*
 - (ii) *persons or categories of persons; or*
 - (iii) *species or categories of species.*
- (Commencement date of s. 66: 1 April 2005)*

5.3 Exemption of restricted activities not permissible

- (a) Section 66 does not permit restricted activities per se to be exempted as is the case with invasive species.
- (b) Section 66(2) states: *Any person may carry out a restricted activity involving a specimen of an exempted alien species without a permit mentioned in section 65(1).*
- (c) One cannot therefore regulate restricted activities in respect of alien species by exemption. One can only issue a permit allowing a restricted activity to be carried out in respect of an alien species after *a prescribed assessment of risks and potential impacts on biodiversity is carried out.*

- (d) It follows therefore that any attempt to regulate trout as an alien species by permit would be inappropriate.

5.4 Management by Condition.

- (a) Section 66 allows the Minister to exempt an alien species subject to conditions.
- (b) Permits are different to conditions. The obvious difference between a permit and a condition is that the Minister can delegate the authority to issue permit but cannot delegate the power to impose conditions. The power to impose a condition is similar to the power to make a regulation.
- (c) The NEM:BA does not give any guidance regarding what is meant by conditions. However the Minister has the power when issuing a notice to apply the notice and thus the condition:
 - (i) throughout the Republic or a province, as the case may be, or only in a specified area or a specified category of areas;
 - (ii) to all persons or only to a specified category of persons;
 - (iii) to all species or only to a specified species or specified category of species; or
 - (iv) to differentiate between areas or categories of areas, persons or categories of persons; or species or categories of species.
- (d) The power to create conditions is thus a broad one.

6. **The legal position and the registration of trout aquaculture facilities**

- 6.1 Though the trout aquaculture industry supports the registration of trout aquaculture facilities we do not believe that that the NEM:BA contains any provisions that allow this to be done under that Act. Moreover we note that the intention is that trout aquaculture facilities will register with DAFF rather than the DEA.
- 6.2 We are consequently of the view that the DEA cannot regulate the registration of trout aquaculture facilities per se. It can however regulate:
 - (a) Its own registration process contained in a condition that deals with the release of trout in green areas by a process of notification. It can even delegate the management of that process to the DAFF.
 - (b) Make the notification process subject to registration with DAFF.
- 6.3 We are of the view that the latter provides a simpler but nonetheless effective scheme to implement and manage this process.

7. Appendix A and the proposed management of alien species: general remarks

- 7.1 The scheme outlined in Appendix "A" does not in our view adequately take into account:
- (a) the differences required to manage aliens through conditional exemption rather than by permitting restricted activities on the one hand and controlling invasive species by inter alia the permitting of restricted activities on the other; or
 - (b) The technical difficulties that arise when the DEA tries to register trout aquaculture facilities or oblige the DAFF to do so.
- 7.2 As can be seen from the tables set out below this is the essential difference between the approach proposed by the trout industry and that proposed by the DEA.
- 7.3 Though we deal specifically with each proposal regarding the management of trout in Green Zones, the manner in which it has been laid out makes for repetition and thus a great deal of confusion. We submit that:
- (a) it is unnecessary to interrogate what is the relatively straightforward business of managing the sale and release of live trout in terms of this this complex and contradictory treatment of release, transportation and distribution as separate issues; and
 - (b) there is consensus around the principle that this process must be simple to apply and comply with.
- 7.4 We suggest that this simplicity and the general consensus are reflected in the draft conditions set out below.

8. Draft Conditions

The following draft of the exemption conditions is proposed and offered for discussion purposes and as a guide:

NATIONAL ENVIRONMENTAL MANAGEMENT: BIODIVERSITY ACT 2004 (ACT NO, 10 OF 2004)

AMENDMENT TO LIST OF EXEMPT ALIEN SPECIES 201_

By virtue of the powers vested in me under section 66 and 68 of the National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004) I, Bomo Edith Edna Molewa, Minister of Water and Environmental Affairs, hereby amend the list of exempt alien species published under government notice No. 599 in Government Gazette no 37866 on 1 August 2014 as set out in the schedule hereto.

MS. BOMO EDITH EDNA MOLEWA

Schedule¹

1. The exemption that applies to *oncorhynchus mykiss* - rainbow trout and *salmo trutta*- brown trout, is subject to the following conditions in the areas described in Annexure "A" to this schedule.
2. In these conditions, unless inconsistent with the context, the following expressions shall have the meanings set forth against them:
 - 2.1 "Act" means the National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004).
 - 2.2 "Controlled River" means a river in a Green Zone which is not identified as an uncontrolled river in Annexure "A".
 - 2.3 "DAFF" means the Department of Agriculture Affairs, Forestry and Fisheries.
 - 2.4 "Dam" means an artificial impoundment of water and includes wetlands associated with those Dams.
 - 2.5 "Department" means the Department of Environmental Affairs or other competent authority acting under delegated authority in terms of section 27 of the Act.
 - 2.6 "Effective Date" means the later of 3 months after the date promulgation of these conditions or the date the Secure Data Base is fully commissioned by the Department.
 - 2.7 "Green Zones" means the areas demarcated in the schedule annexed to these conditions marked "A" and as amended from time to time.

¹ Note. Trout will be regulated as invasive species outside green zones. The terms of that listing must exempt the transportation of live species that comply with this exemption across orange zones.

- 2.8 “Orange Zones” means areas within the Republic of South Africa or an off-shore island as defined in the Regulations which are not demarcated as Green Zones.
- 2.9 “Secure Data Base” means a confidential and secure web based database on which trout aquaculture facilities may by use of a secure password access electronically on the internet and inter alia:
- (a) register as a trout aquaculture facility on that database;
 - (b) be issued with a secure password specific to that aquaculture facility;
 - (c) record the sales, and proposed releases of trout thereon and the transportation of trout for this purpose; and
 - (d) print such record as a proof of the authority to release trout into the specified area and to transport trout for this purpose.
- 2.10 “supply” means sell or donate.
- 2.11 “Trout” means *oncorhynchus mykiss* – (rainbow trout) and *salmo trutta* - (brown trout).
- 2.12 “Water Body” means any river, dam, natural lake, estuary or wetland.
3. These conditions:
- 3.1 are intended to provide for the management of the release of live specimens of trout into a Water Body in a Green Zone;
 - 3.2 do not apply outside the Green Zones (i.e. in Orange Zones); and
 - 3.3 only apply to live specimens of trout.
4. The Department must:
- 4.1 commission the Secure Database within 3 (three) months of the promulgation of these conditions; and
 - 4.2 register a trout aquaculture facility on the Secure Data Base if:
 - (a) such trout aquaculture facility is in existence as at the date of promulgation of these conditions and has notified DAFF in writing of the location, production capacity and ownership of the trout aquaculture facility by the Effective Date; or
 - (b) otherwise, if DAFF informs the Department that the trout aquaculture facility has the required regulatory approvals to carry on business as a trout aquaculture facility.
5. No one shall release trout in an Orange Zone otherwise than in terms of an appropriate exemption granted or a permit issued in terms of the Act.

6. Anyone may release a trout into a Water Body in a Green Zone on the same property (which shall include other properties owned or occupied by the same person) and in the same catchment in which it was caught.
7. With effect from the Effective Date no one may sell, donate or supply a trout anywhere in South Africa otherwise than in terms of sections 56 unless the trout are supplied by a trout aquaculture facility and:
 - 7.1 the trout aquaculture facility is registered on the Secure Data Base and in the case of:
 - (a) a supply for release into Orange Zones, the trout aquaculture facility or the person to whom the trout is supplied has a permit granted in terms of section 71 of the Act authorising the proposed release.
 - (b) a supply for release into Green Zones, the trout aquaculture facility first registers the supply of trout on the Secure Database by submitting the information required to complete the notification for release that is Annexure “B” to this Schedule.
 - (c) a release into Controlled Rivers, also consults with the Department regarding details of and the need for that release, it being recorded that:
 - (i) No environmental impact or other risk assessment is required.
 - (ii) The Department may only prevent the proposed release of trout into Controlled Waters if the Department is reasonably satisfied that such is likely to result in the overstocking of the Controlled Water concerned.
8. Anyone who distributes live specimens of trout outside the property referred to section 6 must carry with him or her and be able to produce on demand to a lawful authority a copy of either:
 - 8.1 the permit referred to in section 71 of the Act; or
 - 8.2 a copy of the Certificate/Receipt or some other acceptable proof that the release has been recorded as required in terms of section 7.
9. The Department may only remove the trout aquaculture facility from the Secure Data Base in appropriate circumstances where it is shown that the trout aquaculture facility released or facilitated the release of trout knowing this was in contravention of these conditions.

Annexure “A”
Demarcation of Green Zones

1. The following catchments fall within green zones. A catchment includes the catchments of tributaries that flow into the river between the lower point and the upper point but excludes those tributaries above the points indicated.

Province	River	Lower point	Upper point	Excluded Catchments
KZN	Bushman’s River	Wagendrift dam wall	Emerald falls (coordinates __)	1. _____river above XYZ Falls 2. ABC river above 1234 co-ordinates.
KZN	PQR river	Confluence with the Bushman’s (coordinates __)	XYZ falls (coordinates __)	

2. The following are uncontrolled rivers into which trout may be regularly stocked.

Province	River	Lower point	Upper point
Mpumalanga	Crocodile river	(coordinates __)	(coordinates __)

Annexure B			
Notice of intention to release			
Notification Date			
Anticipated release period			
Name of Aquaculture facility			
Release Address (Coordinates)			
Contact Details Aquaculture facility	Contact Name		
	Telephone Number		
	Cell Number		
	E mail Address		
Contact Details: Release address	Contact Name		
	Telephone Number		
	Cell Number		
	E mail Address		
Release Details	Address		
	Quantity	Rainbow Trout	Brown Trout
	<250mm		
	>250mm		

8. Appendix A and the proposed management of alien species: the tables

8.1 Regulation of Trout as Alien Species, for Release of Live Specimens

	Appendix A	Trout SA and FOSAF's Comments
3	Where trout are regulated as an alien species, they may only be released into a water body, including rivers, dams, natural lakes, wetlands and estuaries, with a Permit (or equivalent, such as meeting a conditional exemption clause).	This cannot be done by permit for the reasons set out in paragraph 4.4(b). This will have to be regulated by condition. But otherwise this is a correct statement of the principal.
3.1	Catch and release of trout in the same water in which they were caught, will not require a Permit for release.	It is unnecessary to regulate this as exempt aliens are not subject to any restricted activities.
3.2	Aquaculture facilities registered with DAFF will not require a Permit for release of trout within their facilities.	Aquaculture facilities will not require a permit under the NEM:BA at all if they are in a green zone.
3.3	Long-term (up to 20 years), multiple-release Permits may be issued for trout to registered Permit holders.	No permits required at all.
3.4	Conditional exemption to release trout may apply if the activity falls within specifically accredited Permit-holders', terms and conditions of their Permit.	The condition applies generally. Individual permits will not be issued under the NEM:BA.
3.5	Electronically captured details of trout releases will be required as part of the Permit conditions, prior to release.	No permits. See paragraph 5.1
3.6	Releases will only be allowed in areas specified in the Permit.	Ditto
3.7	Permits for releases in rivers, wetlands and natural lakes may have specific conditions.	See paragraph 4

8.2 Regulation of Trout as Alien Species, for Distribution of Live Specimens

	Appendix A	Trout SA and FOSAF's Comments
4.1	Where trout are regulated as an alien species, they may only be released into a water body, including rivers, dams, natural lakes, wetlands and estuaries, with a Permit (or equivalent, such as meeting a conditional exemption clause).	This cannot be done by permit for the reasons set out in paragraph 4.4(b). Similarly the reference to restricted activity is also inappropriate as this is a term peculiar to the permitting regime. But otherwise this is a correct statement of the principal
4.2	Catch and release of trout in the same water in which they were caught, will not require a Permit for release.	It is unnecessary to regulate catch and release in green zones.
4.3	<ul style="list-style-type: none"> • Aquaculture facilities registered with DAFF will not require a Permit for release of trout within their facilities. • Long-term (up to 20 years), multiple-release Permits may be issued for trout to registered Permit holders. • Conditional exemption to release trout may apply if the activity falls within specifically accredited Permit-holders', terms and conditions of their Permit. • Electronically captured details of trout releases will be required as part of the Permit conditions, prior to release. • Releases will only be allowed in areas specified in the Permit. 	<p>The language here shows the confusion that exists between the management regime that applies to the management of alien species and that which applies to the control of invasive species.</p> <ul style="list-style-type: none"> • The reference to the issue of long-term permits is incompatible with this reality. Moreover this conflicts with the regime described in item 5.3. • The proposal that permit holders will be specifically accredited and subject to condition is also incompatible with this regime and the principles that have been agreed. <p>No detail is given regarding the conditions that will apply to release trout in rivers, natural lakes and</p>

	<ul style="list-style-type: none"> Permits for releases in rivers, wetlands and natural lakes may have specific conditions 	wetlands. The principles set out in paragraph 4 should inform this process. It is noted that all dams incorporate a wetland of some sort or another, so this term should be avoided or distinguished.
--	---	---

8.3 Regulation of Trout as Alien Species, for Transportation of Live Specimens

	Appendix A	Trout SA and FOSAF's Comments
5.1	Where trout are regulated as an alien species, live specimens of trout may only be distributed (taken from the restricted activity definition to be the “selling or otherwise trading in, buying, receiving, giving, donating or accepting as a gift, or in any way acquiring or disposing of a live specimen of trout”) with a Permit or conditional exemption.	This cannot be done by permit for the reasons set out in paragraph 4. Similarly the reference to restricted activity is also inappropriate as this is a term peculiar to the permitting regime. But otherwise this is a correct statement of the principal
5.2	Long-term, multiple-distribution Permits will be issued to specifically accredited Permit-holders.	No. Firstly the reference to “permit holders is inappropriate” Secondly the right of a registered hatchery to stock a dam is automatic provided the hatchery follows the procedure set out in item 5.3 below
5.3	3.1 Those distributing live specimens of trout must first record, as part of their Permit conditions, confidentially on a secure database established by the Departmental, the following details for each distribution: 3.1.1 The person issuing the distribution receipt, and all required contact details. 3.1.2 The person/group to whom the live trout have been distributed, and all required contact details. 3.1.3 Details of the distribution (the number and approximate age or size of the trout). 3.1.4 The area in which the live trout will be released, with precise locality information, and confirmation that this is either within a green zone or (if within an orange zone) there is a Permit or authorization to release trout in those waters. 3.1.5 A receipt with this detail must be issued by those distributing the trout, as it will be required to be carried by those transporting the live specimens.	Agreed save for the reference to a permit condition.
5.4	Aquaculture facilities registered with DAFF can transport live fingerlings to another aquaculture facility registered with DAFF if accompanied by relevant receipt/movement document.	Agreed

9. Catchments (“Orange Zones”)

	Appendix A	Trout SA and FOSAF's Comments
6	In all other catchments or parts of catchments in the country (“orange zones”), trout will be listed as Category 2 Invasive Species.	Agreed
6.1	It will be possible for proponents to undertake a Risk Assessment and apply for a Permit for trout, in orange zone areas.	Agreed
6.2	One risk assessment is required for a potential specified Aquaculture Development Zone which will allow the granting of numerous permits to multiple applicants within	Aquaculture facilities must be rezoned green

	the defined zone.	
6.3	The Department may refuse to allow trout to be introduced into orange areas of conservation importance.	Agreed
6.4	In catchments or portions of catchments that are not demarcated as green zones, but in which it can be proven that trout do occur, the Department may regulate these areas only for the three restricted activities of distribution, transportation or release of live specimens of trout (see #7).	Agreed. But these areas should be added to the green zones unless they are protected areas to be dealt as noted above.
6.5	In such areas, long-term Permits may be issued by the Department, for release of trout into dams and other water bodies, including rivers, natural lakes, wetlands or estuaries, or through conditional exemption by the accredited organizations, subject to the specified Permit conditions for such authorizations,	Agreed noting that once these areas are rezoned green then no permits will be applicable.
6.6	On-going assessment of these areas will take place by the Department, and may result in areas that are "orange" being listed as "green" in future amendments of the Notice to the Regulations.	Agreed
6.7	Catchments or portions of catchments that were originally proposed to be defined as "red" areas, in which trout would be prohibited, will not be so defined at this point, but may be legally described in later iterations of the Notices. Trout can be kept out of such areas by Permit control in the interim.	Agreed
6.8	The Department retains the right to pursue the local extirpation of alien or management of invasive fish in specific, discrete stretches of rivers, based on conservation priorities in terms of critically endangered or endangered indigenous fish, amphibian, invertebrate or other indigenous species, or for other ecosystem management purposes.	Agreed

10. Regulation of Trout as Category 2 Invasive Species, in Terms of Section 71 of the Act

10.1 Restricted Activities for Trout as Invasive Species for Selected Restricted Activities

It is assumed that this only applies to live trout and that dead trout will be exempted.

		Trout SA & FOSAF
Restricted Activities for Trout outside of Protected Areas	Trout	
a. Importing into the Republic, including introducing from the sea, any specimen of a listed invasive species.	Exempted, if Permit from DAFF	Agreed subject to trout hatcheries importing ova without a permit.
b. Having in possession or exercising physical control over any specimen of a listed invasive species.	Exempted	Agreed
c. Growing, breeding or in any other way propagating any specimen of a listed invasive species, or causing it to multiply.	Exempted	Agreed
d. Conveying, moving or otherwise translocating any specimen of a listed invasive species.	Permit Required	Permit for release in an orange area but only a notification for green areas. Transportation may take place across orange areas.
e. Selling or otherwise trading in, buying, receiving, giving, donating or accepting as a gift, or in any	Permit Required	Agreed noting that this should only relate to live specimens.

way acquiring or disposing of any specimen of a listed invasive species.		
Restricted Activities as defined in Regulation 6		
f. Spreading or allowing the spread of any specimen of a listed invasive species.	Prohibited	Not agreed - as this will force owners of property where trout are listed as invasive to eradicate contradicts much of what is stated elsewhere in the Appendix
g. Releasing any specimen of a listed invasive species.	Permit Required	Save for catch and release agreed
h. The transfer or release of a specimen of a listed invasive fresh-water species from one discrete catchment system in which it occurs, to another discrete catchment system in which it does not occur; or, from within a part of a discrete catchment system where it does occur to another part where it does not occur as a result of a natural or artificial barrier.	Permit Required	Agreed
i. Discharging of or disposing into any waterway or the ocean, water from an aquarium, tank or other receptacle that has been used to keep a specimen of an alien or a listed invasive species.	Permit Required	Unless it is a trout aquaculture facility
j. Catch and release of a specimen of a listed invasive fresh-water fish or listed invasive fresh-water invertebrate species.	Exempted	Agreed
k. The introduction of a specimen of an alien or a listed invasive species to off-shore islands.	Prohibited	Agreed
l. The release of a specimen of a listed invasive fresh-water fish species, or of a listed invasive fresh-water invertebrate species, into a discrete catchment system in which it already occurs.	Permit Required	Agreed

10.2 Existing Permits or Authorizations from Provinces

	Appendix A	Trout SA and FOSAF's Comments
8	Existing Permits or authorizations from Provinces, relating to trout, will be recognized for a two-year period from the date of the publication of the Government Gazette with the amended AIS Regulations and Notices	We understand that these will continue to apply until repealed which will happen soon.

11. **Aquaculture Facilities**

	Appendix A	Trout SA and FOSAF's Comments
9	Aquaculture facilities registered with DAFF will be exempted from a Permit, to breed trout for live sale and/or grow out trout for processing for consumption	Reference to a permit is inappropriate. Registration means that the facility may stock trout in green zones without a permit.
9.1	All existing, legal aquaculture facilities will be required to register with DAFF within a period of one month from the publication of the Regulations. Any aquaculture facility seeking an exemption from a Permit that fails to register with DAFF within one month, will need to have a Risk Assessment and Permit from DEA.	The line between legal and illegal is often a matter of opinion given the failure of the authorities to always implement their own laws. As per 9.2 the intention is to regularise all trout aquaculture facilities. The registration must thus be automatic. One month is too short. Three (3) months after the receipt system becomes operational would be more appropriate. There is no legal

		basis requiring a trout aquaculture facility to undergo a risk assessment under the NEM:BA.
9.2	Illegal aquaculture facilities that are within the green zones (i.e. where trout are not listed as a Category 2 invasive species) will be “regularized” (legal) if they register with DAFF within a period of one month.	See above
9.3	Illegal aquaculture facilities that are within orange zones (where they are Category 2 invasive species) must register with DAFF within one month, and may be required to undertake a risk assessment.	All existing trout aquaculture facilities must demarcated as being in green zones.
9.4	Aquaculture facilities that are certified to authorize the distribution transport or release (outside of the facility itself) of live specimens of trout will still be bound by the restrictions controlling these activities.	Trout aquaculture facilities may release trout in green zones prior to the secure database being established if they are registered with DAFF but must consult with the DEA before doing so. Once the secure Data Base is up and running they may only do so after logging the details of the proposed release on that database.

12. Unrestricted Fishing for Trout in terms of the AIS Regulations

	Appendix A	Trout SA and FOSAF’s Comments
10	No Permit is required to fish for trout in terms of these Regulations Note that this does not refer to any requirement for an Angling Permit, or any other such requirements in terms of other laws	Agreed

13. Issuing of Permits when buying Immovable Property with Existing Permit Rights

	Appendix A	Trout SA and FOSAF’s Comments
11	The Department may not withhold issuing a Permit to a person buying immovable property with existing Permit rights, unless this is done to all Permit-holders in the area in terms of #2.6, or if Permit conditions have not been complied with or any other offence committed.	Permits only apply in respect of properties situated in orange zones.

14. Farming for Rainbow Trout in Salt-water Facilities

	Appendix A	Trout SA and FOSAF’s Comments
12	There are no restrictions on rainbow trout being farmed in salt-water facilities registered with DAFF. However, live trout remain subject to all requirements for release in fresh-water systems, and sale and transport of live specimens as indicated above.	Agreed

15. Risk Assessments for Species being brought into South Africa

	Appendix A	Trout SA and FOSAF’s Comments
13	Except for the rainbow trout, brown trout and Atlantic salmon, the proposed importation of other species of trout or salmon into the country will be subject to formal risk assessment, sanitary, phytosanitary or Permit processes, at the expense of the applicant.	Agreed

13.1	The ova of rainbow trout and brown trout may be imported into the country in terms of these Regulations, without a Permit, by aquaculture facilities and research facilities registered with DAFF providing they have the relevant sanitary and phytosanitary permits or assurances through DAFF.	Agreed
------	---	--------

16. Self-administration of the Regulation of Trout

	Appendix A	Trout SA and FOSAF's Comments
14	The Department, its Provincial partners, DAFF, SANBI, SAIAB and the industry may set up workshops over the next two years, to consider options for (further) self-administration in the regulation of trout species in the country.	Noted

17. Continued Temporary Application of Provincial Controls of Trout

	Appendix A	Trout SA and FOSAF's Comments
15	Until trout are listed through an amendment to the Notice to the Alien and Invasive Species Regulations, 2014, the existing Provincial controls over trout will continue to apply, and will be administered by the Provincial Authorities.	Agreed but they apply thereafter anyway until repealed.
15.1	Upon the listing of trout in the Notice, the regulation of trout will be co-ordinated by the Department, as national Regulations to be implemented uniformly across the Provinces.	Agreed Subject to above
15.2	The Provinces may continue to regulate trout in their Provinces, but in terms of the national laws, if delegated by the Department to do so, and subject to co-ordination by the Department.	Agreed Subject to above
15.3	In the event of any dispute, the Minister remains the Issuing Authority and Competent Authority	NEMA and the constitution provide for the resolution of disputes.
15.4	Appeal processes are provided for in the NEMA and Regulations	Noted

18. Media Statement on the Regulation of Trout

	Appendix A	Trout SA and FOSAF's Comments
16	A joint media statement will be developed by the Department, DAFF and the five stakeholder bodies (Aquaculture SA, Trout-SA, WCADI, SASACC and FOSAF), and released by the different bodies. This will not replace the Minister's prerogative to pronounce on the regulation of trout, but will rather enable the stakeholder groups to consult with their members	This is not going to work. Best drop it.

19. Support by DEA for the Promotion and Expansion of Trout Industries in Selected Areas

	Appendix A	Trout SA and FOSAF's Comments
	The Department remains fully supportive of trout aquaculture being promoted and expanded in systems in which trout already occur, and for trout fishing to be promoted in the designated trout waters. It has already committed to support Operation Phakisa, which refers specifically to the promotion of trout aquaculture	Welcomed

Appendix A: The Regulation of Trout in terms of the Alien and Invasive Species Regulations, 2014

Protected Areas

1. Rainbow trout and brown trout ("trout") will be listed Category 2 invasive species in National Parks, Provincial Reserves, Mountain Catchment Areas and Forestry Reserves specified in terms of the National Environmental Management: Protected Areas Act, 2003 (Act No. 57 of 2003).
- 1.1 Long-term, multiple-release Permits may be issued for trout in these Protected Areas, in areas where they occur.
- 1.2 Areas in which trout occur, that have been voluntarily included in Mountain Catchment Areas, may be demarcated as "green zones", upon application, where trout are not listed as an invasive species.
- 1.3 The Department retains the right to pursue the local extirpation or management of alien or invasive fish in specific, discrete stretches of rivers, based on conservation priorities in terms of critically endangered or endangered indigenous fish, amphibian, invertebrate or other indigenous species, or for other ecosystem management purposes.

Catchments ("Green Zones") in which Trout will not be Listed as Invasive Species

2. Trout will not be listed as invasive species in catchments, or portions of catchments, that can be legally demarcated by the Department as "green zones" (areas where trout already occur and have completely invaded the entire catchment or portion of such catchment).
- 2.1 The Department's decision on what will initially be classified as green zones may be guided by input at a working group meeting proposed between the authorities (DEA, SANBI, DAFF and the Provinces), their scientific advisors, and trout industries (including Trout-SA, Aquaculture SA, FOSAF, SASACC, WCADI and any other stakeholder groups).
- 2.2 Trout will be managed in such areas as alien species, with the regulation of three alien species restricted activities for the distribution/sale (see #4), transportation and release of live specimens of trout. This may be done through a DEA Permit or through a conditional exemption by specifically accredited Permit-holders (see #3, 4 & 5).
- 2.3 National Parks, Provincial Nature Reserves, Mountain Catchment Areas or Forestry Reserves (proclaimed in terms of the Protected Area Act) will not be demarcated as green zones within these catchments, except for #1.2, where the owners of a property that has been voluntarily included in Mountain Catchment Area, and in which trout already occur, may apply to have the farm zoned as a "green zone".
- 2.4 Initial maps will be finalized over a two-day meeting, to establish undisputed areas in which trout occur, and only these areas will be considered for demarcation as green zones in the listing of trout in the amendment to the Notice to the Alien and Invasive Species Regulations, 2014, in terms of the National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004, as amended).
- 2.5 The portions of catchments must be able to be captured unambiguously in law, including with GPS positions.
- 2.6 The demarcation of the green zones may be updated by the Department on an annual basis.
- 2.7 The Department retains the right to pursue the local extirpation or management of alien or invasive fish in specific, discrete stretches of rivers, based on conservation priorities in terms of critically endangered or endangered indigenous fish, amphibian, invertebrate or other indigenous species, or for other ecosystem management purposes.

Regulation of Trout as Alien Species, in Terms of Section 66 of the Act (As it applies to #2: Catchments (Green Zones) in which Trout will not be Listed as Invasive Species)

Regulation of Trout as Alien Species, for Release of Live Specimens

3. Where trout are regulated as an alien species, they may only be released into a water body, including rivers, dams, natural lakes, wetlands and estuaries, with a Permit (or equivalent, such as meeting a conditional exemption clause).
- 3.1 Catch and release of trout in the same water in which they were caught, will not require a Permit for release.
- 3.2 Aquaculture facilities registered with DAFF will not require a Permit for release of trout within their facilities.
- 3.3 Long-term (up to 20 years), multiple-release Permits may be issued for trout to registered Permit holders.
- 3.4 Conditional exemption to release trout may apply if the activity falls within specifically accredited Permit-holders', terms and conditions of their Permit.
- 3.5 Electronically captured details of trout releases will be required as part of the Permit conditions, prior to release.
- 3.6 Releases will only be allowed in areas specified in the Permit.
- 3.7 Permits for releases in rivers, wetlands and natural lakes may have specific conditions.

Regulation of Trout as Alien Species, for Distribution of Live Specimens

- 4. Where trout are regulated as an alien species, live specimens of trout may only be distributed (taken from the restricted activity definition to be the “selling or otherwise trading in, buying, receiving, giving, donating or accepting as a gift, or in any way acquiring or disposing of a live specimen of trout”) with a Permit or conditional exemption.
 - 4.1 Long-term, multiple-distribution Permits will be issued to specifically accredited Permit-holders.
 - 4.2 Those distributing live specimens of trout must first record, as part of their Permit conditions, confidentially on a secure database established by the Departmental, the following details for each distribution:
 - 4.2.1 The person issuing the distribution receipt, and all required contact details.
 - 4.2.2 The person/group to whom the live trout have been distributed, and all required contact details.
 - 4.2.3 Details of the distribution (the number and approximate age or size of the trout).
 - 4.2.4 The area in which the live trout will be released, with precise locality information, and confirmation that this is either within a green zone or (if within an orange zone) there is a Permit or authorization to release trout in those waters.
 - 4.2.5 A receipt with this detail must be issued by those distributing the trout, as it will be required to be carried by those transporting the live specimens.
 - 4.3 Aquaculture facilities registered with DAFF can transport live fingerlings to another aquaculture facility registered with DAFF if accompanied by relevant receipt/movement document.

Regulation of Trout as Alien Species, for Transportation of Live Specimens

- 5. Where trout are regulated as an alien species, live specimens of trout may not be transported without either a Permit from the Department or conditional exemption through the receipt outlined in point #2.
 - 5.1 Those transporting live trout are required to carry the Permit or receipt.
 - 5.2 The transportation of the live trout may only be done within a time limit specified in the Permit.

Catchments (“Orange Zones”) in which Trout will be Listed as Category 2 Invasive Species

- 6. In all other catchments or parts of catchments in the country (“orange zones”), trout will be listed as Category 2 Invasive Species.
 - 6.1 It will be possible for proponents to undertake a Risk Assessment and apply for a Permit for trout, in orange zone areas.
 - 6.2 One risk assessment is required for a potential specified Aquaculture Development Zone which will allow the granting of numerous permits to multiple applicants within the defined zone.
 - 6.3 The Department may refuse to allow trout to be introduced into orange areas of conservation importance.
 - 6.4 In catchments or portions of catchments that are not demarcated as green zones, but in which it can be proven that trout do occur, the Department may regulate these areas only for the three restricted activities of distribution, transportation or release of live specimens of trout (see #7).
 - 6.4.1 In such areas, long-term Permits may be issued by the Department, for release of trout into dams and other water bodies, including rivers, natural lakes, wetlands or estuaries, or through conditional exemption by the accredited organizations, subject to the specified Permit conditions for such authorizations,
 - 6.5 On-going assessment of these areas will take place by the Department, and may result in areas that are “orange” being listed as “green” in future amendments of the Notice to the Regulations.
 - 6.6 Catchments or portions or catchments that were originally proposed to be defined as “red” areas, in which trout would be prohibited, will not be so defined at this point, but may be legally described in later iterations of the Notices. Trout can be kept out of such areas by Permit control in the interim.
 - 6.7 The Department retains the right to pursue the local extirpation of alien or management of invasive fish in specific, discrete stretches of rivers, based on conservation priorities in terms of critically endangered or endangered indigenous fish, amphibian, invertebrate or other indigenous species, or for other ecosystem management purposes.

**Regulation of Trout as Category 2 Invasive Species, in Terms of Section 71 of the Act
(As applies to #6.4: Catchments (Orange Zones) in which Trout will be Listed for Selected Restricted Activities)**

Restricted Activities for Trout as Invasive Species for Selected Restricted Activities

- 7. The specific classification in terms of Restricted Activities for trout are listed in the table below:

Restricted Activities for Trout outside of Protected Areas	Trout
m. Importing into the Republic, including introducing from the sea, any specimen of a listed invasive species.	Exempted, if Permit from DAFF

n. Having in possession or exercising physical control over any specimen of a listed invasive species.	Exempted
o. Growing, breeding or in any other way propagating any specimen of a listed invasive species, or causing it to multiply.	Exempted
p. Conveying, moving or otherwise translocating any specimen of a listed invasive species.	Permit Required
q. Selling or otherwise trading in, buying, receiving, giving, donating or accepting as a gift, or in any way acquiring or disposing of any specimen of a listed invasive species.	Permit Required
Restricted Activities as defined in Regulation 6	
r. Spreading or allowing the spread of any specimen of a listed invasive species.	Prohibited
s. Releasing any specimen of a listed invasive species.	Permit Required
t. The transfer or release of a specimen of a listed invasive fresh-water species from one discrete catchment system in which it occurs, to another discrete catchment system in which it does not occur; or, from within a part of a discrete catchment system where it does occur to another part where it does not occur as a result of a natural or artificial barrier.	Permit Required
u. Discharging of or disposing into any waterway or the ocean, water from an aquarium, tank or other receptacle that has been used to keep a specimen of an alien or a listed invasive species.	Permit Required
v. Catch and release of a specimen of a listed invasive fresh-water fish or listed invasive fresh-water invertebrate species.	Exempted
w. The introduction of a specimen of an alien or a listed invasive species to off-shore islands.	Prohibited
x. The release of a specimen of a listed invasive fresh-water fish species, or of a listed invasive fresh-water invertebrate species, into a discrete catchment system in which it already occurs.	Permit Required

Existing Permits or Authorizations from Provinces

8. Existing Permits or authorizations from Provinces, relating to trout, will be recognized for a two-year period from the date of the publication of the Government Gazette with the amended AIS Regulations and Notices.

Aquaculture Facilities

9. Aquaculture facilities registered with DAFF will be exempted from a Permit, to breed trout for live sale and/or grow out trout for processing for consumption.
 - 9.1 All existing, legal aquaculture facilities will be required to register with DAFF within a period of one month from the publication of the Regulations. Any aquaculture facility seeking an exemption from a Permit that fails to register with DAFF within one month, will need to have a Risk Assessment and Permit from DEA.
 - 9.2 Illegal aquaculture facilities that are within the green zones (i.e. where trout are not listed as a Category 2 invasive species) will be “regularized” (legal) if they register with DAFF within a period of one month.
 - 9.3 Illegal aquaculture facilities that are within orange zones (where they are Category 2 invasive species) must register with DAFF within one month, and may be required to undertake a risk assessment.
 - 9.4 Aquaculture facilities that are certified to authorize the distribution, transport or release (outside of the facility itself) of live specimens of trout will still be bound by the restrictions controlling these activities.

Unrestricted Fishing for Trout in terms of the AIS Regulations

10. No Permit is required to fish for trout in terms of these Regulations.
 - 10.1 Note that this does not refer to any requirement for an Angling Permit, or any other such requirements in terms of other laws.

Issuing of Permits when buying Immovable Property with Existing Permit Rights

11. The Department may not withhold issuing a Permit to a person buying immovable property with existing Permit rights, unless this is done to all Permit-holders in the area in terms of #2.6, or if Permit conditions have not been complied with or any other offence committed.

Farming for Rainbow Trout in Salt-water Facilities

12. There are no restrictions on rainbow trout being farmed in salt-water facilities registered with DAFF.
 - 12.1 However, live trout remain subject to all requirements for release in fresh-water systems, and sale and transport of live specimens as indicated above.

Risk Assessments for Species being brought into South Africa

13. Except for the rainbow trout, brown trout and Atlantic salmon, the proposed importation of other species of trout or salmon into the country will be subject to formal risk assessment, sanitary, phytosanitary or Permit processes, at the expense of the applicant.
 - 13.1 The ova of rainbow trout and brown trout may be imported into the country in terms of these Regulations, without a Permit, by aquaculture facilities and research facilities registered with DAFF providing they have the relevant sanitary and phytosanitary permits or assurances through DAFF.

Self-administration of the Regulation of Trout

14. The Department, its Provincial partners, DAFF, SANBI, SAIAB and the industry may set up workshops over the next two years, to consider options for (further) self-administration in the regulation of trout species in the country.

Continued Temporary Application of Provincial Controls of Trout

15. Until trout are listed through an amendment to the Notice to the Alien and Invasive Species Regulations, 2014, the existing Provincial controls over trout will continue to apply, and will be administered by the Provincial Authorities.
 - 15.1 Upon the listing of trout in the Notice, the regulation of trout will be co-ordinated by the Department, as national Regulations to be implemented uniformly across the Provinces.
 - 15.2 The Provinces may continue to regulate trout in their Provinces, but in terms of the national laws, if delegated by the Department to do so, and subject to co-ordination by the Department.
 - 15.3 In the event of any dispute, the Minister remains the Issuing Authority and Competent Authority.
 - 15.4 Appeal processes are provided for in the NEMA and Regulations.

Media Statement on the Regulation of Trout

16. A joint media statement will be developed by the Department, DAFF and the five stakeholder bodies (Aquaculture SA, Trout-SA, WCADI, SASACC and FOSAF), and released by the different bodies. This will not replace the Minister's prerogative to pronounce on the regulation of trout, but will rather enable the stakeholder groups to consult with their members.

Support by DEA for the Promotion and Expansion of Trout Industries in Selected Areas

17. The Department remains fully supportive of trout aquaculture being promoted and expanded in systems in which trout already occur, and for trout fishing to be promoted in the designated trout waters. It has already committed to support Operation Phakisa, which refers specifically to the promotion of trout aquaculture.