



THE REGULATORY PLAN*

Consolidated Regulatory Plan for domestic commercial vessels and their crew under the Maritime Safety National Law

September 2012

***Important Notice: The content of this Regulatory Plan has been translated into Draft Regulations and Draft Maritime Orders proposed under the National Law. The development of these Regulations and Maritime Orders is subject to public consultation.**



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1. Overview

The purpose of this document (the Regulatory Plan) is to provide the detail of the regulatory requirements that will apply to domestic commercial vessels and their crew when the Marine Safety (Domestic Commercial Vessel) National Law Act (the National Law) comes into effect in 2013.

The requirements outlined in this document will be implemented through the Regulations, Marine Orders and administrative arrangements that support the National Law in 2013. The draft Regulations and Marine Orders are currently available for public comment – see the AMSA website at <http://www.amsa.gov.au> to view the draft instruments. This Regulatory Plan provides an overview of the system that will be implemented through the legislation and administrative arrangements.

1.1 Principles underpinning the Regulatory Plan

The Regulatory Plan has been developed to support a number of nationally-agreed principles. These are:

1. *The General Safety Approach*

Proactive safety obligations will apply to all domestic commercial vessels and operations.

2. *Safety Equipment to Meet Contemporary Standards*

Safety equipment on existing vessels will be progressively updated to meet contemporary safety standards.

3. *Minimum Impact on the Existing Fleet*

The impact on existing vessels will be minimised, where possible, through preserving existing arrangements (“grandfathering”).

4. *Risk-Based Survey*

Pro-active survey requirements will be based on risk management principles with scope to vary the frequency of survey where owners demonstrate a proactive and effective approach to vessel and safety management.

5. *Technical Requirements to be based on Nationally Agreed Standards*

The national system will be based on compliance with national standards endorsed by Transport Ministers.

6. *A Single National Certificate*

Administrative arrangements will aim to minimise paperwork.

7. *Recognition of Existing Certificates*

Existing State and Northern Territory certificates will be recognised under the national system.

1.2 Overview of the Regulatory Plan – vessels and operations

Under the Regulatory Plan, there is an increased emphasis on operational safety which has meant that, in certain types of lower risk operations, it has been possible to apply less onerous vessel regulatory requirements.

There are three broad categories of regulatory treatment which define the requirements applicable to vessels:

- Scheme S (vessels in survey);
- Scheme NS (vessels not in survey and not in Scheme O); and
- Scheme O (other vessels where both new and existing vessels will continue to be subject to requirements based on the current State/Territory system for a transitional period).

Vessels in Scheme S include:

- New vessels required to be in survey under the National Standard for the Administration of Marine Safety (NSAMS) Section 4 Annex F (which is extracted in Annex C to this paper); and
- Existing vessels in survey. An existing vessel in survey in accordance with State or Northern Territory requirements which would not be required to be in survey under NSAMS Section 4 Annex F may be able to transfer to Scheme NS following an assessment of risks.

Scheme NS covers all vessels not in Scheme S or Scheme O, as well as recreational training vessels less than 24 metres in length in inshore operations.

Scheme O includes only specifically identified vessel types for which different arrangements are proposed, including volunteer marine rescue vessels, waterski/wakeboard towing vessels, permanently moored vessels, ferries in chains, unpowered barges, submersibles, wing-in-ground effect craft and novel vessels.

Finally, there are specific requirements for heritage vessels and tenders / auxiliary vessels – these vessels do not fit within any of the other categories.

An overview of the Regulatory Plan, and the requirements applicable to vessels in each of the three main categories, is shown in Table 1.

Provisions will allow for the appropriate grandfathering of requirements for existing vessels. A vessel in service prior to the commencement of the national system (1 January 2013) (an 'existing vessel') that:

- continues to be used for the same operations as it did prior to the commencement of the national system;
- is not significantly structurally modified; and
- continues to operate in the same geographic area as it did prior to the commencement of the national system,

will not be required to meet new design and construction or additional survey or crewing requirements (ie the vessel's current arrangements will be grandfathered).

Provisions will support the transition of existing vessels into the national system. When existing vessel certificates are up for renewal or revalidation, national certificates will be issued in lieu of

the current State or Territory certificate at an appropriate time in the survey schedule. For other vessels, including those that do not currently hold any certification or registration, the national certificate must be obtained within three years of the commencement of the national system. For many existing vessels, the national certificate will simply identify the requirements applying to the vessel and its operations, so that its grandfathered status is documented and formalised.

1.3 Overview of the Regulatory Plan – crew competencies

National Certificates of Competency will be issued in accordance with the National Standard for Commercial Vessels (NSCV) Part D. Part D is currently being reviewed by the National Marine Safety Committee (NMSC) and is the subject of a separate public consultation process which commenced in 2011 and is ongoing. A national Certificate of Competency will be automatically recognised in every State and Territory.

Existing Certificates of Competency, including those with restrictions, will continue to be recognised within the issuing jurisdiction, subject to any applicable conditions or restrictions. In other words, mariners holding State and Territory Certificates of Competency at the commencement of the national system will still be able to continue to use their existing certificates within the issuing jurisdiction, on exactly the same basis as they currently do.

There will also be arrangements for transitioning existing Certificates of Competency to a national Certificate of Competency. An existing unrestricted (Uniform Shipping Laws (USL) Code or NSCV) Certificate of Competency will be able to be transitioned across to a national certificate without additional requirements. At the date the existing certificate requires revalidation or renewal, a national certificate will be issued in its place provided the same requirements are met as currently apply to the certificate (such as meeting the medical and first aid requirements).

Holders of existing Certificates of Competency that are perpetual can continue to operate in the same manner and in the same jurisdiction as they currently do. The certificate will be recognised in perpetuity in the jurisdiction of issue provided the certificate was valid at the date of commencement of the national system and that the holder does not move operate beyond the limits of the certificate.

Table 1: Overview of the Regulatory Plan

Category		Certificates	Crewing requirements	Vessel and operations standards	Survey
Scheme S: vessels in survey	New	Certificate for each operation encompassing Vessel Identification(s) and operations Certificate of Survey for each vessel	Minimum complement in accordance with NSCV	NSCV	As per NSAMS Section 4
	Existing	Crew to hold a recognised Certificate of Competency where required	Current arrangements*	Transition to NSCV Part E / Part F for operations NSCV Part C7A for safety equipment (with transitional requirements) Current arrangements for design and construction*	Current arrangements* with the ability for vessel transition to NSAMS Section 4
Scheme NS: vessels not in survey	New	Certificate for each operation encompassing Vessel Identification(s) and operations	Minimum complement in accordance with NSCV (transitional arrangements apply)	Transition to NSCV Part E / Part F for operations General Safety Requirements Standard for design, construction and equipment	None
	Existing	Crew to hold a recognised Certificate of Competency where required	Current arrangements* Leisure craft transition to operational requirements of NSCV Part F	Transition to NSCV Part E / Part F for operations General Safety Requirements Standard or NSCV C7A for equipment Current arrangements for design and construction*	

Category		Certificates	Crewing requirements	Vessel and operations standards	Survey
Scheme O: other vessels	New and existing	As per Scheme S or Scheme NS (depending on whether or not the vessel is in survey) Crew qualifications to be in accordance with State and Territory requirements	Existing State and Territory requirements	Existing State and Territory requirements	Existing State and Territory requirements

*Provided there is no variation in operations that increases risk. See 4.1.2 for detail on the changes that will result in a review of the grandfathering arrangements

2. Scope and Key Definitions

2.1 Structure of this document

This document includes information about the:

- Scope of the Regulatory Plan (Chapter 2);
- Key terms and definitions (Chapter 2);
- Regulatory instruments and administration (Chapter 3)
- Grandfathering arrangements (Chapter 4);
- Arrangements for transitioning existing vessels and crew into the national system (Chapter 4);
- Regulatory treatment of the different categories of vessels (Chapters 5 – 8);
- Qualifications under the national system (Chapter 9);
- Interaction of the National Law with other laws (Chapter 10);
- Glossary (Annex A); and
- Requirements that apply to vessels by vessel type and operation (Annex B).

An extract of NSAMS Section 4 Annex F is also contained in Annex C to this document.

2.2 Scope of the Regulatory Plan

The Regulatory Plan will apply to all commercial vessels within the application of the National Law.

2.3 Scope of the National Law

The intention of the National Law is to introduce a national system that regulates all domestic commercial vessels operating in Australia, except those vessels regulated under the Navigation Act. The *Navigation Act 1912* has recently been amended, and the new Navigation Act (the *Navigation Act 2012*) will commence at the same time as the National Law.

A summary of the scope of the National Law, the Navigation Act 2012, and State and Northern Territory recreational vessel laws is provided in the table below. The scope of the National Law is described in more detail in the following sections.

Table 2: The scope of the National Law

State/ NT recreational laws	Navigation Act 2012	National Law
All vessels not subject to the Navigation Act or National Law	All foreign commercial vessels in Australian waters All Australian commercial vessels that undertake international voyages All Australian commercial	Vessels for use in connection with a commercial, governmental or research activity Vessels operated by primary or secondary schools and

State/ NT recreational laws	Navigation Act 2012	National Law
	vessels that operate beyond the EEZ (approximately 200nm from Australian coastline) unless an exemption from the Navigation Act is obtained All Australian commercial vessels with SOLAS certification and which wish to obtain or maintain SOLAS certification	community groups are only subject to the National Law if they undertake a prescribed activity or operate for a prescribed purpose

2.3.1. Vessels under the Navigation Act 2012

The following vessels will be captured by the Navigation Act 2012, which will take effect at the same time as the National Law in 2013:

- Foreign commercial vessels engaged in voyages or activities (other than defence vessels) in Australian waters (for example a foreign vessel conducting fishing activities in Australian waters or a foreign cargo vessel in Australian waters);
- Australian commercial vessels which cross the outer limit of Australia's Exclusive Economic Zone (EEZ), operate entirely outside the EEZ or are for use on voyages outside the EEZ; and
- Australian commercial vessels which apply for or maintain Safety of Life At Sea Convention (SOLAS) Certification, regardless of where they operate.

Other Australian commercial vessels may 'opt-in' to the Navigation Act by applying to AMSA.

The definition of 'commercial vessel' under the Navigation Act covers vessels that are for use in connection with a commercial, governmental or research activity.

All these vessels will be regulated by the Navigation Act and will not be subject to the National Law. In addition, all customs vessels will be subject to the Navigation Act.

However:

- Defence vessels are not regulated by the Navigation Act.
- Recreational vessels are not regulated by the Navigation Act.
- Australian commercial vessels that have SOLAS Certification may actively 'opt out' of regulation under the Navigation Act. In this case, the vessel would be regulated under the National Law and would lose any SOLAS Certification issued by AMSA.
- Australian commercial vessels which were regulated under State or Northern Territory marine safety law prior to 2013 will be able to operate under the National Law through an exemption from the Navigation Act. In order to remain exempt from the Navigation Act, the vessels must comply with the National Law. This does not include foreign commercial

vessels in Australian waters and Australian commercial vessels which undertake international voyages (ie undertake a voyage to or from an international port), which will be subject to the Navigation Act without exception.

- Existing Australian commercial vessels and those entering the national system after commencement of the National Law which intend to operate outside the EEZ but do not intend to undertake international voyages will be able to operate under the National Law by applying for an exemption from the Navigation Act. In order to remain exempt from the Navigation Act, the vessels must comply with the National Law.

2.3.2. Vessels under the National Law

All domestic commercial vessels not subject to the Navigation Act will be within the coverage of the National Law.

The definition of 'domestic commercial vessel' under the National Law covers vessels that are for use in connection with a commercial, governmental or research activity.

However, vessels are not domestic commercial vessels only because:

- The vessel is sponsored during a sporting event;
- The vessel is being used for a promotional activity;
- A person is paid to operate the vessel or to be a member of the crew the vessel; or
- A person (the trainee) pays another person to train the trainee in the trainee's vessel.

In addition, vessels operated by:

- Primary or secondary schools; or
- Community groups,

are excluded from the National Law, unless the vessel is for use:

- By a volunteer search, rescue, or search and rescue, organisation (except surf lifesaving vessels that operate in sheltered waters or within two nautical miles to seaward of the coast, and privately owned recreational vessels that are used incidentally as a volunteer search and rescue vessel);
- As hire and drive by non-members;
- As charter by non-members;
- To provide training for non-students or non-members for consideration; or
- To provide training for consideration for a licence or certificate that is needed to meet a legislative requirement.

A 'community group' is a formalised association (an incorporated body, an unincorporated association or a body established by legislation) which is non-profit.

While volunteer search and/or rescue vessels are subject to the National Law, the following search and/or rescue vessels are excluded:

- Surf lifesaving vessels that operate in sheltered waters or within two nautical miles to seaward of the coast, unless they are used as a hire and drive or charter vessel, or for training, for non-members for consideration; and

- Privately owned recreational vessels that are used incidentally as a volunteer search and rescue vessel.

In addition:

- Vessels operated by the Australian Sport's Commission, Australian Institute of Sport, NSW Institute of Sport, Victorian Institute of Sport, Queensland Academy of Sport, South Australian Sports Institute, Tasmanian Institute of Sport, Western Australian Institute of Sport and the Northern Territory Institute of Sport are excluded, unless they are used as a hire and drive or charter vessel, or for training, for non-students or non-members for consideration;
- Defence force vessels are excluded; and
- Vessels under the overall general control or management of a dealer in the course of that person's business as a dealer are excluded,

from the National Law. Surf lifesaving and dealer vessels will be subject to State and Northern Territory recreational vessel and waterway management laws.

Recreational vessels used as volunteer research vessels do not fall within the definition of 'domestic commercial vessel' and will not be subject to the National Law. The attendance of a person in any capacity (to assist with the research activity) onboard a volunteer research on an ad-hoc basis would also not make the vessel a commercial vessel for the purposes of the National Law.

What is a 'vessel'?

'Vessels' captured by the National Law include all domestic commercial vessels capable of being used in navigation by water, however propelled or moved, including air-cushion vehicles, barges, lighters, submersibles, ferries in chains and wing-in-ground effect craft. Canoes, kayaks, dinghies and tinnies are also vessels.

The following are not 'vessels' and are not captured by the National Law:

- Aircraft;
- Facilities for the purposes of Schedule 3 to the *Offshore Petroleum and Greenhouse Gas Storage Act 2006* of the Commonwealth;
- Aquaculture pens;
- Aquaplanes;
- Boogie boards;
- Floating structures permanently connected to shore;
- Inflatable raft;
- Inner tubes;
- Kite surfers;
- Paddleboards;
- pontoons connected to the mainlands;
- Sailboards;

- Surf skis;
- Surfboards;
- Towed recreational equipment; and
- Waterskis.

2.3.3. Vessels moving between commercial and recreational use

Commercial vessels that also operate recreationally will be exempt from certain provisions of the National Law (such as crew qualifications and levels) while they are operating recreationally, provided the vessel complies with specified requirements of local recreational vessel and waterway management laws. The scope and conditions of the exemption for recreational use are currently under consideration.

2.4 Defining new and existing vessels

This Regulatory Plan refers to ‘new’ vessels and ‘existing’ vessels. Existing vessels may also be referred to as ‘vessels in service prior to the commencement of the national system’.

2.4.1. Existing vessels

Existing vessels are those that were registered, held a Certificate of Survey, or otherwise operated commercially within Australia at any point during the 24 months prior to the commencement of the national system. Service delivery bodies (ie the State and Northern Territory marine safety agencies) will have the discretion to manage the transition for type approvals and existing vessels that have been out of service for longer than 24 months. AMSA will provide guidance on the application of this discretion to ensure national consistency.

In addition, a vessel where the keel has been laid, or:

- construction identifiable with the vessel has begun; and
- a portion of the vessel has been fabricated and finally assembled, having a mass of not less than 50 tonnes or 10 percent of the estimated mass of all structural material of the vessel as proposed to be completed,

prior to the commencement of the national system is an existing vessel.

Finally, a vessel for which an application for design approval has been lodged with a State or Territory marine safety agency prior to the commencement of the national system, and the keel has been laid, or:

- construction identifiable with the vessel is begun; and
- a portion of the vessel is fabricated and finally assembled, having a mass of not less than 50 tonnes or 10 percent of the estimated mass of all structural material of the vessel as proposed to be completed,

before the date that is 3 years after the commencement of the national system shall have the option of complying with the design and construction requirements in place prior to the commencement of the national system.

An application for design approval includes: an application for vessel design, plans or construction drawings approval; an application for new vessel construction; an application for the examination of vessel plans; an application for initial survey or a vessel survey application;

and in Queensland, the completion, by an accredited designer, of a certificate of compliance for design in a form acceptable to Maritime Safety Queensland.

2.4.2. New vessels

If a vessel is not an existing vessel it is a new vessel.

After the commencement of the national system the following vessels will also be treated as new vessels:

- Vessels which allow their certification to lapse for 24 months or more (excluding vessels where the local delegate of the National Regulator has agreed to transitional arrangements);
- Vessels which are subject to an initial survey (being investigated and verified for the first time as meeting prescribed standards); and
- Vessels which upgrade in service to the extent that for the upgrade the National Regulator (or its delegate) requires all or part of the vessel and/or its operations to be investigated and verified that it meets prescribed standards.

These vessels must meet all the requirements that apply to new vessels.

3. Regulatory Instruments and Administrative Arrangements

3.1 Regulatory instruments

Under the national system, there will be a number of mechanisms for regulating commercial vessels. These include:

- General Safety Obligations;
- Certificate(s); and
- Standards.

In addition, there will be a number of tools for compliance and enforcement, including:

- Survey (if applicable); and
- Audits and other ongoing compliance and enforcement activities.

This Regulatory Plan is concerned with the application of certification requirements and standards to domestic commercial vessels and operations. The purpose and content of the certificates, standards and survey are outlined in Tables 3 and 4 below.

These obligations will be applied to vessels and their crew by the National Law regulations and Marine Orders in accordance with Chapters 4 – 8 of this Regulatory Plan.

3.1.1. The national certificates

Although identified as three separate concepts (Vessel Identification, Certificate of Operation and (where relevant) Certificate of Survey) the intention is not to issue a separate certificate of Vessel Identification. Rather, the vessel(s) unique identifier(s) will appear on the Certificate of Operation and (where relevant) Certificate of Survey.

The content, purpose and role of the Vessel Identification, Certificate of Operation and Certificate of Survey are outlined in Table 3.

Table 3: Certificates under the national system

Mechanism	Description
<p>Vessel / Operation Certificates</p> <p><i>For vessels not in survey, a single national certificate will be issued, covering Vessel Identification and the Certificate of Operation.</i></p>	
<p>Vessel Identification</p>	<p>A unique identifier for a vessel that stays with the vessel over its life even if it changes ownership. Referred to in the National Law Act as ‘unique identifiers’.</p> <p>Each individual vessel must have a unique identifier. It is the responsibility of the owner of the vessel (the person or entity with overall general management and control of the vessel) to apply for the unique identifier.</p> <p>Subject to transitional arrangements during 2013, for new vessels in survey, the unique identifier will be issued when the owner applies for a Certificate of Survey for the vessel. The unique identifier will then also attach to the</p>

Mechanism	Description
	<p>vessel's Certificate of Operation.</p> <p>Subject to transitional arrangements during 2013, for new vessels not in survey, the unique identifier will be issued when the owner applies for a new Certificate of Operation or for a variation to an existing Certificate of Operation. Where the Certificate of Operation covers multiple vessels not in survey, a unique identifier for each vessel will be issued when the owner applies for a new, or variation to an existing, Certificate of Operation.</p> <p>Once issued, the unique identifier must be displayed in:</p> <ul style="list-style-type: none"> - a prominent place on both sides of the vessel or on its stern; and - letters and numbers at least: <ul style="list-style-type: none"> (i) for a vessel less than 30 m long — 10 cm high; or (ii) for a vessel at least 30 m long — 15 cm high; and - a colour that contrasts with its background; and - a manner that is clearly readable in clear weather. <p>However, the National Regulator may approve another way of displaying the unique identifier where these display requirements are impractical due to the size, type or nature of the vessel.</p> <p>If a vessel is sold to another operation, the Certificate of Operation must be updated to remove that vessel's unique identifier from the certificate.</p> <p>Identifiers on existing vessels that were issued as part of State and Northern Territory survey or registration schemes will be recognised as unique identifiers under the national system.</p> <p>Where an existing vessel does not have any State or Northern Territory identification, or does not display the identification on the outside of the vessel, it will be required to obtain and/or display a unique identifier by 2016.</p> <p>Vessels that are registered under the Shipping Registration Act and meet the identification requirements of that Act will be exempt from the requirement to obtain and display a unique identifier.</p> <p>Until at least 2016, the States and the Northern Territory will continue to issue identification (numbers or letters) in the same way as they currently do. These identifiers will continue to be recognised as unique identifiers under the National Law.</p> <p>After 2016, a national identification system will be established. The post-2016 national identification system will recognise existing vessel numbers, including those issued by the States / Northern Territory, official numbers issued under the Shipping Registration Act, and possibly HIN/CIN. However the details of the national identification scheme will be resolved prior to 2016.</p> <p>The fee for the unique identifier will be set by the issuing State or Territory.</p>

Mechanism	Description
<p>Certificate of Operation</p>	<p>Provides the permission to operate the vessel, including the conditions attached to that permission. Subject to the grandfathering and transitional arrangements, unless a Certificate of Operation is in force in regards to a vessel, that vessel cannot operate legally. In this way, the Certificate of Operation will in part replace the current State/Northern Territory concepts of vessel registration and survey certificates.</p> <p>It is the responsibility of the owner of the vessel or the person or entity with overall general management and control of the vessel to apply for the Certificate of Operation. The applicant must declare that they have completed a risk assessment of the operation and identified controls prior to obtaining a Certificate of Operation.</p> <p>At the commencement of the national system, it is envisaged that the Certificate of Operation will contain:</p> <ul style="list-style-type: none"> - the name of the owner of the vessel; - issue date / expiry date; - the vessel's or vessels' ID(s) and name; - the vessel's or vessels' operating class(es); - the vessel's or vessels' operational area(s); - restrictions on the vessel's geographic area of operation; - the vessel's or vessels' length(s) and propulsion power; - whether or not the vessel is (or vessels are) required to hold a survey certificate; and - (where relevant) crewing (number of crew and duties). <p>The process for including crewing requirements on the Certificate of Operation is contained in the NSCV.</p> <p>A single Certificate of Operation may cover multiple vessels where the vessels are within the same operation and operate within the one geographic area.</p> <p>Where a vessel is (or multiple vessels on the one Certificate of Operation are) used for two different operations, the same Certificate of Operation can cover both operations. Alternatively, two Certificates of Operation can be issued for two separate operations where the same vessel is used.</p> <p>An existing valid survey certificate or vessel registration issued by the States and Northern Territory prior to 2013 will be recognised as the Certificate of Operation under the national system. When the existing document expires or must be renewed, a national Certificate of Survey (if applicable) and a national Certificate of Operation will be issued. All existing vessels must obtain a national Certificate of Operation by 2016.</p> <p>For vessels that are in survey, the Certificate of Operation will be subject to</p>

Mechanism	Description
	<p>renewal in accordance with the survey schedule. For vessels not in survey, the Certificate of Operation must be renewed at least every five years; however, a lesser period may be specified where required on a risk basis.</p> <p>A Certificate of Operation will generally not be transferable. However, where a business is being sold as a going concern, and provided the outgoing owner is not integral to the competency and capacity of the operation, the Certificate of Operation will be transferable. Conditions may be applied to the transfer, such as the incoming owner demonstrating appropriate competency and capacity.</p> <p>Where vessels change the nature of their operations (including operating in a new area or class of operation), or are significantly modified, it will be necessary to apply for an amendment to the existing Certificate of Operation.</p> <p>Where a Certificate of Operation covers multiple vessels, and one vessel is sold or replaced, the owner (the person or entity with overall general management and control of the vessel) must apply for an amendment to the Certificate of Operation.</p> <p>For a hire and drive operation, the Certificate of Operation will replace the current hire and drive licence under State/Northern Territory maritime law.</p> <p>The fee for the Certificate of Operation will be set by the issuing State or Territory marine safety agency.</p>
<p>Certificate of Survey</p>	<p>Evidence that the vessel has been verified (initially and/or periodically where required) against specified standards in the manner and to the extent specified by the legislation. It contains the detail of the survey schedules for the vessel (including the scheduled dates to survey hull, equipment, life raft, radio, bilge pump and so on).</p> <p>It is the responsibility of the owner of the vessel or the person or entity with overall general management and control of the vessel to apply for the Certificate of Survey.</p> <p>For a vessel in survey, a Certificate of Operation will only be issued (that covers the vessel) once a valid Certificate of Survey has been provided. For vessels in periodic survey, the Certificate of Operation for that vessel will only be renewed where the Certificate of Survey is valid (ie the periodic surveys have been completed).</p> <p>Existing valid survey certificates issued by the States and Northern Territory prior to 2013 will be recognised as the Certificate of Survey under the national system.</p> <p>The fee for the Certificate of Survey will be set by the issuing State or Territory marine safety agency.</p>

Mechanism	Description
Certificates of Competency	
Certificate of Competency	<p>A document recognising that the holder has met the requirements for the specified grade and permitting the holder to serve on a vessel in the capacity of master, or crew member with deck and/or engineering responsibilities.</p> <p>Existing valid State and Northern Territory certificates of competency will be recognised under the national system. If an existing certificate requires revalidation or renewal, the holder will transition to a national Certificate of Competency when they apply for revalidation or renewal.</p> <p>The fee for the Certificate of Competency will be set by the issuing State or Territory marine safety agency.</p>

3.1.2. National standards

Subject to grandfathering arrangements (see Chapter 4), standards applied under the national system will be national standards endorsed by Transport Ministers and developed according to the national standards development processes involving public consultation and regulatory impact analysis.

The application of standards in the national system is considered in detail in Table 4.

Table 4: Standards under the national system

Mechanism	Description
Vessel and Operational Standards	
National Standard for Commercial Vessels (NSCV) Part E and Part F	<p>Covers operational practices, emergency preparedness, safety management systems (SMS) and crewing. It identifies what safety management document is required for different vessel operations. Relevant to all vessels, subject to transitional arrangements and grandfathering arrangements for crewing requirements.</p> <p>Part E applies to class 1 (passenger), class 2 (non-passenger) and class 3 (fishing) vessels, and is currently being revised. The revised Part E will include detail on the degree of documentation required, how risks should be assessed and addressed and what oversight will be provided by the regulator.</p> <p>Crewing requirements will be based on compliance with the NSCV and specified in the Certificate of Operation (where required).</p> <p>For class 4 (hire and drive vessels and other leisure craft), the operating standards are contained in NSCV Part F.</p>
Construction and equipment requirements of the NSCV	<p>Covers design, construction (including stability) and equipment. Encompasses NSCV Part B, Part C and Part F.</p> <p>Relevant to vessels in survey, subject to the grandfathering arrangements.</p>
National Standard for General Safety Requirements for Vessels	<p>A new national standard which covers equipment and minimum construction requirements. It is a catch-all minimum standard relevant to vessels not in survey.</p> <p>Includes requirements for:</p> <ul style="list-style-type: none"> • Buoyancy and stability; • Equipment; • Load capacity; and • Maximum power capacity. <p>Relevant to vessels not in survey, subject to the grandfathering arrangements.</p>
Competency Standards	
NSCV Part D	Sets out the NSCV requirements for issuing Certificates of Competency. Part D is currently under review and will be available for public comment in 2012.

Mechanism	Description
Survey Standards	
National Standard for the Administration of Marine Standards Section 4	<p>Contains survey schedules and requirements, including risk-based monitoring/survey.</p> <p>Relevant to new vessels in survey and existing vessels in survey once a suitable risk assessment has been completed.</p>

3.2 Administrative arrangements

3.2.1. Service providers

The State and Northern Territory marine safety agencies will operate as service providers under the national system, and will issue certificates, conduct inspections and audits, and carry out compliance and enforcement activities on behalf of the National Regulator.

3.2.2. Fees for services under the national system

The service providers will set the fees for the services they provide. This means that where a State / Northern Territory marine safety agency issues a Certificate of Operation, Survey or Competency, they will set the fee for doing so.

3.2.3. A national database?

Options for a national database are currently being developed, however a national database is unlikely to be in place until at least 2016. In the interim, arrangements are being developed to provide the National Regulator with access to jurisdictional data holdings.

3.2.4. Managing local issues

As the States and the Northern Territory will provide services on behalf of the National Regulator, local issues can continue to be accounted for under the national system. In particular, the Certificate of Operation will provide the flexibility required to manage local issues. Through the Certificate of Operation, the risks of an individual operation (in an operational area) can be taken into account to identify solutions that achieve the safety outcome required under the National Standards.

In addition, the States and Northern Territory will continue to be responsible for managing their local waterways, including classifying waters.

3.2.5. Reporting requirements

The National Law requires incidents to be reported in certain circumstances. Where incidents are required to be reported, the reports must be made directly to the local marine safety agency. This ensures that the waterway management authority is aware of the incident, as well as the National Regulator.

3.2.6. Surveyors & Certificates of Survey

In 2013, AMSA will delegate the authority to issue a Certificate of Survey to the State and Northern Territory marine safety agencies. These agencies will determine what documentation

they will rely upon when issuing a Certificate of Survey, and may accredit public/private surveyors to support their Certificate of Survey processes. Responsibility for the completeness and accuracy of Certificates of Survey will rest with the agency.

From commencement, agencies will continue to rely on existing arrangements for receipt of survey reports until Ministerial Council approved surveyor accreditation arrangements are announced. It is envisaged that competent persons (surveyors) will be accredited in accordance with the approved arrangements. A workstream has been initiated on surveyor qualifications and national surveyor accreditation arrangements.

3.2.7. The development of National Standards

Since 1997, the NMSC has been responsible for developing National Standards on domestic commercial vessel safety.

The NMSC will continue to exist until the commencement of the national system, which means that current reviews of NSCV standards (including Part D and Part E) are being, and will continue to be, managed by the NMSC. From the commencement of the national system, AMSA will be responsible for maintaining and developing the NSCV and other National Standards. However, these will continue to be subject to national consultation and impact analysis processes.

4. Grandfathering and Transitions

4.1 Definitions

4.1.1. Meaning of 'grandfathering'

"Grandfathering" is an arrangement where existing approvals, requirements or conditions, such as design and construction standards, are automatically recognised under new laws, such as the National Law, without the need for further action by vessel owners.

Grandfathering arrangements under the National Law apply indefinitely, unless subsequent incident data dictates the need to adopt an alternate approach. The National Regulator will continually assess the safety of the national fleet in light of incidents, emerging risks, changing technology and/or changing expectations. If a safety issue arises in the future, some grandfathering arrangements may need to change.

4.1.2. Changes that will trigger a review of the grandfathering arrangements

As set out in the following sections, grandfathering arrangements for vessels continue as long as the vessel does not change its operations, is not significantly modified and does not seek to move its geographic area of operation.

For crew certificates, existing certificates will be recognised so long as the certificate remains current; the certificate holder's operations do not change, and provided the holder does not operate beyond the limits of the certificate.

Changes in operations

Changes in operations that increase risk will trigger a review of the grandfathering arrangements for vessels. The principles outlined in the NMSC Guideline '*The Application of the Combined USL/NSCV 2008 to Existing Vessels that are Upgraded or Altered*' will be applied to identify when a change increases the risk of the operation.

Where an operation as a whole is sold, there is unlikely to be a change in 'operations' that will trigger a review of the grandfathering arrangements. However, where a vessel's owner and the operation of the vessel changes, the grandfathering arrangements are likely to be reviewed.

Modifications

The principles outlined in the NMSC Guideline '*The Application of the Combined USL/NSCV 2008 to Existing Vessels that are Upgraded or Altered*' will be applied to determine when a modification will result in a review of the grandfathering arrangements for vessels.

Under this Guideline, modifications (or 'alterations') that are accompanied by an 'upgrade in service' (where there is a change in the service category (class) of the vessel and the change in class will, in some way, subject the vessel or persons on the vessel to an increase in risk) will result in a review of the grandfathering arrangements. These concepts are explored in more detail in the NMSC Guideline, which is available on the NMSC website (www.nmsc.gov.au).

Moving geographic location

A movement to a different State or Territory will trigger a review of the grandfathering arrangements.

For vessels, movements within a State or Territory may also trigger a review where the change in location increases the risk of the operation.

Replacement vessels

The grandfathering arrangements do not apply to replacement vessels. A replacement vessel is a new vessel entering the fleet, and thus will be subject to the national requirements.

4.2 Vessels and operations

4.2.1. Grandfathering of existing technical requirements

Pre-existing design and construction, and where relevant crewing and survey, requirements will be grandfathered for existing vessels.

Survey arrangements

An existing vessel in survey will be able to retain its periodic survey arrangements provided the vessel does not change operations, is not modified and does not move its geographic area of operation. In other words, provided it continues to operate in the same manner as it did before the commencement of the national system. See 4.1.2 for detail on the changes that will result in a review of the grandfathering arrangements.

If the vessel seeks to change its operations, is modified, or seeks to move its geographic area of operation, the existing survey arrangements will not be grandfathered and it will be reassessed under the NSCV. The assessment process will consider the risks of the vessel to identify safety gaps arising from any non-compliance with the national standards. This will include consideration of the vessel's survey regime, and whether any alteration of the survey regime will be required to address risks.

An existing vessel may be able to move to the NSAMS 4 survey regime after an assessment of the risks of the vessel by the State / Northern Territory marine safety agency on behalf of the National Regulator.

Design, construction and crewing

An existing vessel with no exemptions from the USL Code or local equivalent solutions to the NSCV will be able to take advantage of the grandfathering arrangements for design and construction and crewing and will be eligible to obtain an unrestricted national Certificate of Survey and Operation, valid in any State or Territory in Australia.

An existing vessel with exemptions or local equivalent solutions, and a pre-USL Code vessel, will not be required to upgrade its design and construction and crewing provided the vessel does not change operations, is not modified and remains within the State or Territory where it operated prior to the commencement of the national system. In other words, provided it continues to operate in the same manner as it did before the commencement of the national system. See 4.1.2 for detail on the changes that will result in a review of the grandfathering arrangements.

If the vessel seeks to change its operations, is modified, or seeks to operate nationally or move its geographic area of operation, it will need to be reassessed. The assessment process will consider the risks of the vessel and identify any safety gaps arising from its non-compliance with the national standards. The vessel will be assessed against the latest standard. However, the vessel will not necessarily be required to meet that standard if it was built to an earlier vessel construction standard. Rather, the vessel will be eligible to operate nationally but where there are safety gaps due to non-compliance with the new standard, operational or other conditions may be applied to the vessel through the Certificate of Operation.

Existing vessels may also elect to comply with the current standards for design, construction

and crewing.

4.2.2. Grandfathering existing interstate recognitions

Some vessels have interstate endorsements and recognitions of their existing Certificates of Survey. All existing recognitions (including interstate endorsements on Certificates of Survey) will be recognised under the national system.

Table 5: Grandfathering arrangements for vessels

Grandfathering arrangements	
Current vessel-specific design and construction arrangements	<p>The pre-existing design and construction standards applied to an existing vessel will continue to apply to that vessel.</p> <p>Existing vessels with exemptions from the USL Code or local equivalent solutions to the NSCV, and pre-USL Code vessels will be able to take advantage of the grandfathered design and construction standards provided the vessel does not change operations, is not modified and does not move its geographic area of operation.</p>
Current vessel-specific survey arrangements	<p>The pre-existing survey requirements applied to an existing vessel in survey will continue to apply to that vessel.</p> <p>Existing vessels will only be able to take advantage of the grandfathered survey arrangements if the vessel does not change operations, is not modified and does not move its geographic area of operation.</p> <p>An existing vessel in survey that would be subject to a lesser survey regime under the Regulatory Plan (including under NSAMS Section 4) may be able to gain the advantage of the new requirements following an assessment by the local delegate of the National Regulator.</p>
Current vessel-specific crewing arrangements	<p>Pre-existing crewing requirements applied to an existing vessel in survey will continue to apply to that vessel, unless the owner elects to comply with the current national standard.</p> <p>Existing vessels with exemptions to the USL Code or local equivalent solutions to the NSCV, and pre-USL Code vessels, will be able to take advantage of the grandfathered crewing arrangements if the vessel does not change operations, is not modified and does not move its geographic area of operation.</p>

4.2.3. Transitioning to national vessel certificates

All existing vessels will be required to obtain a national Certificate of Operation by 2016. In some cases, the national certificate will include restrictions on where the vessel can operate. As set out in Chapter 5, some vessels will also be required to hold a national Certificate of Survey.

Vessels which hold existing State or Territory certificates of survey or registration will be issued a national certificate in lieu of their current certificate when the existing certificate expires or at an appropriate time in the survey or renewal schedule. In any event, a national Certificate of Operation must be obtained within three years of commencement of the national system.

Existing vessels that do not currently hold any certification or registration, and which are required to have a Certificate of Operation under the national system, must obtain the national certificate within three years of commencement of the national system. The national certificate will simply document the requirements applying to the vessel and its operations, and ensure that the vessel is recognised as an ‘existing vessel’.

4.3 Certificates of Competency

4.3.1. Grandfathering Certificates of Competency

Existing certificates of competency are those issued before the commencement of the national system.

The holder of an existing State or Northern Territory certificate of competency can continue to operate on the same basis as they currently do. This grandfathering arrangement is available to mariners who do not operate beyond the existing limitations of the certificate. However, if the certificate requires revalidation or renewal, the holder will transition to a national Certificate of Competency when they apply for revalidation or renewal. Holders of existing certificates of competency that are perpetual can continue to operate in the same manner and the same State or Territory as they currently do. If their operations change or if they move to a new State or Territory, they will need to apply for a national Certificate of Competency.

Some current certificate holders have interstate endorsements. All existing interstate endorsements on Certificates of Competency will be recognised under the national system.

Table 6: Grandfathering arrangements for crew

Grandfathering arrangements	
Existing Certificates of Competency	Existing Certificates of Competency will continue to be recognised within the State or Territory in which it was issued. Existing interstate endorsements will be recognised.

4.3.2. Transitioning to national Certificates of Competency

Existing certificates of competency, including those with restrictions, will continue to be recognised within the issuing State or Territory, subject to any applicable restrictions. In other words, mariners holding valid State and Territory certificates of competency at the commencement of the national system will still be able to continue to use their existing certificates within the issuing State or Territory, on exactly the same basis as they currently do until the certificate expires.

Unrestricted certificates of competency issued after 1981 (under the USL Code or Part D of the NSCV or equivalent) will be transitioned to national certificates at the date that the holder revalidates or renews the existing certificate. At revalidation or renewal, a national Certificate of Competency will be issued, with the same processes as currently apply to revalidation or renewal.

However, holders of State or Territory unrestricted certificates of competency may choose to obtain a national Certificate of Competency any time after the commencement of the national system without waiting for the revalidation or renewal to fall due. During the transitional period, the same procedures will apply to obtaining the national Certificate of Competency as would apply at renewal or revalidation.

Restricted Certificates of Competency will transition to a national Certificate of Competency if and when they are required to be revalidated or renewed. The transition processes will be similar to those which apply to unrestricted certificates.

5. Vessels in Survey (Scheme S)

5.1 Introduction

'Scheme S' refers to vessels that are required to be in survey under this Regulatory Plan. This chapter sets out the requirements that will apply to new and existing vessels in survey (in Scheme S) from the commencement of the national system.

An overview of the requirements applicable to Scheme S vessels is contained in Table 7 below.

5.2 Vessels subject to Scheme S

5.2.1. New vessels in Scheme S

New vessels in Scheme S vessels are those identified as subject to survey under the National Standard for the Administration of Marine Safety (NSAMS) Section 4 Annex F, which is replicated in Annex C to this document (with the addition of some notes to improve clarity).

5.2.2. Existing vessels in Scheme S

Existing vessels in Scheme S are those that were required to be in survey under the applicable State / Northern Territory law immediately prior to the commencement of the national system. Commercial vessels that were registered in Queensland prior to the commencement of the national system and were subject to an initial certificate of compliance will also be in Scheme S.

Where an existing vessel is in survey in accordance with a State or Northern Territory requirement, and that vessel would not be required to be in survey under NSAMS Section 4 Annex F, the owner of that vessel may be able to transfer the vessel into Scheme NS (see Chapter 6 for the requirements of Scheme NS) following an assessment of the vessel by the local delegate of the National Regulator. This is conditional on the vessel meeting an equivalent standard to that applicable to Scheme NS vessels.

5.2.3. Vessels which opt into Scheme S

There may be some owners who elect to have their vessels in survey even though the vessels are not in Scheme S under this Regulatory Plan and the National Law.

This could include owners who, based on a risk-assessment of their operations, determine that survey is a means through which risks can be mitigated and they elect to place their vessel in initial survey and to undertake periodic survey.

The owner of a vessel may opt in to survey even if not required to be in survey under the National Law. However, State and Northern Territory marine safety agencies (who will be issuing Certificates of Survey on behalf of the National Regulator) can elect to direct resources towards vessels that are required to be in survey if resources are limited.

5.3 Certification requirements

Scheme S vessels must have Vessel Identification, a Certificate of Operation and, a Certificate of Survey or its equivalent (such as Queensland seaworthiness declaration/certificate of compliance).

An operation as a whole can be subject to one multi-vessel Certificate of Operation with each of the vessels listed on the certificate. In all cases, Vessel Identification will be on an individual vessel basis.

5.3.1. Transitioning existing certificates

Existing State / Northern Territory survey certificates will be recognised under the national system.

When existing vessel survey certificates are up for renewal, national certificates will be issued in lieu of the current State or Territory certificate at an appropriate time in the periodic survey schedule. All vessels must have a national Certificate of Operation by 2016. In order to obtain the Certificate of Operation, the operator will be required to declare that they have completed a risk assessment and have identified risk controls.

An existing Scheme S vessel that currently has a certificate of registration, but not a Certificate of Survey, will be issued with a restricted national Certificate of Operation that is only valid in the State or Territory in which the vessel operated prior to the commencement of the national system. Existing vessels in Queensland will be required to retain their certificate of compliance in lieu of holding a national Certificate of Survey.

5.3.2. National Vessel Identification

State / Northern Territory identification regimes will continue to operate until 2016, and will be recognised as national Vessel Identification at least until the end of 2016. Subject to some transitional arrangements in 2013, new vessels will be required to display a unique identifier once it is issued to the vessel – generally this will occur during the initial survey process.

Existing vessels which do not already display a unique identifier on the outside of the vessel will be required to obtain and/or display the unique identifier by 2016.

The issue of Vessel Identification is being considered further. The aim is to have a national identification scheme in place in 2016.

5.4 Applicable standards

5.4.1. New vessels in Scheme S

New Scheme S vessels must comply with the NSCV, and will be subject to NSAMS Section 4. The survey regime specified by NSAMS Section 4 allows for a risk based variation to the frequency of periodic survey.

All new vessels will be required to declare that they have completed a risk assessment and have identified risk controls prior to obtaining a Certificate of Operation. New class 1 (passenger) vessels will need to comply with the current NSCV Part E, chapters 1 – 4; which means that the owner must implement a safety management system. New class 2 (non-passenger) and class 3 (fishing) vessels will need to comply with the NSCV Part E chapters 1-3, which includes operational and emergency planning requirements.

Part E of the NSCV is currently under review. The new Part E will be implemented in a phased approach between 2014 and 2016. From 2016 all new and existing vessels must comply with the new Part E.

Crewing requirements will be determined in accordance with the NSCV. The process of determining the adequate crewing level for each vessel will occur through the issuance of the Certificate of Operation.

Unless permitted under a Part E risk assessment, crew on Scheme S vessels must hold Certificates of Competency. Local knowledge requirements, such as endorsements required for

bar crossings, will continue to apply through State and Territory waterway management laws. Waterway management laws include the State and Territory laws which regulate issues such as speed limits, alcohol and drug use on water and so on (see the Glossary definition of local waterway management laws).

5.4.2. Existing vessels in Scheme S – survey requirements

An existing vessel may continue to comply with the vessel's existing periodic survey regime provided the vessel does not change operations, is not modified and does not move its geographic area of operation. In other words, provided it continues to operate in the same manner as it did before the commencement of the national system. See 4.1.2 for detail on the changes that will result in a review of the grandfathering arrangements

If the vessel seeks to change its operations, or is modified, it will be reassessed to determine if the risk of the operation will increase and, where so, whether the additional risks justify an alteration of the survey regime.

An existing Scheme S vessel may be able to take advantage of the new requirements under the national system (such as the five year survey schedule in NSAMS 4) following an assessment of the risks of the vessel by the State / Northern Territory marine safety agency on behalf of the National Regulator.

5.4.3. Existing vessels in Scheme S – design, construction, operation and crewing

Existing Scheme S vessels may continue to comply with the vessel's existing construction, survey, operation (operational practices, emergency planning, safety management) and crewing requirements. An existing vessel in periodic survey with no exemptions from the USL Code or local equivalent solutions to the NSCV will be able to take advantage of the grandfathering arrangements for design and construction and will be eligible to obtain an unrestricted national certificate, valid in any State or Territory in Australia.

An existing vessel with exemptions or local equivalent solutions, and a pre-USL Code vessel, will be able to take advantage of the grandfathering arrangements for design and construction and will be issued with a restricted national certificate valid in the State or Territory where it operated prior to the commencement of the national system. In other words, provided it continues to operate in the same manner as it did before the commencement of the national system it can continue to do so within the same State or Territory. If the vessel seeks to change its operations, is modified, or seeks to move its geographic area of operation, it will be reassessed.

An existing vessel will be able to take advantage of the grandfathering arrangements for operation and crewing provided the vessel does not change operations, is not modified and does not move its geographic area of operation. In other words, provided it continues to operate in the same manner as it did before the commencement of the national system. See 4.1.2 for detail on the changes that will result in a review of the grandfathering arrangements. If the vessel seeks to change its operations, is modified, or seeks to move its geographic area of operation, it will be reassessed to determine if the risk of the operation will increase and, where so, whether the additional risks justify an alteration of the operational requirements and crewing levels in line with the NSCV.

In addition, all existing class 1 (passenger), class 2 (non-passenger) and class 3 (fishing) Scheme S vessels must comply with the:

- New NSCV Part E (except in relation to crewing requirements which will be grandfathered) by 2016; and

- NSCV C7A (safety equipment) (transitional provisions for NSCV C7A have been incorporated into the NSCV C7A).

The operational aspects of NSCV Part F apply to existing leisure craft and hire and drive vessels in 2014.

An existing vessel may also elect to comply with the current national standards for design, construction, operation and crewing.

Table 7: Scheme S – overview

	Certificates	Survey regime	Design, construction, equipment, operation and crewing standard
New vessels (in service from 2013)	<p>Cover identification, operation and survey</p> <p>Existing State / Northern Territory identifier schemes utilised until 2016</p>	<p>As per NSAMS Section 4</p> <p>(Individual vessel survey regimes may be modified on a risk basis)</p>	<p>NSCV, in accordance with its application terms</p> <p>Chapters 1 – 4 of NSCV Part E apply to passenger vessels</p> <p>Chapters 1 – 3 of NSCV Part E apply to non-passenger and fishing vessels</p>
Existing vessels (in service pre 2013)	<p>Current registration and survey certificates will be recognised until national certificate is obtained (at appropriate time in survey schedule)</p> <p>Must have national Certificate of Operation by 2016</p> <p>Existing State / Northern Territory identifiers recognised</p> <p>Existing vessels which do not already display a unique identifier on the outside of the vessel, must display the unique identifier by 2016</p>	<p>May maintain existing survey regime, provided there is no variation in operations that increases risk*</p> <p>May be able to move to the NSAMS 4 survey regime following an assessment of risks</p>	<p>Pre-existing standard applies, provided that there is no variation in operations that increases the risk*</p> <p>For equipment, NSCV C7A applies (with transitional provisions)</p> <p>For operations, the new NSCV Part E applies to passenger, non passenger and fishing vessels in 2016, except crewing requirements which can be grandfathered. The operational aspects of Part F apply to leisure craft and hire and drive vessels in 2014</p>

*See 4.1.2 for detail on the changes in operation that will result in a review of the grandfathering arrangements

5.5 National System Surveyors

5.5.1. Who can issue Certificates of Survey

In 2013, AMSA will delegate the authority to issue a Certificate of Survey to State and Northern Territory marine safety agencies. The agencies will determine what documentation they will rely upon when issuing a Certificate of Survey, and may accept certificates from surveyors employed or accredited in their jurisdiction. Responsibility for the completeness and accuracy of Certificates of Survey will rest with the agency.

This system will remain in place until the Ministerial Council approves new arrangements for the accreditation of marine surveyors.

5.5.2. Jurisdiction of national system surveyors

For new vessels, and existing vessels constructed to the NSCV, the deemed to satisfy solution under the NSCV Part C for the construction of vessels of 35 metres and over in measured length is design, construction and maintenance in accordance with the rules of a Classification Society.

However, an owner may present an equivalent solution to the regulator for assessment in accordance with the NSCV Part B. Sections 2.7.6 and 2.7.7 of Part B in particular provide information specific to Classification Society rules and the classification of vessels. Using this mechanism, some new vessels over 35 metres in length may be surveyed by State or Territory marine safety agencies.

In addition, existing vessels 35 metres in length and over may not be classed and may (in some States or the Northern Territory) be surveyed by the local authority. In accordance with the grandfathering arrangements outlined in Chapter 4, these survey arrangements will continue.

5.5.3. Survey fees

Survey fees will continue to be set by States and the Northern Territory and service providers.

6. Vessels not in Survey (Scheme NS)

6.1 Introduction

'Scheme NS' refers to vessels not required to be in survey under this Regulatory Plan. This chapter sets out the requirements that, from the commencement of the national system, will apply to existing and new vessels in Scheme NS. For these vessels, the Certificate of Operation will provide the mechanism for ensuring both the safety of operational practices and on-going compliance with vessel and equipment standards

Apart from the vessels in Scheme NS, some vessels in Scheme O will also not be required to be in survey. The vessels that will fall within Scheme O are identified in Chapter 7. There are also specific arrangements for heritage vessels, tenders and aquaplanes, which are outlined in Chapter 8.

An overview of the requirements applicable to Scheme NS vessels is contained in Table 8 below.

6.2 Vessels subject to Scheme NS

6.2.1. New vessels in Scheme NS

New vessels in Scheme NS are those identified as not subject to survey under NSAMS Section 4 Annex F, which is replicated in Annex C to this document (with the addition of some notes to improve clarity).

In addition, new vessels that are used by sailing schools, registered training organisations, and the like, when training members of the public to gain recreational boating qualifications on a fee for service basis, are in Scheme NS, provided the vessels are less than 24 metres in length and operate within inshore operations. Inshore operations include operations laterally along the coast from the base or regular port of departure and within a limit of 15 nautical miles to seaward of the coast or of designated sheltered water limits; or within such lesser limits as may be specified by the local waterways management authority.

Persons on such vessels for training purposes are not considered to be passengers for the purpose of the Regulatory Plan and NSAMS 4.

Recreational boating qualifications include those associated with gaining a licence to operate a motorised recreational vessel and those recognised by a sporting body (such as the Royal Yachting Australia (RYA) qualifications overseen by Yachting Australia).

6.2.2. Existing vessels in Scheme NS

Existing vessels that were not required to obtain an initial certificate of survey or compliance and which are not currently required to be in periodic survey under State / Northern Territory law may continue to operate as they currently do under Scheme NS. This grandfathering arrangement applies provided that the vessel continues to meet the previous State / Northern Territory requirements, it remains within the same State / Territory and the risk of the operation does not increase. However, if the vessel changes operations, is modified or moves to a different State or Territory, its regulatory treatment will be reassessed against the criteria in NSAMS Section 4 Annex F to determine whether or not it should be in survey. See 4.1.2 for detail on the changes that will result in a review of the grandfathering arrangements.

An existing vessel, in survey in accordance with a State / Northern Territory requirement, but which would not be required to be in survey under NSAMS Section 4 Annex F, may be able to

transfer into Scheme NS provided the vessel meets an equivalent standard to that applicable to Scheme NS vessels (ie to the National Standard for General Safety Requirements for Vessels) and following an assessment by the local delegate of the National Regulator.

6.3 Certification requirements

After the commencement of the national system, new Scheme NS vessels must obtain a national Certificate of Operation prior to entering into service.

Existing Scheme NS vessels will be required to obtain a Certificate of Operation when their existing registration or other permission to operate expires. Existing vessels that were not required to be registered or hold any certification prior to the commencement of the National Law will be required to have a Certificate of Operation within three years of the commencement of the national system. In order to obtain a Certificate of Operation, the applicant will be required to declare that they have completed a risk assessment and have identified risk controls for the operation.

An operation as a whole can be subject to one multi-vessel Certificate of Operation with each of the vessels listed on the certificate. In all cases, Vessel Identification will be on an individual vessel basis.

A Scheme NS vessel that is found not to be in compliance with the applicable standards as set out in this Chapter (including vessel and equipment standards) may have its Certificate of Operation suspended or revoked.

6.3.1. National Vessel Identification

State / Northern Territory identification regimes will continue to operate until 2016, and will be recognised as national Vessel Identification at least until the end of 2016.

Subject to transitional arrangements in 2013, new vessels will be required to display (where feasible) a unique identifier once it is issued to the vessel – generally this will occur when the Certificate of Operation is issued.

Existing vessels which do not already display a unique identifier on the outside of the vessel will be required to obtain and/or display (where feasible) the unique identifier by 2016.

The issue of Vessel Identification is being considered further and will be subject to a separate consultation process in the period 2013-2015. The aim is to have a national identification scheme in place in 2016.

6.4 Applicable construction and equipment standards

6.4.1. New vessels in Scheme NS

New Scheme NS vessels must comply with the National Standard for General Safety Requirements for Vessels, which contains minimum equipment, capacity, buoyancy and stability requirements for vessels. This standard will come into effect at the commencement of the national system. A declaration of compliance with the National Standard for General Safety Requirements for Vessels (as part of the application for the national certificate) will be required.

6.4.2. Existing vessels in Scheme NS

Existing vessels entering Scheme NS will not be required to retrospectively meet capacity and buoyancy and stability requirements set out in the National Standard for General Safety Requirements for Vessels, provided the vessel does not change its operations, is not modified

and does not move its geographic area of operation. See 4.1.2 for detail on the changes that will result in a review of the grandfathering arrangements. However, existing Scheme NS vessels will be required to continue to comply with the vessel's existing construction requirements in order to take advantage of the grandfathering arrangements.

Existing Scheme NS vessels may be required to meet the equipment requirements of the National Standard for General Safety Requirements for Vessels by 2016; or where relevant due to the size and operations of the vessel, the NSCV Section C7A transitional requirements.

6.5 Applicable operational and crewing standards

6.5.1. New vessels in Scheme NS

All new vessels will be required to declare that they have completed a risk assessment and have identified risk controls prior to obtaining a Certificate of Operation.

New class 2 (non-passenger) and class 3 (fishing) vessels in Scheme NS will be required to comply with the NSCV Part E chapters 1 – 3, which includes operational and emergency planning requirements.

Part E of the NSCV is currently under review. The new Part E will be implemented in phased approach between 2014 and 2016. From 2016 all new and existing vessels must comply with the new Part E.

The following crewing requirements will apply to new class 2 (non-passenger) and class 3 (fishing) vessels in Scheme NS:

- For vessels in sheltered waters: a qualification of at least Coxswain 2 and, if the vessel has propulsion power >500 Kw, a person with a qualification of at least Marine Engine Driver 3; and
- For vessels in smooth waters: a qualification of at least Coxswain 3 and, if the vessel has propulsion power >500 Kw, a person with a qualification of at least Marine Engine Driver 3.

The vessels may also be crewed by holders of existing State or Territory qualifications approved by the National Regulator.

Class 4 (leisure craft and hire and drive) vessels must comply with Part F of the NSCV, including the Part F operational requirements. In addition, the vessel must be operated by a person with a qualification that would permit the person to operate the vessel if it were a recreational vessel.

Crewing requirements for recreational training vessels will be determined through the Certificate of Operation.

Local knowledge requirements, such as endorsements required for bar crossings, will continue to apply through State and Territory waterway management laws. Waterway management laws include the State and Territory laws which regulate issues such as speed limits, alcohol and drug use on water and so on (see the Glossary definition of local waterway management laws).

6.5.2. Existing vessels in Scheme NS

Existing Scheme NS vessels must comply with the operational practices, emergency management requirements, crewing and safety management requirements that applied to the vessel before the commencement of the National Law.

For class 2 (passenger) and class 3 (fishing) vessels, the new NSCV Part E will apply from 2016, except crewing requirements. Existing crewing requirements for these vessels will continue to apply, provided the vessel does not change operations, is not modified and does not move its geographic area of operation. In other words, provided it continues to operate in the same manner as it did before the commencement of the national system. If the vessel seeks to change its operations, is modified, or seeks to move its geographic area of operation, it will be reassessed to determine if the risk of the operation will increase and, where so, whether the additional risks justify an alteration of the vessel's crewing requirements. See 4.1.2 for more detail on the changes that will result in a review of the grandfathering arrangements.

For class 4 vessels, the operational requirements of Part F will apply from 2014. Until that time, the operational practices, emergency management requirements, crewing and safety management requirements that applied to the vessel before the commencement of the National Law will continue to apply.

Local knowledge requirements, such as endorsements required for bar crossings, will continue to apply through State and Territory waterway management laws. Waterway management laws include the State and Territory laws which regulate issues such as speed limits, alcohol and drug use on water and so on (see the Glossary definition of local waterway management laws).

Table 8: Scheme NS – overview

	Certificate	Survey regime	Design, construction and equipment standard	Operation and crewing standard
New vessels (in service from 2013)	Covers identification(s) and operation. May be a multi-vessel certificate Existing State / Northern Territory identifier schemes utilised until 2016	None (Declaration of compliance only)	National Standard for General Safety Requirements for Vessels	For non-passenger and fishing vessels, NSCV Part E For hire and drive and leisure craft, NSCV Part F and local recreational qualification requirements
Existing vessels (in service pre 2013)	Must have national Certificate of Operation by 2016. May be a multi-vessel certificate Existing State / Northern Territory identifiers recognised Existing vessels which do not already display a unique	None If there is a change in operations that increases risk, survey requirements may be reassessed*	Pre-existing construction standard applies, provided that there is no variation in operations that increases the risk* For equipment, National Standard for General Safety	For non-passenger and fishing vessels, existing requirements. NSCV Part E applies from 2016, except existing crewing requirements can be grandfathered, provided there is no variation in operations that increases the risk*

	Certificate	Survey regime	Design, construction and equipment standard	Operation and crewing standard
	identifier on the outside of the vessel, must display the unique identifier by 2016		Requirements for Vessels or NSCV C7A with transitional arrangements	For hire and drive and leisure craft, existing requirements. The operational requirements of Part F apply from 2014

*See 4.1.2 for detail on the changes in operation that will result in a review of the grandfathering arrangements

7. Other Vessels (Scheme O)

7.1 Introduction

'Scheme O' covers specified types of new and existing vessels for which there is no nationally agreed standard or regulatory treatment. Because more work is required before a national standard or regulatory treatment can be agreed, for a transitional period, these specified vessels will continue to be subject to the applicable pre-existing State or Northern Territory requirement(s).

It is envisaged that by 2016 vessels in Scheme O will transition into either Scheme S or Scheme NS or to an alternative arrangement or national standard. Proposals regarding their treatment will be subject to Ministerial agreement and sign off processes following an appropriate consultation process.

Although there is a workplan to develop the appropriate standard or treatment for Scheme O vessels by 2016, it is recognised that for some of these types of vessels there are long-standing and divergent local approaches in different parts of the country that are not easily reconciled. The number of vessels involved is small and the local solutions appear to be operating effectively. Therefore, it will not materially affect the national system if national solutions are not in place for all of these types of vessels by the end of the transition to the national system in 2016 and Scheme O continues beyond that date.

An overview of the requirements applicable to Scheme O vessels is contained in Table 9 below.

7.2 Vessels subject to Scheme O

Scheme O vessels will be identified in the national system (through a regulation or Marine Order).

The following vessel types are in Scheme O:

- Volunteer marine rescue vessels;
- Waterski/wakeboard towing vessels with inboard engines;
- Permanently moored vessels;
- Ferries in chains;
- Unpowered barges;
- Submersibles and WIG craft; and
- Novel vessels where the NSCV does not include an appropriate technical solution.

7.3 Certification requirements

Scheme O vessels will be required to have a Certificate of Operation and Vessel Identification. Where the vessel is required to be in survey, it must also have a Certificate of Survey.

An operation as a whole can be subject to one multi-vessel Certificate of Operation with each of the vessels listed on the certificate. In all cases, Vessel Identification will be on an individual vessel basis.

New Scheme O vessels must obtain the national certificate(s) prior to entering into service.

When existing vessel certificates are up for renewal or revalidation, national certificates will be issued in lieu of the current State or Territory certificates. All existing Scheme O vessels must obtain the national certificate(s) by 2016.

7.3.1. National Vessel Identification

State / Northern Territory identification regimes will continue to operate until 2016, and will be recognised as national Vessel Identification at least until the end of 2016.

Subject to transitional arrangements in 2013, new vessels will be required to display (where feasible) a unique identifier once it is issued to the vessel – generally this will occur during the initial survey process or when the Certificate of Operation is issued.

Existing vessels which do not already display a unique identifier on the outside of the vessel will be required to obtain and/or display (where feasible) the unique identifier by 2016.

The issue of Vessel Identification is being considered further and will be subject to a separate consultation process in the period 2013-2015. The aim is to have a national identification scheme in place in 2016.

7.4 Applicable standards

Scheme O vessels must comply with current State / Northern Territory legal requirements for construction, equipment, operations and crewing. In some States or Territories there may be no construction or equipment standards that apply to a particular Scheme O vessel.

Where Scheme O vessels are currently required to be in survey under State / Northern Territory legal requirements, the same survey regime will continue to apply.

7.5 Capturing State / Northern Territory requirements for Scheme O vessels

State / Northern Territory construction, equipment, operator licensing and survey requirements for these vessel types before commencement of the National Law will be recognised and applied under the national system.

Table 9: Scheme O – overview

	Certificate	Survey regime	Design, construction and equipment standard	Operation and crewing standard	Crew competencies
Scheme O vessels (New and existing)	New vessels must have the national certificate(s) prior to entering into service. Existing vessels	State / Northern Territory law requirements	State / Northern Territory law requirements	State / Northern Territory law requirements	State / Northern Territory or existing requirements

	Certificate	Survey regime	Design, construction and equipment standard	Operation and crewing standard	Crew competencies
	<p>must have a national Certificate of Operation by 2016.</p> <p>May be a multi-vessel certificate</p> <p>Existing State / Northern Territory identifiers recognised</p> <p>Existing vessels which do not already display a unique identifier on the outside of the vessel, must display the unique identifier by 2016</p>				

8. Treatment of Miscellaneous Vessel Types

8.1 Heritage vessels

Current arrangements for existing heritage vessels will be recognised. For 'new' heritage vessels (those entering the fleet after the commencement of the national system) the following arrangements will apply.

A heritage vessel is one where:

- The applicant has demonstrated to the National Regulator that the vessel is a vessel of historic significance; and
- The vessel is owned and operated by a reputable not-for-profit organisation which is a full institutional member of the Australian Maritime Museums Council.

Once accepted as a heritage vessel, the vessel will be subject to the following requirements:

1. The requirement to submit a vessel management plan at the outset of the reconstruction of the vessel. The vessel management plan will detail:
 - the history of the vessel and its significance;
 - the standards to which the vessel was built (if any formal standards were used);
 - the vessel's proposed use and operating profile;
 - a detailed evaluation of the vessel's current condition and fitness for purpose for the proposed use and operating profile of the vessel, based on a report from an independent surveyor;
 - the future repair and maintenance plan for the vessel; and
 - the areas in which the vessel will not be compliant with the current applicable standard (ie the NSCV) and how these non-compliances are to be managed from a safety perspective.

The vessel management plan must be certified by an independent nationally accredited surveyor with appropriate heritage vessel experience, knowledge and skills. Once submitted to the National Regulator, the vessel management plan will form the basis of the future repair and maintenance of the vessel, with any subsequent changes to the vessel management plan also being submitted to the National Regulator.

2. The requirement to submit a safety management system to the National Regulator prior to the vessel entering service. The safety management system must meet the requirements of Part E of the NSCV and identify:
 - the areas in which the vessel is not compliant with the current applicable standard (ie the NSCV) and how these non-compliances are to be managed from a safety perspective. This includes the extent to which the vessel will meet the equipment requirement of Part C Section 7 of the NSCV;
 - the minimum crewing levels;
 - the qualifications to be carried by the master and the crew of the vessel, including initial and ongoing crew training requirements;
 - the survey / inspection regime for the vessel; and

- how passengers will be informed of the standard of the vessel. This may include providing a warning to all passengers before they embark the vessel and/or a requirement to display a notice of exemption from some requirements of the national law and standards.

A Certificate of Operation permitting the vessel to operate will be issued based on an acceptable Part E assessment.

8.2 Tenders and auxiliary vessels

Current arrangements for existing tender and auxiliary vessels will be recognised.

Arrangements are under development to enable some tenders and auxiliary vessels to operate in conjunction with a parent vessel without meeting all of the survey and standards that would otherwise apply to the vessel.

9. Qualifications

9.1 Revision of NSCV Part D – crew competencies

The system of seafarer Certificates of Competency is currently being reviewed through the NMSC process. The aim will be to produce a revised Part D of the NSCV. The consultation process for the revision of Part D has commenced, and will continue throughout 2012.

In relation to existing certificate holders, under this Regulatory Plan:

- An existing state or Northern Territory certificate will be recognised provided the holder does not operate beyond the limits of the certificate (consistent with other arrangements in this Regulatory Plan); and
- Existing certificate holders may transition to an equivalent new national Certificate of Competency.

9.2 The national Certificate of Competency System

The majority of seafarers hold valid Uniform Shipping Laws Code (USL Code) or NSCV Part D unrestricted certificates. Under the national system, these seafarers will be able to transition across to a national Certificate of Competency and receive the benefits of a national certificate.

9.2.1. Certificates issued prior to the introduction of the Uniform Shipping Laws (USL) Code

If seafarers hold a valid State or Northern Territory certificate issued prior to the introduction of the USL Code which does not have an expiry date (perpetual), and their current operation and location does not change, seafarers can continue to operate using that Certificate. More detail on these arrangements will be provided as the administrative processes that will support the transition to the national system are developed.

If such a certificate is held and a seafarer would like to move interstate or change operations, a National Seafarers Certificate will be required.

9.2.2. Certificates issued under the USL Code, Part D of the NSCV or Equivalent State Regulation

If a valid State or Northern Territory unrestricted certificate under the USL Code or Part D of the NSCV is held, the seafarer can continue to operate using the certificate until it requires renewal or revalidation. At this point, a national Certificate of Competency would be issued. The national Certificate of Competency will be valid nationally. The pre-requisites to obtaining the national Certificate of Competency will be similar to those currently required for revalidation or renewal.

9.2.3. Restricted Certificates issued under the USL Code, Part D of the NSCV or Equivalent State Regulation

If a valid State or Northern Territory restricted certificate under the USL Code or Part D of the NSCV is held, and the holder's current operation and location does not change, the holder can continue to operate using that certificate until it requires renewal or revalidation. At this point it will be necessary to obtain a national Certificate of Competency. Information on how such certificates will be dealt with under the new NSCV standard will be provided as the administrative processes that will support the transition to the national system are developed.

It will be possible, of course, to transition from an existing certificate to a National Certificate of Competency any time after commencement of the National System in 2013.

10. Interaction with Other Laws

10.1 Occupational health and safety law

The National Law will apply alongside State, Territory and/or Commonwealth occupational health and safety (OHS) law.

The National Law duties have been aligned with OHS law duties as far as is possible, while ensuring that they are tailored to the maritime environment.

In addition, when the national model work health and safety Act is implemented in all jurisdictions, the offences and penalty provisions of the general safety obligations will be amended to align directly with those of the national model work health and safety Act. An amending law which takes effect when the national model work health and safety Act is implemented around Australia will be considered by Parliament at the same time as it considers the National Law Act. This will ensure that the two areas of law are consistent.

10.2 Dangerous goods

As with occupational health and safety law, dangerous goods legislation will continue to operate alongside the national system and will not be disturbed by the reform in the near future.

10.3 Waterways management

States and Territories will continue to be responsible for regulating waterway management requirements, including the classification of waters. These waterway management laws will apply alongside the National Law.

10.4 Environmental legislation

The current processes for implementing the International Convention for the Prevention of Pollution from Ships (MARPOL) will not be impacted by the National Law. This means that MARPOL will continue to be implemented through State / Northern Territory legislation.

10.5 Fisheries legislation

Fisheries legislation will not be impacted by the National Law, and will continue to apply alongside the National Law.

10.6 Recreational boating

The National Law will not impact on recreational boating requirements. A national recreational boating licensing scheme is also outside the scope of the reform.

Annex A Glossary

Certificate of Competency	A document recognising that the holder has met the requirements for the specified grade and permitting the holder to serve on a vessel as a master, officer or crew member with deck and/or engineering responsibilities.
change of operations that increases risk	An upgrade in service.
commencement of national system	The date proclaimed to be the date on which the National Law commences. Currently envisaged to be 1 January 2013.
commercial vessel [definition contained in National Law Act]	means a vessel that is for use in connection with a commercial, governmental or research activity
crew	All persons carried on board the vessel to provide navigation and maintenance of the vessel, its machinery, systems, and arrangements essential for propulsion and safe navigation; or to provide services for other persons on board.
crewing	The number and qualifications of crew carried on board the vessel.
Economic Exclusion Zone (EEZ)	The maritime zone over which Australia has sovereign rights in relation to exploring, exploiting, conserving and managing the natural marine resources. The outer edge of the EEZ is 200 nautical miles from Australia's territorial sea baseline, other than in areas subject to delimitation with neighbouring countries.
Equivalent solution	A design or other technical solution that satisfies the required outcomes of the National Standard for Commercial Vessels by a means that differs from that prescribed for deemed-to-satisfy solutions in the National Standard for Commercial Vessels.
existing certificate of competency	A certificate of competency issued before the commencement of the national system.
existing vessel	A vessel that was registered, held a certificate of survey, or otherwise operated commercially within Australia at any point during the 24 months prior to the commencement of the national system.
exemption	An exception to the application of an aspect of the standard or law. The exemption may be specified in legislation, an order, a notice or a certificate.
grandfather / grandfathering	Maintaining a pre-existing standard or requirement.
hire and drive vessel	Any vessel that is let for hire or reward, or for any other consideration whatsoever, and that the hirer uses solely for

	pleasure.
inshore operations	operations laterally along the coast from the base or regular port of departure, and within a limit of 15 nautical miles to seaward of the coast or of designated sheltered water limits; or within such lesser limits as may be specified by the local waterways management authority
initial survey	The process by which a vessel is investigated and verified that it meets prescribed standards for the first time.
in survey	A vessel that was initially surveyed in order to obtain a certificate or other permission to operate and may be subject to an ongoing (periodic) survey regime.
length	In relation to a vessel, a longitudinal measure of the vessel used for the purposes of estimating risk, complexity, mass, volume or other characteristics. Defined in the NSCV Part B.
local equivalent solution	An equivalent solution that is specifically customised for the circumstances of a particular locality or operation within a locality.
national certificate	Certificate issued under the Marine Safety (Domestic Commercial Vessel) National Law. May cover Vessel Identification, Certificate of Operation, Certificate of Competency and/or Certificate of Survey.
National Law	Marine Safety (Domestic Commercial Vessel) National Law Act.
National Law Act	Marine Safety (Domestic Commercial Vessel) National Law Act.
NMSC	National Marine Safety Committee
NSAMS	National Standard for the Administration of Marine Safety.
NSCV	National Standard for Commercial Vessels.
national standards	Australian maritime standards endorse by Transport ministers.
offshore operations	Operations within a limit of 200 nautical miles to seaward of the coast; or within such lesser limits as may be specified
owner	<p>Owner of a vessel means one or more of the following:</p> <p>(a) a person who has a legal or beneficial interest in the vessel, other than as a mortgagee;</p> <p>(b) a person with overall general control and management of the vessel.</p> <p>For this purpose, a person is not taken to have overall general control and management of a vessel merely because he or she is the master or pilot of the vessel.</p>
operation	The activity of a vessel or group of vessels under the control of the same owner.

operational area A geographical limit on a vessel's operation used in determining the nature and magnitude of risk, and the nature of solutions to control that risk.

operational area categories

Operational area	Denoted by
<i>Seagoing</i>	
Unlimited domestic operations	A
Offshore operations	B
Restricted offshore operations	C
<i>Sheltered waters</i>	
Partially smooth water operations	D
Smooth water operations	E

partially smooth water operations Operations within specified geographical limits in waters where the significant wave height does not exceed 1.5 m from trough to crest for at least 90 per cent of the time).

periodic survey A recurring survey.

recognised / recognition Accepted as meeting the requirements of the National Law.

recreational purposes Any purpose that does not involve carrying passengers or cargo for hire or reward, providing services to vessels for reward or any other purpose that would make the vessel a commercial vessel under the NSCV.

restricted offshore operations Operations within 30 nautical miles from the seaward limit of a safe haven, including designated smooth or partially smooth waters.

sheltered waters Includes smooth waters and partially smooth waters.

smooth water operations Operations within specified geographical limits in waters where the significant wave height does not exceed 0.5 m from trough to crest for at least 90 per cent of the time.

Service categories

Service Category	Description
Class 1A	Seagoing passenger vessel for use in all operational areas up to and including unlimited domestic operations.
Class 1B	Seagoing passenger vessel for use in all operational areas up to and including offshore operations.
Class 1C	Seagoing passenger vessel for use in all operational areas up to and including restricted offshore operations.
Class 1D	Sheltered waters passenger vessel for operations in partially smooth and smooth waters only.
Class 1E	Sheltered waters passenger vessel for use in smooth waters only.
Class 2A	Seagoing non-passenger vessel for use in all operational areas up to and including unlimited domestic operations.
Class 2B	Seagoing non-passenger vessel for use in all operational areas up to and including offshore operations.
Class 2C	Seagoing non-passenger vessel for use in all operational areas up to and including restricted offshore operations.
Class 2D	Sheltered waters non-passenger vessel for operations in partially smooth and smooth waters only.
Class 2E	Sheltered waters non-passenger vessel for use in smooth waters only.
Class 3A	Seagoing fishing vessel for use in all operational areas up to and including unlimited domestic operations.
Class 3B	Seagoing fishing vessel for use in all operational areas up to and including offshore operations.
Class 3C	Seagoing fishing vessel for use in all operational areas up to and including restricted offshore operations.
Class 3D	Sheltered waters fishing vessel for operations in partially smooth and smooth waters only.
Class 3E	Sheltered waters fishing vessel for use in smooth waters only.
Class 4C	Seagoing hire and drive vessel for use in all operational areas up to and including restricted offshore operations.
Class 4D	Sheltered waters hire and drive vessel for operations in partially smooth and smooth waters only.
Class 4E	Sheltered waters hire and drive vessel for use in smooth waters only.
SOLAS	International Convention for the Safety of Life at Sea.
survey	Those activities, including examination, tests, trials and verifications of a vessel, its components and equipment conducted by a competent person or persons to confirm compliance with applicable standards and legislation.
transition	The process for moving a pre-existing vessel or certificate to meeting the current requirements.
Transport Ministers	The group of Commonwealth, State and Territory Ministers who

have responsibility for transport matters or marine safety legislation from time to time.

USL Code

Uniform Shipping Laws Code.

unlimited domestic operations

All domestic operations greater than 200 nautical miles to seaward of the coast.

upgrade in service

A change in the service category which will, in any way, subject the vessel or persons on the vessel to an increase in risk.

An increase in ‘Vessel use category’ by increasing the number of passengers carried (from none to between 1 and 12, or from between 1 and 12 to more than 12) will constitute and upgrade in service.

An increase in “Operational area category” will constitute and upgrade in service.

In addition, the following cases can be upgrades in service, but would be considered on a case by case basis:

- A change in the “Vessel use category” from Class 1 to Class 2 or Class 3.
- A change in the “Vessel use category” from Class 2 to 3 or visa-versa.
- A decrease in “Operational area category”.

vessel use categories

Vessel use	Denoted by
Passenger vessel	1
Non-passenger vessel	2
Fishing vessel	3
Hire and drive vessel	4

Vessel Identification

A unique number assigned to the vessel for the purpose of identification.

Waterway management laws

State and Territory laws which regulate issues such as speed limits, alcohol and drug use on water, personal flotation device and other minimum equipment requirements, conditions for crossing bars and so on. Likely to be contained in marine safety, navigation, harbour or port legislation in the State or Territory.

Annex B Detail of the Requirements for Vessels under the National system

Scheme S vessels are shaded blue

Scheme NS vessels are shaded brown

Existing vessels that may come within Scheme S (if they are currently in survey) or Scheme NS (if they are not currently in survey) are shaded purple

Scheme O vessels are shaded green

Miscellaneous vessels are shaded grey

Class	New or Existing Vessel	Length / Operating Area	Operating Standard	Construction Standard	Equipment standard	Survey regime	Crewing standard	Certificate(s) cover
Class 1 Passenger vessel	NEW	All	NSCV	NSCV	NSCV	NSAMS 4: Full initial and periodic	NSCV	Vessel Identification Certificate of Operation Certificate of Survey
Class 1 Passenger vessel	EXISTING	All	Existing requirements (unless risks of operation change) NSCV from 2016	Existing requirements (unless risks of operation change)	Existing requirements with transitional provisions of NSCV C7A	Existing requirements (unless risks of operation change)	Existing requirements (unless risks of operation change)	Vessel Identification Certificate of Operation Certificate of Survey
Class 2 Trading vessel	NEW	A (all lengths) B (all lengths) C ≥ 7.5 m C < 7.5 high risk D high risk E high risk	NSCV	NSCV	NSCV	NSAMS 4: Full initial and periodic	NSCV	Vessel Identification Certificate of Operation Certificate of Survey
Class 2 Trading vessel	EXISTING	A (all lengths) B (all lengths) C ≥ 7.5 m C < 7.5 high risk D high risk E high risk	Existing requirements (unless risks of operation change) NSCV from 2016	Existing requirements (unless risks of operation change)	Existing requirements with transitional provisions of NSCV C7A	Existing requirements (unless risks of operation change)	Existing requirements (unless risks of operation change)	Vessel Identification Certificate of Operation Certificate of Survey

Class	New or Existing Vessel	Length / Operating Area	Operating Standard	Construction Standard	Equipment standard	Survey regime	Crewing standard	Certificate(s) cover
Class 2 Trading vessel	NEW	C < 7.5 m with pax D with pax E with pax	NSCV	NSCV	NSCV	NSAMS 4: Full initial and partial periodic	NSCV	Vessel Identification Certificate of Operation Certificate of Survey
Class 2 Trading vessel	EXISTING	C < 7.5 m with pax D with pax E with pax	Existing requirements (unless risks of operation change) NSCV from 2016	Existing requirements (unless risks of operation change)	Existing requirements with transitional provisions of NSCV C7A	Existing requirements (unless risks of operation change)	Existing requirements (unless risks of operation change)	Vessel Identification Certificate of Operation Certificate of Survey (if in survey)
Class 2 Trading vessel	NEW	C < 7.5 m without pax D ≥ 7.5 m without pax E ≥ 7.5 m without pax	NSCV	NSCV	NSCV	NSAMS 4: Initial survey only	NSCV	Vessel Identification Certificate of Operation Certificate of Survey
Class 2 Trading vessel	EXISTING	C < 7.5 m without pax D ≥ 7.5 m without pax E ≥ 7.5 m without pax	Existing requirements (unless risks of operation change) NSCV from 2016	Existing requirements (unless risks of operation change)	Existing requirements with transitional provisions of NSCV C7A	Existing requirements (unless risks of operation change)	Existing requirements (unless risks of operation change)	Vessel Identification Certificate of Operation Certificate of Survey (if in survey)
Class 2 Trading vessel	NEW	D < 7.5 m without pax E < 7.5 m without pax	NSCV	General Safety Requirements Standard	General Safety Requirements Standard	Nil	NSCV	Vessel Identification Certificate of Operation
Class 2 Trading vessel	EXISTING*	D < 7.5 m without pax E < 7.5 m without pax	Existing requirements (unless risks of operation change) NSCV from 2016	Existing requirements (unless risks of operation change)	General Safety Requirements Standard	Existing requirements / Nil (provided General Safety Requirements Standard or equivalent is met)	Existing requirements (unless risks of operation change)	Vessel Identification Certificate of Operation

Class	New or Existing Vessel	Length / Operating Area	Operating Standard	Construction Standard	Equipment standard	Survey regime	Crewing standard	Certificate(s) cover
Class 3 Fishing vessel	NEW	A (all lengths) B (all lengths) C ≥ 7.5 m	NSCV	NSCV	NSCV	NSAMS 4: Full initial and periodic	NSCV	Vessel Identification Certificate of Operation Certificate of Survey
Class 3 Fishing vessel	EXISTING	A (all lengths) B (all lengths) C ≥ 7.5 m	Existing requirements (unless risks of operation change) NSCV from 2016	Existing requirements (unless risks of operation change)	Existing requirements with transitional provisions of NSCV C7A	Existing requirements (unless risks of operation change)	Existing requirements (unless risks of operation change)	Vessel Identification Certificate of Operation Certificate of Survey
Class 3 Fishing vessel	NEW	C < 7.5 m D ≥ 7.5 m D < 7.5 m high risk E ≥ 7.5 m E < 7.5 m high risk	NSCV	NSCV	NSCV	NSAMS 4: Initial survey only	NSCV	Vessel Identification Certificate of Operation Certificate of Survey
Class 3 Fishing vessel	EXISTING	C < 7.5 m D ≥ 7.5 m D < 7.5 m high risk E ≥ 7.5 m E < 7.5 m high risk	Existing requirements (unless risks of operation change) NSCV from 2016	Existing requirements (unless risks of operation change)	Existing requirements with transitional provisions of NSCV C7A	Existing requirements (unless risks of operation change)	Existing requirements (unless risks of operation change)	Vessel Identification Certificate of Operation Certificate of Survey (if in survey)
Class 3 Fishing vessel	NEW	D < 7.5 m low risk E < 7.5 m low risk	NSCV	General Safety Requirements Standard	General Safety Requirements Standard	Nil	NSCV	Vessel Identification Certificate of Operation
Class 3 Fishing vessel	EXISTING*	D < 7.5 m low risk E < 7.5 m low risk	Existing requirements (unless risks of operation change) NSCV from	Existing requirements (unless risks of operation change)	General Safety Requirements Standard	Existing requirements / Nil (provided General Safety Requirements Standard or equivalent is met)	Existing requirements (unless risks of operation change)	Vessel Identification Certificate of Operation

Class	New or Existing Vessel	Length / Operating Area	Operating Standard	Construction Standard	Equipment standard	Survey regime	Crewing standard	Certificate(s) cover
			2016					
Recreational training vessels	NEW	C (inshore operations only), D, E < 24m	NSCV	General Safety Requirements Standard	General Safety Requirements Standard	Nil	Determined through Certificate of Operation	Vessel Identification Certificate of Operation
Recreational training vessels	EXISTING*	C (inshore operations only), D, E < 24m	Existing requirements (unless risks of operation change) NSCV from 2016	Existing requirements (unless risks of operation change)	General Safety Requirements Standard	Existing requirements / Nil (provided General Safety Requirements Standard or equivalent is met)	Existing requirements (unless risks of operation change)	Vessel Identification Certificate of Operation
Class 4 Hire and Drive	NEW	C (all lengths) D overnight E overnight	NSCV F2	NSCV F2	NSCV F2	NSAMS 4: Full initial and partial periodic	NSCV F2	Vessel Identification Certificate of Operation Certificate of Survey
Class 4 Hire and Drive	EXISTING	C (all lengths) D overnight E overnight	Existing requirements (unless risks of operation change) NSCV from 2014	Existing requirements (unless risks of operation change)	Existing requirements with transitional provisions of NSCV	Existing requirements (unless risks of operation change)	Existing requirements (unless risks of operation change) NSCV from 2014	Vessel Identification Certificate of Operation Certificate of Survey
Class 4 Hire and Drive	NEW	D ≥ 7.5 m not overnight E ≥ 7.5 m not overnight	NSCV F2	NSCV	NSCV F2	NSAMS 4: Initial survey only	NSCV F2	Vessel Identification Certificate of Operation Certificate of Survey
Class 4 Hire and Drive	EXISTING	D ≥ 7.5 m not overnight E ≥ 7.5 m not overnight	Existing requirements (unless risks of operation change) NSCV from 2014	Existing requirements (unless risks of operation change)	Existing requirements with transitional provisions of NSCV	Existing requirements (unless risks of operation change)	Existing requirements (unless risks of operation change) NSCV from 2014	Vessel Identification Certificate of Operation Certificate of Survey (if in survey)

Class	New or Existing Vessel	Length / Operating Area	Operating Standard	Construction Standard	Equipment standard	Survey regime	Crewing standard	Certificate(s) cover
Class 4 Hire and Drive	NEW	D < 7.5 m not overnight E < 7.5 m not overnight	NSCV F2	General Safety Requirements Standard	General Safety Requirements Standard	Nil	NSCV F2	Vessel Identification Certificate of Operation
Class 4 Hire and Drive	EXISTING*	D < 7.5 m not overnight E < 7.5 m not overnight	Existing requirements (unless risks of operation change) NSCV from 2014	Existing requirements (unless risks of operation change)	General Safety Requirements Standard	Existing requirements / Nil (provided General Safety Requirements Standard or equivalent is met)	Existing requirements (unless risks of operation change) NSCV from 2014	Vessel Identification Certificate of Operation
H&D Personal watercraft	NEW		NSCV F2	NSCV F2	N/A	Confirmation of compliance	N/A	Vessel Identification Certificate of Operation
H&D Personal watercraft	EXISTING		Existing requirements (unless risks of operation change) NSCV from 2014	Existing requirements (unless risks of operation change)	N/A	Nil	Existing requirements (unless risks of operation change)	Vessel Identification Certificate of Operation
Volunteer marine rescue vessels Waterski/wakeboard towing vessels Permanently moored vessels Ferries in chains Unpowered barges Submersibles and WIG craft Novel vessels	NEW AND EXISTING		State / Northern Territory law requirements	State / Northern Territory law requirements	State / Northern Territory law requirements	State / Northern Territory law requirements	State / Northern Territory law requirements	Vessel Identification Certificate of Operation
Heritage vessels	NEW		Determined through SMS	Determined through VMP	Determined through SMS	Determined through SMS	Determined through SMS	Vessel Identification Certificate of Operation

Class	New or Existing Vessel	Length / Operating Area	Operating Standard	Construction Standard	Equipment standard	Survey regime	Crewing standard	Certificate(s) cover
Heritage vessels	EXISTING		Existing requirements (unless risks of operation change)	Vessel Identification Certificate of Operation				
Tenders	NEW		TBD	TBD	TBD	TBD	TBD	TBD
Tenders	EXISTING		Existing requirements (unless risks of operation change)	Existing requirements (unless risks of operation change)	TBD	Existing requirements	Existing requirements	TBD
Auxiliary vessels	NEW		TBD	TBD	TBD	TBD	TBD	TBD
Auxiliary vessels	EXISTING		Existing requirements (unless risks of operation change)	Existing requirements (unless risks of operation change)	TBD	Existing requirements	Existing requirements	TBD

For the purpose of this table, ‘high risk’ is defined as follows [from NSAMS Section 4 Annex F]:

High risk barges include the following:

- a) Barges used to carry passengers.
- b) Barges used to carry bulk petroleum or gas products or other dangerous goods.
- c) Barges used for living or entertainment.
- d) Barges used to operate a pile frame.
- e) Barges equipped with a crane or davit exceeding 3 tonne capacity.
- f) Barges equipped with dredging machinery having a total brake power of 500kW.
- g) Landing barges.
- h) Barges primarily used for towage.

High risk class 2 and 3 include the following:

- a) Dredges having a total brake power of 500kW or more or over 24m.
- b) Tugs / vessels primarily used for towage.
- c) Vessels carrying bulk petroleum or gas products or other dangerous goods.
- d) Vessels having a crane or davit exceeding 3 tonne capacity.
- e) Support vessels in the offshore oil industry.
- f) Vessels operating more than 5nm off the mainland.

High risk class 4 vessels include personal water craft. *[NSAMS Section 4 to be updated to reflect this]*

Annex C NSAMS Section 4, Annex F

Survey Regime	Vessel Class				
	Class 1 (passenger vessels)	Class 2 (trading vessels)	Class 3 (fishing vessels)	Class 4 (hire and drive)	Other
Survey Level 1 Vessels - Full Initial & Periodic surveys	Class 1 – all operational areas	Non-propelled barges of high risk	3A		Ferries in chains
		2A	3B		
		2B and 2C > 7.5mt	3C > 7.5mt		
		2D, 2E and 2C < 7.5mt of high risk			
Survey Level 2 Vessels - Full Initial & Partial Periodic Survey		2C < 7.5mt with pax		4C (both o/night and not o/night)	
		2D with pax		4D o/night	
		2E with pax		4E o/night	
Survey Level 3 Vessels - Initial Survey Only		2C < 7.5mt with no pax	3C < 7.5mt	4D, 4E high risk [TBC]	
		2D > 7.5mt with no pax	3D > 7.5mt	4D (not o/night) > 7.5mt	
		2E > 7.5mt with no pax	3E > 7.5mt	4E (not o/night) > 7.5mt	
Compliance to NSCV required (no pre-determined survey)		Non-propelled barges (sheltered, < 24mt)** (excl. spudded)			
Other Compliance with level floatation standards, recreational boat equipment standards or ABP [†] and/or NSCV Part E		2D < 7.5mt no pax*	3D < 7.5mt*	4D < 7.5mt (not o/night, not high risk)	Sailing school – AYF ^{††}
		2E < 7.5mt no pax*	3E < 7.5mt*	4E < 7.5mt (not o/night, not high risk)	

Definitions/Acronyms (from NSAMS Section 4 Annex F)

ABP – Australian Builders Plate

AYF – Australian Yachting Federation (now known as “Yachting Australia”)

Commercial Vessel: As defined in Part B of NSCV.

*: Class 2 vessel which is not a higher risk

**: Barge, not of higher risk

†: In practice this will be the National Standard for General Safety Requirements for Vessels (under development).

††: This is intended to mean training in sailing or non-sailing boat handling as part of an accredited program leading to a recognised recreational qualification, such as RYA, recreational skippers ticket or general boating licence.

High risk barges include the following:

- a) Barges used to carry passengers.
- b) Barges used to carry bulk petroleum or gas products or other dangerous goods.
- c) Barges used for living or entertainment.
- d) Barges used to operate a pile frame.
- e) Barges equipped with a crane or davit exceeding 3 tonne capacity.
- f) Barges equipped with dredging machinery having a total brake power of 500kW.
- g) Landing barges.
- h) Barges primarily used for towage.

High risk class 2 include the following:

- (i). Dredges having a total brake power of 500kW or more or over 24m.
- (ii). Tugs / vessels primarily used for towage.
- (iii). Vessels carrying bulk petroleum or gas products or other dangerous goods.
- (iv). Vessels having a crane or davit exceeding 3 tonne capacity.
- (v). Support vessels in the offshore oil industry.
- (vi). Vessels operating more than 5nm off the mainland.

NOTE: Class 2A vessels, Class 2B vessels, and Class 2C > 7.5m with passengers are subject to ‘full survey’ requirements. The ‘high risk class 2’ category is intended to capture any other Class 2 vessels which should also be subject to ‘full survey’.