

8 June 2018

Leaked Risk Profile Reports Show MPI is Effectively Monitoring Fisheries Compliance

Summary

- Two confidential internal Ministry for Primary Industries (MPI) reports that profiled compliance risks in the hoki and southern blue whiting fisheries during 2011 and 2012 were leaked to the media.
- Media reports claim that these reports reveal wholesale misreporting in these deep water fisheries and that industry are disregarding the law.
- Such claims are, however, not true.
- As part of New Zealand fisheries management, MPI Compliance regularly undertakes risk profiles to assess potential for mis-reporting and other inaccuracies and uses the findings to inform either policy changes (e.g. to realign the ratios to convert whole weight to product weight and to reset TACCs) or to target compliance efforts.
- Industry does not condone illegal behaviour and works assiduously with MPI to support full compliance. All deep water fishing activities are closely monitored and audited. Where non-conforming behaviours are identified remedial actions are undertaken, including prosecution where supported by evidence.
- These reports do nothing more than establish that MPI has an effective system in place to monitor compliance in the deep water fisheries and to take effective action where required.
- For further information, visit [MPI's webpage](#).

How does MPI Compliance work in New Zealand's deep water fisheries?

MPI Compliance is focussed on ensuring optimal levels of compliance with fisheries law in the deep water fisheries.

In New Zealand, MPI operates a 'Voluntary, Assisted, Directed and Enforced' (VADE) compliance operating model, which provides a stepped sequence of actions to ensure compliance:

1. *Voluntary compliance:* Fishers are generally informed about expectations and obligations, understand these and comply voluntarily.
2. *Assisted compliance:* Fishers are directly informed on how to comply in specific areas. The targeted focus of MPI Compliance activities further incentivises compliant behaviours. MPI's focus is on non-conforming entities who are endeavouring to comply.
3. *Directed compliance:* Non-compliant behaviour detected through at-sea observers, patrols and inspection activities, addresses lower end non-compliance by way of infringement notices and lower end penalties and sanctions.
4. *Enforced compliance:* Deliberate offending, fraud and criminal activity, as identified through MPI's targeted surveillance and investigation, leads to prosecutions where breaches of law occur. Enforced compliance occurs after voluntary, assisted and directed states have proven ineffective.

For the VADE compliance model to work successfully, a deep understanding of the drivers for non-compliance is essential before the most appropriate intervention can be applied. To develop this understanding, Compliance Risk Profiles are one tool used by MPI to inform where compliance risks are evident.

The VADE model ensures on-going dialogue between MPI and industry including details on how MPI require industry to operate and on achieving the desired compliance outcomes.

Enforced compliance is used where deliberate breaches of the law are detected. Evidence is collected and prosecutions are pursued through the Courts. The penalties upon conviction are very high, including automatic forfeiture of vessels and property, and they may also involve imprisonment and/or large monetary penalties.

What is the purpose of the risk profiling operations and reports?

Ensuring our fisheries are sustainably managed is dependent upon robust scientific assessments and high levels of compliance with the law.

The law requires all vessel operators to self-report their catches.

These reports are audited by MPI using a number of verification tools including at-sea observers, risk profiling, and retrospective discrepancy analyses. In the deep water fisheries, compliance risks are associated with at-sea processing of large volumes of fish and ensuring the conversion of catches (in green weight) to product weights are correct so that the reporting of catches against quota is reliable. Other areas of catch reporting are also routinely monitored and audited to ensure that there is no misreporting of the areas fished or of the species and quantities caught.

The contents of the leaked reports relate to routine Compliance Risk Profiles undertaken by MPI of the hoki and southern blue whiting fisheries. Risk Profiles are standard practice used to identify potential compliance risks and to inform what remedial actions might be required.

The Risk Profile operations assess the likelihood and consequence of potentially non-compliant behaviours. Compliance Risk Profiles in themselves are non-evidential. They inform MPI and industry of potential risks and cue information needs to inform follow-up compliance investigations (e.g. by Fisheries Officers or at-sea observers). Risk Profiles can also identify issues that instead of enforcement action see changes to the policy settings (e.g. changes to the conversion factor or to product specifications/prescribed cuts).

Accordingly, Compliance Risk Profiles are a critical element to determine the likelihood and consequence of non-compliant behaviour allowing for the most appropriate intervention in accordance with the VADE model. Where risks of possible non-compliance are identified, these are subsequently referred for corrective action, formal investigation and prosecution, as may be required.

What compliance risks were identified during these two operations?

The 2011 hoki risk profile identified compliance risks indicating potential issues regarding catch reporting, incorrect reporting of carton weights, incorrect application of conversion factors into fish meal and processed products, and incorrect reporting of target and bycatch species. MPI Compliance has estimated that, if the purported non-compliance was systemic across the fishery, then potentially around 3,500 tonnes (3% of the TACC) of hoki might have been unreported.

The 2012 southern blue whiting risk profile identified compliance risks in relation to bulk processing operations such as head cuts, incorrect reporting of carton weights and incorrect application of conversion factors from fish to meal. MPI Compliance has estimated that, if the purported noncompliance was systemic across the fishery, then potentially around 1,100 t to 2,700 t (between 3% and 6% of the TACC) of southern blue whiting might have been unreported

It is important to note these are MPI's estimates of the potential level of catch that might be at risk of under reporting. These are not quantified or observed amounts of under reported catch, rather these are conclusions of retrospective analysis that requires confirmation through monitoring and investigative follow up. They do not take into account instances where 'over-reporting' of catches were identified.

Have the identified compliance risks been addressed?

Follow-up actions by MPI Compliance ensured that remedial actions were put in place, including revisions to conversion factors, to processing cuts, and to improved processes to assess carton and glazing weights.

Subsequent investigations to collect evidential information lead to four prosecutions and convictions on reporting offences in the hoki fishery. These four vessels have all since left New Zealand waters.

Compliance risks and performance are communicated through MPI's Deepwater Compliance Group, as well as through MPI's Annual Review Reports. Where compliance risks relate to a specific company, MPI works directly with the company to assist, direct or enforce compliance.

Industry and vessel operators have changed procedures since 2012 to more accurately report processed catches and MPI have altered conversion factors to ensure these align with the robust reporting requirements. MPI explains some of the key changes further [here](#).

These risk profiles were undertaken nearly a decade ago: hoki in 2011; southern blue whiting in 2012. The management of these fisheries has progressed on a long way since then, including responses to correct issues identified in these risk profile operations.

Government observer coverage has increased to 45% across the deep water trawl fleet, with up to 100% coverage on all vessel and fisheries deemed to be 'high risk'. Daily digital catch reporting has been implemented across the hoki and southern blue whiting fleet to provide faster, more precise and more timely reporting, as well as to enable more responsive compliance action.

In 2013 MPI introduced 'interim observer trip reports'. These reports are provided to vessel operators within a few days of the completion of an observed trip, providing immediate feedback to vessel operators on the details of their operations, as independently assessed. During 2015-16, 160 interim observer trip reports were completed. The majority of the assessed activities were rated either A (81%) or B (7%), with only five C ratings (i.e. less than 1%).

Do the compliance risks pose any sustainability risk to these fish stocks?

The Compliance Risk Profiles do not determine the actual quantities of incorrectly reported catch, that is not their objective. They assess areas where reporting inaccuracies may be occurring and use these to estimate what level of catch might be unreported. They also assess areas where the

level of catch has been over-reported, due to the incorrect application of conversion factors, product specifications and the like.

It is important to recognise that, even if the estimated quantities were real, the levels are too small in relation to the TACCs and to the actual catch levels to cause any sustainability risk to these stocks.

The sustainable yields for these deep water fisheries are set based on the best available science – as determined through fisheries-independent biomass surveys and stock assessments. In some of these assessments, an allowance for non-reported fishing mortality is factored into the catches.

Managers then select the best yield level, based on models that forecast future stock sizes under a range of different annual catch levels. When setting the TACC, an allowance is provided for “other sources of fishing mortality”.

For hoki, the allowance for ‘other sources of fishing mortality’ in 2011 was set at 1,200 t, the TACC was set at 120,000 t, and the 2011-12 catch was 118,805 t, (i.e. ~1,200 t less than the TACC). On this basis, there was an inherent built in ‘buffer’ of some 2,400 t before the level of sustainable catch, as assessed by MPI, would have been reached. The risk profile estimated that up to 3,500 t might be at risk of being unreported. Both hoki stock sizes are been estimated to have been well above their management target range since 2010. The quantities of hoki assessed to potentially be ‘at risk’ are, put simply, too small to materially affect the sustainability of either hoki stock.

For southern blue whiting, the allowance for ‘other sources of fishing mortality’ in 2012 was set at 740 t, the TACCs were set at 43,408 t and the catch was 29,906 t (i.e. ~13,500 t less than the TACC). On this basis, there was an inherent built in ‘buffer’ of some 14,240 t before the level of sustainable catch, as assessed by MPI, would have been reached. The risk profile estimated that up to 2,700 t might be at risk of being unreported. In 2012-13 the main southern blue whiting stocks were above the management target and they continue to be above this management target today. The quantities of southern blue whiting assessed to potentially be ‘at risk’ are, put simply, too small to materially affect the sustainability of the stocks.

Were these compliance risks considered as part of the MSC certification of these fisheries?

Yes they were. While MPI Compliance has not previously made the detailed confidential reports available, they have discussed their operations and overall findings with the Conformity Assessment Bodies (CABs or assessors) during past certification audits, advising that Compliance Risk Profiles are common practice and that they form an integral part of good fisheries management.

This advice gave the CAB confidence that New Zealand’s deep water fisheries are monitored in detail and that non-compliant behaviour is low, is understood and is appropriately being addressed by MPI as and where is necessary. The following is an excerpt from Acoura’s 2016 Hoki Surveillance Report:

“The MPI compliance team completed a compliance risk assessment review in 2011 and updated this in 2012. Since then, there have been four prosecutions all relating to discarding. Senior officers and the company received fines and the vessels were seized. All the vessels involved have left New Zealand and ceased trading. The new foreign charter regulations make it more difficult for foreign vessels to operate, as they must be NZ flagged and subject to NZ legislation. The MPI Compliance Manager reported that the hoki fishery is compliant with fisheries law.”