



Special Management Area Compliance

*Standard Operating
Procedures*



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Purpose

These Standard Operating Procedures (SOPs) have been developed to ensure that consistent and effective support and guidance are provided to coastal communities to develop and implement their compliance strategies and to respond to non-compliance within special management areas (SMAs).

These SOPs have been developed in two parts, as described below:

- Part 1 intends to inform Ministry of Fisheries (MoF) Officers, as well as staff from other enforcement agencies, of the processes the MoF established to liaise with and support SMA communities in developing their compliance capability and to respond to non-compliance occurring within SMAs.
- Part 2 intends to inform members of Coastal Community Management Committees (CCMCs) of key actions to support effective compliance and enforcement processes for their SMAs. This part recognises the different challenges and resources available to coastal communities across Tonga and intends to be flexible enough to inform processes across all coastal communities. This part of the SOP is non-binding and intends to support and guide CCMC compliance activities and responses.

Update and review

These SOPs will be reviewed annually, and it is required that the Chief Executive Officer of the MoF endorse all changes to the SOPs. The annual review process will incorporate feedback from coastal communities, MoF Officers and officers from partner agencies. This process will ensure that the SOPs remain relevant and reflect the requirements of key partners and any users of the SOPs.

Compliance training for CCMC members

The MoF will provide targeted and ongoing compliance training to CCMC members in coastal communities where SMAs are being, or have been, established. The MoF will undertake compliance training courses for CCMC members, both proactively and in response to issues and needs that CCMC members raise. The MoF will develop and maintain standardised SMA compliance training modules to support this training.

Any compliance or awareness training for wider community members who are not part of the CCMC will be provided by CCMC members to that community. The MoF will provide advice and guidance to CCMC members to conduct this compliance training and raise awareness of the SMA rules and requirements amongst their community and/or neighbouring communities.

All requests for compliance training from coastal communities should be sent to the SMA Compliance Officer for the island group within which the community is located. Contact details for SMA Compliance Officers can be found in Appendix 1, along with phone contact details for the MoF and Police Head Offices in each island group.

Part 1

For MoF SMA Compliance Officers

Approach

The MoF will work proactively with coastal communities and partner enforcement agencies, particularly Tonga Police and the Attorney General's office, to support coastal communities in the following endeavours:

- Undertake compliance activities.
- Maximise voluntary compliance within SMAs.
- Respond effectively to deter non-compliance occurring within SMAs.
- Ensure that, where appropriate, effective enforcement action is undertaken.
- Develop the CCMC member capability and capacity to undertake effective compliance within the SMA.



Responding to reports of non-compliance

- ① The SMA Compliance Officers in each island group will be the first point of contact for any reports from the CCMC of non-compliance occurring within SMAs. The only exception to this rule will be issues where there is an immediate threat to the safety of any person. In these circumstances, Tonga Police should be contacted immediately and the MoF notified as soon as possible.
- ② Reports will be primarily received from the CCMC by phone; however, reports of alleged offending or other compliance issues within the SMA can also be received in person during normal office hours (or by e-mail, if possible).
- ③ The MoF will ensure that any reports received from a CCMC member between 08:30 and 16:40 hours will be taken, recorded and responded to as required by these SOPs. Any reports of offending outside of these hours should be referred to the Tonga Police Office that has a 24-hour operation and is nearest to the affected community. In these circumstances, the MoF will follow up with the CCMC from the affected community and Tonga Police to determine that the action taken in response to the incident in question occurs as soon as possible the following workday. The MoF will then work with the CCMC and Tonga Police to follow up and ensure that effective action is taken in response to the alleged offence or other compliance issue.
- ④ Reports received from the CCMC member of non-compliance within an SMA.
 - a If the report relates to non-compliance that is **occurring at that time**, take the following actions:
 - i. The SMA Compliance Officer shall request that the CCMC member complete the SMA Incident Form (Appendix 2) and will immediately notify the Compliance team in Nuku'alofa and coordinate a response between MoF and/or Tonga Police.
 - ii. For any serious offence, the teams dispatched should include officers from both the MoF and Tonga Police, but this will be decided on a case-by-case basis and depend on the location and availability of resources.
 - iii. If no officers are able to respond at the time, the SMA Compliance Officer will support and direct the CCMC member to safely gather as much evidence of the offence as possible, so that follow-up enquiries and action can be undertaken when officers are available.
 - iv. Any consideration of the required response to a report of alleged illegal activity within an SMA should be based on an assessment of the information provided, including the following:
 - The seriousness of the alleged activity.
 - The availability of resources (human and vessel) to respond.
 - The proximity of the available resources to the offending.
 - Whether an immediate response is required to secure evidence or if sufficient information is available to allow for follow-up enquiries to be conducted at a later stage.
 - v. Wherever possible, advice should be sought from the MoF Legal Officer on the legality of the alleged activities and the available action to respond.
 - vi. The SMA Compliance Officer will liaise with the CCMC member and keep the member updated in relation to the action to be taken.

b If the report relates to non-compliance that has **already occurred** or that is an emerging compliance issue, please take the following steps:

- i. The SMA Compliance Officer will support the CCMC member to complete the SMA Incident Form with all available information. If the report is received over the phone, the SMA Compliance Officer will complete an SMA Incident Form and prompt the CCMC member for the information required.
- ii. Once the SMA Incident Form is completed and/or received by the SMA Compliance Officer, the officer will send a copy of the form to the Compliance team in Nuku'alofa and support and coordinate a response, as necessary, to the alleged incident.
- iii. Any consideration of the required response to a report of alleged illegal activity within an SMA should be based on an assessment of the information provided. This assessment should include the MoF Legal Officer to advise on the evidence gathered, the offences that may have occurred and available options to respond to the alleged illegal activities.
- iv. The SMA Compliance Officer will liaise with the CCMC member and keep the member updated in relation to the action to be taken.

c A record of all SMA Incident Forms within each division will be maintained by each SMA Compliance Officer and, if available, should be entered into a centralized database that contains a combined record for all issues raised by SMA communities in Tonga.



Part 2

For CCMC members

Approach

All SMA compliance and enforcement activities should be carried out at all times with the SMA vision and objectives in mind. These activities seek to ensure that the community management measures are being obeyed so that the vision and objectives for the SMA can be achieved.

At all times, the safety of CCMC members and SMA users should be the primary concern when carrying out compliance activities in the SMA. Evidence of offences can be gathered without directly intervening if there is any concern about the safety of any people involved. Therefore, the CCMC should consider the appropriate way to respond to a situation that is occurring or has occurred.

The CCMC should seek to develop a sense of community ownership of the SMA. This means that all community members should play a role in monitoring activities that are occurring within the SMA and report any concerns to the CCMC. The more eyes that are focussed on the activities occurring within the SMA, the more effective we will be in maximising compliance with the SMA rules.



Process for conducting inspections

◆ Approach	◆ Request
◆ Identify	◆ Inspect

- 1 At all times, the CCMC member should ensure that the member can safely carry out the planned compliance activity. If safety concerns arise at any stage, then the CCMC member should take the necessary action to ensure their safety and contact the Tonga Police for assistance, as well as liaise with the MoF as soon as possible.
- 2 Wherever possible, the CCMC member should not conduct inspections alone and should always seek to have at least one other person with them.



- 3 The CCMC member should introduce themselves and explain the purpose of the intervention (inspection) when conducting inspections of fishers and SMA users.



- 4 If the person or vessel appears to have fished within the SMA, and if the CCMC member is unsure of whether this person or vessel is registered in the SMA's Fishers Register and Fishing Vessels Register, the CCMC member should first establish if the vessel has the correct authorisation to be fishing within the SMA.



- a Obtain the details of the person onboard the vessel or who has been fishing.
- b Remember that no fishers are allowed to fish within the Fish Habitat Reserve, regardless of the authorisation that they hold.

- 5 Once authority to fish in the SMA has been established, the CCMC member should request an inspection to verify the legality of the activities that have been undertaken in the SMA.

- a If the fisher disagrees: Leave and report immediately to your compliance officer. In this situation, a warrant must be issued for the search. Remember the following: If you are concerned with your safety, abort and immediately contact the MoF and Tonga Police. Contacts are provided on [Appendix 1](#) of this SOP.



- b If the fisher agrees: You can proceed with the inspection.



6 This includes verifying the catch as well as fishing gear and methods used.

a Verifying the catch – The CCMC member should check the catch that has been taken to ensure that the fisher has not taken any illegal fish. In doing this, the CCMC member should take the following actions:

- i. Verify the species taken to ensure that no banned or prohibited species have been taken (including fish taken during closed seasons) and that the authorisations held allow the person/s to take the fish in their possession.
- ii. Measure the fish to ensure that the fish is above any minimum sizes that apply to Tonga's coastal fisheries and/or within the SMA.
- iii. Check the state of the fish – For example, for shellfish, is it still in the shell and able to be measured? For lobster, is there any sign that eggs have been removed?



b Verifying the fishing gear and methods used – The CCMC member should inspect the vessel (if a vessel has been used) and all fishing gear to ensure that no illegal fishing gear or methods have been used. In doing this, the CCMC member should take the following actions:

- i. Check for any signs that poisons or explosives may have been used.
- ii. Measure any nets to ensure that they meet the requirements, both in terms of size (length and/or diameter) and mesh size.
- iii. Check for any signs that any destructive fishing methods have been used that can damage marine habitats. These methods can include using metal bars, hammers or iron rods for fishing.
- iv. Ensure that all the fishing gear available for inspection is what is expected to be used to take the fish that are found in the fisher's possession.



7 Where an alleged offence is identified during an inspection, the CCMC member should complete the SMA Incident Form. This will assist the CCMC member in documenting and gathering evidence of the offence. Evidence gathering needs to focus on the following items:

- a** Who committed the offence,
- b** Where they committed the offence,
- c** When they committed the offence, and
- d** What offence they committed (including how they committed the offence).



- 8 For any alleged offence, the CCMC member should gather as much evidence of the offence as can be done safely. This can include the following types of evidence:

- a Physical evidence, such as fish and/or fishing gear (see following section on the process for seizing evidence);
- b Testimonial evidence, such as a witness (e.g., the notes and statements of what the CCMC member or other people saw and/or did); and
- c Demonstrative evidence, such as photographs.

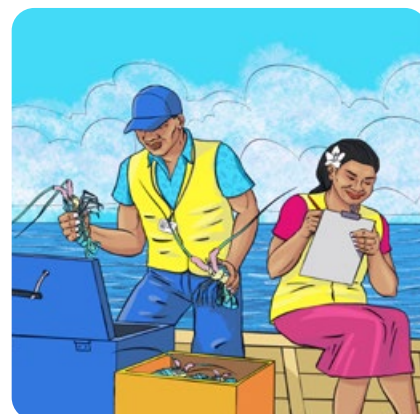


- 9 If assistance or advice is required at any stage during the inspection, the CCMC member should immediately contact the MoF or SMA Compliance Officer. The MoF will ensure that all reports received between 08:30 and 16:40 hours will be recorded and responded to. Any issues that occur outside of these times should be referred to the Tonga Police Office that has a 24-hour operation and is closest to the affected community and reported to the MoF as soon as possible after the incident.

Where no offence is identified, the CCMC member should keep a general record of the inspection or compliance activity in the SMA Compliance Activity Form (Appendix 3). This will assist the CCMC to understand compliance issues, the effectiveness of SMA rules and the rate of compliance within the SMA.

Process for seizing evidence Collect

- 1 Where a CCMC member has reasonable grounds to believe that an offence has been committed, they may seize anything that they believe might be used as an exhibit in any subsequent proceeding. This means they may confiscate anything that they reasonably believe has the following issues:
- a Has been used to commit the offence, such as the fishing gear used;
 - b Has been taken from within the SMA as a result of the illegal act, such as fish or other aquatic resources taken through destructive fishing methods or without authorisation; or
 - c That is not allowed to be legally taken from the SMA, such as fish that do not meet the specified size limit for that area.
- 2 The CCMC member should carefully identify the illegal fish or illegal activity.
- a The illegal fish are identified and verified (measures are taken for size limits and species identification is completed for prohibited species).
 - b Illegal activities are identified and documented (evidence is gathered and people involved are questioned). The fish caught during the illegal activities and any other items that may be evidence of the illegal activity are also identified.



- 3 The CCMC member should document the illegal fish or items used in the offence that are to be seized, per the following requirements:
- a The following should be accurately documented on the SMA Incident Form and/or other notes taken by the CCMC member:
 - i. The illegal fish (number, size, species identification), and
 - ii. Any items or property believed to have been used to commit the offence (number, type of fishing gear or item) and how these items were used to commit the offence.

- 4 If possible, the CCMC member should photograph the illegal fish or property.

- a Cellular phones can be used for this purpose.
- b Initial photos should be taken at the time of confiscation or seizure of the fish and/or property where they were identified.
- c The MoF and Tonga Police will assist with taking additional photos to demonstrate the quantification of catch or property and the illegality of the fish (species, number, measure).



- 5 Complete the Record of Seizure and the Seizure Receipt in the SMA Incident Form.

- a The Record of Seizure should be completed for each seizure or confiscation outlining the details of the confiscation and left attached to the SMA Incident Form.
- b The Seizure Receipt should be completed with the same details as the Record of Seizure.
- c Once completed, the Seizure Receipt should be detached from the SMA Incident Form and given to the fisher as their record of the property that has been seized.
- d Both the Record of Seizure and Seizure Receipt should be signed by the person from whom the fish or property is being seized. If the person refuses to sign these forms, it should be noted on both the Record of Seizure and the Seizure Receipt.



- 6 The CCMC member should securely store the seized fish or property and hand it over to the Tonga Police or MoF with the completed SMA Incident Form as soon as possible after the seizure.

- a The CCMC member should securely retain the seized property and not hand this to anyone else until they are able to pass the seized property on to the MoF or Tonga Police.



Record keeping and reporting

Report

There are two key records that CCMC members should complete to capture the details of compliance activities undertaken and issues identified. These two forms and their purposes are explained below:



















1 SMA Incident Form

- a** The SMA Incident Form is used to capture details of alleged offences to support enforcement by the MoF and Tonga Police.
- b** This form can be used to capture details of offences that have occurred or as an inspection form for offences discovered.
- c** This form is intended to serve a number of purposes, including the following:
 - i. Give proactive notification to the MoF of emerging compliance issues to allow the MoF to coordinate support and advice.
 - ii. Provide details of the offence when it is identified.
 - iii. Provide details of any confiscated catch or fishing gear.
 - iv. Document the questions that the CCMC member asked and answers given by the master or any person aboard about the cargo, contents of holds and storage spaces, voyage, and activities of the vessel.
 - v. Maintain a receipt that is to be issued to the fisher for any article or thing seized and the grounds for such seizure.

2 The SMA Compliance Activity Form

- a** The CCMC member maintains and uses the SMA Compliance Activity Form to capture details of compliance and supervisory activities carried out, including education and inspections.
- b** This form is used to keep a record of compliance activities, both proactive and reactive, to assist and inform SMA management decisions by the CCMC.
- c** This form is internal to and only used by the CCMC.
- d** The information captured in this form is intended to assist the CCMC to understand the following elements:
 - i. How implementation is progressing,
 - ii. How well the rules are understood,
 - iii. Compliance activities occurring within the SMA,
 - iv. SMA compliance rates, and
 - v. Challenges or emerging issues.

Contact details (as of August 2021)

	MoF SMA Compliance Officers	MoF SMA Compliance Team	MoF Head Office contacts	Tonga Police Head Office contacts
Tongatapu	Ms. Losaline Loto'ahea  7401201 - 7401200  losaline.lotoaahea@tongafish.gov.to	 7401201 - 7401200  losaline.lotoaahea@tongafish.gov.to meletoaatuekaho@gmail.com	 7401201 or 7401200	Central Police Station in Nuku'alofa:  7401630
Vava'u	Ms. Angelica Vaisima  70399  amafileo@tongafish.gov.to		 70399 or 70892	Neiafu Police Station:  70233
Ha'apai	Mr. Taufa Fainga'anuku  60399  taufa.faingaantuku@tongafish.gov.to		 60399	Pangai Police Station:  60222
'Eua	Ms. Sisilia Tu'ionetoa (Officer in Charge)  50122 - 8771045  sisiliatuionetoa0@gmail.com		 50122	'Ohonua Police Station:  50112

SMA Incident Form

SMA Incident Form	 Ministry of Fisheries Tongatapu - Vava'u - Ha'apai - 'Eua - Niua Topoutapu - Niua Fo'ou
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SMA Details	
SMA Name	
Committee Member Name	

INCIDENT DETAILS			
Date		Time	
Incident Location			
Alleged Offence			

FISHER DETAILS			
Family Name			
First Name			
DOB		Gender	
Village			
Address Details			
Phone		Mobile	

FISHER DETAILS (note additional fishers in comments section)			
Family Name			
First Name			
DOB		Gender	
Village			
Address Details			
Phone		Mobile	

FISHING AUTHORISATION DETAILS			
Permit Type			
Date of Issue		Permit number	
Permit Details			

VESSEL/VEHICLE DETAILS			
Vessel Name/ Vehicle Make		Registration Number	

Colour		Fishing Gear	
Other Details			
ILLEGAL SPECIES RECORD			
Species	Number	Length (if applicable)	Confiscated (y or n)

Details of the incident (include comments made by the fisher, photographs taken, other evidence gathered and note any additional person details in this section also).

Record of Seizure

Detail any fishing gear seized:

Detail any fish seized:

Detail any other items seized:

Detail grounds for seizure:

Committee Member	Fisher
Signed:	Signed:
Name:	Name:
Date & Time:	Date & Time:
Copy details of seizure to the Seizure Receipt below, detach and issue the receipt to the fisher.	
Seizure Receipt	
Detail any fishing gear seized:	
Detail any fish seized:	
Detail any other items seized:	
Detail grounds for seizure:	
Committee Member	Fisher
Signed:	Signed:
Name:	Name:
Date & Time:	Date & Time:

SMA Compliance Activity Form

SMA Area				
Committee Member Name				
Date	Number of Fishers	Location	Purpose of Interaction	Result/Comment

The activity record should be completed by the CCMC member for all interactions with fishers, including education, awareness raising and inspections. This is a record that will be retained by the committee member as a record of activities undertaken, and it can be used to inform committee discussions on required management measures and the effectiveness of the compliance strategy.

An SMA Incident Form should also be completed for all inspections or supervisory activities where possible non-compliance is identified. Where an SMA Incident Form is completed, this should also be noted in the result/comment section.

