



Australian Government
Australian Maritime Safety Authority

AMSA Compliance Strategy 2023-27

A data-driven, risk-based and proportionate modern regulatory approach to compliance



CEO's Foreword

AMSA's statutory functions are safety-based. Our aim is to promote maritime safety, to protect the marine environment and to provide a national search and rescue service.

Our operating environment is continually changing and presents us with many challenges. To meet these challenges we need effective policies, regulations and capabilities that are able to anticipate and respond in ways that support our aspirations for a safe, environmentally responsible and efficient maritime sector.

Fundamental to this is our belief that the responsibility for the safe and appropriate operation of a vessel by its crew rests with its owner and master, and we expect all those involved to act accordingly and comply with the law.

In carrying out our compliance activities, we will endeavour to ensure that our approach does not unnecessarily impede the efficient operation of those we regulate by applying a Risk based and proportionate approach. We will carry out compliance activities in a coordinated, efficient and streamlined manner applying our resources where they will have the greatest impact.

We will focus our interventions on high-risk and low-compliance operations whilst supporting our regulated community with timely, relevant and accurate information that enables them to meet their obligations.

This strategy considers these things and sets out our approach to compliance. It acknowledges the challenges identified in AMSA's publication Looking Ahead – AMSA's operating environment in 2030 and beyond. It gives effect to our Regulatory Approach. It will be reflected in the responses identified in our Corporate Plan, in related annual planning processes and in the way AMSA conducts its compliance activities at an operational level.

Implementing this strategy will require a partnership between AMSA and our regulated community because we cannot achieve our aim without the support of others. I trust that you will join with me in working toward improved safety and environmental outcomes for our industry.

Mick Kinley

Understanding AMSA's regulatory responsibility

AMSA has statutory functions under the following Acts:

- ▶ Marine Safety (Domestic Commercial Vessel) National Law Act 2012
- ▶ Navigation Act 2012
- ▶ Occupational Health and Safety (Maritime Industry) Act 1993
- ▶ Protection of the Sea (Civil Liability) Act 1981
- ▶ Protection of the Sea (Civil Liability for Bunker Oil Pollution Damage) Act 2008
- ▶ Protection of Sea (Harmful Antifouling Systems) Act 2006
- ▶ Protection of the Sea (Oil Pollution Compensation Funds) Act 1993
- ▶ Protection of the Sea (Powers of Intervention) Act 1981
- ▶ Protection of the Sea (Prevention of Pollution from Ships) Act 1983
- ▶ Shipping Registration Act 1981

As a result, our regulated community covers a broad spectrum of operations – foreign and Australian flagged internationally trading vessels, domestic commercial vessels, recreational vessels, government vessels – and people - the seafarers and crew of these vessels, the owners and operators who manage and direct them, those who build, maintain and use them and those who assist in us carrying out our functions.

AMSA's regulatory activities under the above Acts may include:

- ▶ making decisions about the most appropriate way to respond to a risk or international obligation
- ▶ making standards, mandatory rules or recommending legislative amendment
- ▶ assessing a wide range of permissioning arrangements including the issue, suspension or revocation of certificates, exemptions, approvals, determinations, directions and permits
- ▶ providing information, guidance and education to our regulated community
- ▶ monitoring compliance, including through survey, observation, record checks, audits and inspections
- ▶ undertaking investigations
- ▶ taking enforcement action through fines, prosecutions and court action

All of these activities are related to achieving AMSA's mission – ensuring safe vessel operations, combatting marine pollution, and rescuing people in distress.

AMSA's regulatory approach

In performing its statutory functions, AMSA is committed to being a modern regulator that supports its regulated community to the fullest extent possible. Accordingly, AMSA's staff will:

- ▶ always be mindful that safety and protection of the marine environment are AMSA's primary aims
- ▶ seek to earn the trust and respect of the regulated community by being consultative and collaborative
- ▶ strive to deliver simple legislation and administrative processes that do not unnecessarily restrict or burden the regulated community, or overlap with other regulators
- ▶ take a risk based and proportionate approach in determining where to focus legislative and compliance responses so that those who demonstrate a safety culture, and are compliant, are rewarded by reduced regulatory intervention
- ▶ be non-prescriptive where possible, leaving choice to those who bear the responsibility for the outcome
- ▶ communicate with the regulated community in such a way that it is clear what needs to be done to comply with legislation
- ▶ balance the need for flexibility with the need to be consistent and maintain standards
- ▶ be transparent and accountable in decision making
- ▶ apply a continuous improvement model that means that the regulated community can benefit from positive changes in risk management and safety culture
- ▶ respect and comply with Australia's international obligations
- ▶ reflect AMSA's organisational values of being professional, collaborative, dedicated and accountable in all dealings with the regulated community.
- ▶ ensure a consistent, intelligence led, and risk-based approach that underpins, AMSA's compliance activities and allows for better collaboration with maritime communities.

AMSA's compliance function

Our regulatory activities include a compliance function, the aim of which is to encourage and assist our regulated community to comply with the law.

The compliance program will be data led and risk based. It will be informed by safety data and trends and will encourage voluntary compliance and continuous improvement. Our compliance activities and priorities for each year will be outlined in the Annual National Compliance Plan.

Undertaking AMSA's compliance function includes use of a range of flexible and targeted measures to ensure that domestic and international shipping operates in accordance with the requirements of the regulatory framework administered by AMSA.

Measures such as communication and education activities, timely provision of information and guidance, persuasion, cooperative assistance and collaboration are designed to encourage stakeholders to voluntarily comply.

Where non compliance is detected, AMSA will employ a range of tools that escalate in severity as the need arises. These tools include education and assistance, the issue of directions or notices, suspension or cancellation of certificates, fines, imposition of civil penalties, and criminal prosecutions.

AMSA will consider a compliance tool that is appropriate to the circumstances and in proportion with the risk presented or harm done.

Decision making in relation to individual compliance measures will be informed by reference to our Compliance and Enforcement Policy. This policy guides our day-to-day approach to compliance and adopts and applies AMSA's compliance principles of:

- ▶ accountability
- ▶ consistency
- ▶ transparency
- ▶ impartiality
- ▶ proportionality
- ▶ fairness
- ▶ co-operation

Part of the big picture

AMSA's approach to compliance is consistent with the risk-based model outlined in the Australian National Audit Office better practice guide *Administering Regulation: Achieving the Right Balance*. It is an important pillar in our efforts to deliver good regulatory performance in accordance with the Commonwealth Government's *Regulatory Performance Guide 2021* and considers that AMSA and the regulated community want to achieve in terms of improvements in safety and protection of the marine environment through continuous improvement, collaboration and engagement with risk and evidence-based decision making.

The Strategy also facilitates meeting the compliance related challenges and responses outlined in our suite of strategic documents (fig. 1 above) - *Looking Ahead*, *Strategy 2030*, *Corporate Plan* and the *National Compliance Plan*.

Given its relationship to the *Corporate Plan*, AMSA will develop an annually *National Compliance Plan* as part of its integrated planning process to ensure consistency with AMSA's high-level strategic challenges, goals and responses.

Understanding Compliance Behaviour

AMSA's approach to compliance starts from the premise that requirements established in legislation are necessary to ensure safe vessel operations, to combat marine pollution and to give effect to Australia's international obligations.

We consider that the responsibility for complying with legislation rests with the individual or organisation to which the legislation applies.

We know that our regulated community currently sits along a continuum of compliance for a variety of reasons and that we can use a range of measures to help all industry participants move toward voluntary compliance.

Voluntary compliance is achieved when the regulated community chooses to comply with rules willingly or voluntarily. This may be because they:

- ▶ understand the reason for the rules and believe that the reasons are sound, or
- ▶ believe that the community (or industry) as a whole benefits from such behaviour, or
- ▶ are influenced by the regulator's compliance activity.

The following table reflects our understanding of our regulated community's approach to compliance.

Approaching compliance behaviour in this way assists AMSA to address the actual causes of non-compliance rather than its outcomes. It also helps AMSA decide on its regulatory approach, possible actions, and the compliance tools that may be most appropriate (see AMSA's Compliance and Enforcement Policy for more information on this aspect).

%	Status	Attitude	Behaviour	Approach	Action	Tool	Cost
High	Voluntarily complies	<ul style="list-style-type: none"> Willing to do the right thing Committed 	Compliance orientated	Make it easy	Guide and support	<ul style="list-style-type: none"> Inspections Information 	Low
	Accidental non-compliance	<ul style="list-style-type: none"> Tries to do the right thing but does not always succeed Careless 	Attempting to comply	Help to comply	Educate and provide feedback	<ul style="list-style-type: none"> Audits Workshops Inspections Notices 	
	Opportunistic non-compliance	<ul style="list-style-type: none"> Does not want to do the right thing Resistant 	No sign of intention to try to comply	Deter by detection	Correct behaviour according to severity	<ul style="list-style-type: none"> Monitoring Inspections Notices Infringement 	
Intentional non-compliance	<ul style="list-style-type: none"> Has decided not to comply Disengaged 	Deliberate intention not to comply	Use the full force of the law	Deter by punishment	<ul style="list-style-type: none"> Investigation 	High	
Low							

Table 1: Regulated community – approach to compliance

Moving the regulated community toward voluntary compliance will assist AMSA to facilitate, over time, development of a culture that is safety-focussed and environmentally conscious across the maritime industry.

Whilst AMSA would like to work directly with every member of the regulated community, we have limited resources and must maximise the effectiveness of our direct interventions by focussing them on identified areas of risk to safety or to the environment or to Australia’s international reputation.

Accordingly, a structured and evidence-based risk management approach will be used to determine compliance intervention priorities and actions. We will seek to understand the reason for non-compliance and respond accordingly - by offering support to those who are willing to be compliant and by identifying and deterring those who choose not to comply.

Nevertheless, we will consider use of all compliance tools where issues of safety need to be addressed.

Compliance Strategy – Elements

AMSA's Compliance Strategy has six elements:

- 1** **Simplify and explain the law** 
- 2** **Educate the regulated community and assist it to comply with the law** 
- 3** **Monitor compliance** 
- 4** **Reward voluntary compliance** 
- 5** **Deter non-compliance** 
- 6** **Build compliance skills and capacity in our workforce** 

AMSA will develop a comprehensive and flexible approach to maximising compliance by actively considering each of these elements. The regulated community will understand their obligations under the law and can benefit from reduced monitoring and regulatory intervention. Those who choose not to comply will be subject to the full range of enforcement powers.

Element One – Simplify and explain the law

The regulated community must be aware what the law is and how it applies to them and their activities before they are able to willingly and voluntarily comply.

Our intent is to:

- ▶ keep the law simple and make obligations clear
- ▶ make access to all elements of the law simple
- ▶ make compliance easy
- ▶ develop generic aids to explain how the law works

Element Two – Educate and assist the regulated community comply with the law

The regulated community can rely on AMSA to help them comply with the law.

Our intent is to:

- ▶ develop and deliver education programs that are informed by the National Compliance plan or intelligence to encourage voluntary compliance. This may be entity, operation or event specific.
- ▶ engage with the regulated community to find out where they are having difficulty and look for ways to alleviate the problems
- ▶ provide information and resources to encourage and facilitate compliance

Element Three – Monitor compliance

The regulated community should know that AMSA will strategically monitor compliance to achieve its aims and to ensure a level playing field.

Our intent is to:

- ▶ publish an annual National Compliance plan that focus on identified risks informed by safety data and intelligence.
- ▶ tailor monitoring to encourage change in compliance behaviour
- ▶ share learnings from monitoring activities both within and outside AMSA
- ▶ work with compliance partners to avoid duplication and share data
- ▶ use data and analysis to better understand compliant and non-compliant behaviour

Element Four – Reward voluntary compliance

The regulated community should benefit from compliant behaviour because it advances AMSA's aims, reduces regulatory costs and sets a benchmark for others to aspire to.

Our intent is to:

- ▶ reduce regulatory burden on those who comply
- ▶ develop 'trusted' partnerships
- ▶ recognise and promote industry exemplars
- ▶ consider ways to provide service benefits in interactions with AMSA
- ▶ explore opportunities for alternate compliance delivery models

Element Five – Deter non-compliance

The regulated community should know that AMSA will apply all means available within the law to deter opportunistic or deliberate non-compliance.

Our intent is to:

- ▶ develop data and programs to identify non-compliance
- ▶ develop resources to investigate high risk, deliberate or repeated non-compliance
- ▶ work with compliance partners to target those who offend in multiple jurisdictions or legislative regimes
- ▶ increase regulatory oversight of those who do not comply
- ▶ publicise enforcement outcomes

Element Six – Build compliance skills and capacity in our workforce

The regulated community must have confidence that AMSA's staff, and those of its compliance partners, are appropriately trained and resourced to deliver AMSA's compliance activities in a manner that reflects AMSA's values, its Regulatory Approach and the principles set out in the Compliance and Enforcement Policy.

Our intent is to:

- ▶ allocate adequate resources to deliver AMSA's compliance function
- ▶ develop strategic inter-agency partnerships
- ▶ educate AMSA's workforce and reward excellence
- ▶ support compliance functions with appropriate systems and methods
- ▶ invest in data, analysis and forecasting capacity

AMSA will develop a comprehensive and flexible approach to maximising compliance by actively considering each of these elements. The regulated community will understand their obligations under the law and can benefit from reduced monitoring and regulatory intervention. Those who choose not to comply will feel the full force of the law.

The overall cost of ensuring compliance will reduce over time, and AMSA's workforce will assist by being sufficiently skilled to enable them to be professional, collaborative, dedicated and accountable in delivering AMSA's data-driven regulatory activities.

Delivery

AMSA will deliver the Compliance Strategy through services, programs and projects identified as part of AMSA's annual planning cycle on a divisional level by applying a structured, evidence-based assessment process.

This will enable AMSA to identify and treat present and emerging regulatory risks and to prioritise and plan compliance interventions to respond to these risks by considering each of the Compliance Strategy Elements outlined above.

Planned activities will be integrated, coordinated, and resourced, and to aid in transparency and industry engagement, will be published annually in the National Compliance Plan.

AMSA will monitor and assess the outcomes of the annual National Compliance plan using relevant non-financial measures and targets integrated into regular internal performance reporting, culminating in AMSA's Annual Performance Statements and Annual Report.

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