



**Australian Government**  
**Australian Maritime Safety Authority**

# Statement of Regulatory Approach



# AMSA's regulatory approach

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## Context

The Australian Maritime Safety Authority (AMSA) is a corporate Commonwealth entity created by the *Australian Maritime Safety Authority Act 1990* (AMSA Act), the main objects of which are to:

- promote maritime safety
- protect the marine environment from pollution from ships and other environmental damage caused by shipping
- provide for a national search and rescue service
- promote the efficient provision of services by the Authority.

AMSA is to achieve these objects by carrying out a range of functions, including by performing regulatory activities under the AMSA Act or other Commonwealth legislation.

AMSA's regulatory activities 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
- doing what the regulated entity could not do, or failed to do.

In delivering its regulatory activities, AMSA works with portfolio departments to implement relevant government policies, priorities and directions, including the Regulator Performance Framework and Deregulation Framework.

These frameworks encourage regulators to undertake their functions with the minimum impact necessary to achieve regulatory objectives by adopting an appropriate risk based and consultative approach to guide their operations (amongst other things).

## Delivery

AMSA has documented the regulatory philosophy that is to guide its operations as a regulator (following). AMSA's staff will consider and give effect to these ideals as they undertake regulatory activities.

In a formal sense, AMSA will incorporate this Statement of Regulatory Approach in its planning processes, as identified in AMSA's Corporate Plan.

## Philosophy

AMSA is committed to being a modern regulator that supports its regulated community to the fullest extent possible. In accordance with that goal, when carrying out regulatory activities AMSA's staff will:

- **always be mindful that safety and protection of the marine environment are AMSA's primary aims**

This is consistent with AMSA's vision and mission, which reflect the aims of AMSA's founding legislation, the objectives of domestic legislation and the goals of the international obligations we implement.

- **seek to earn the trust and respect of the regulated community by being consultative and collaborative**

AMSA will promote and value effective and respectful two-way communication with our regulated community. This will allow AMSA to understand the nature and practical implications of existing and emerging risks and problems, and to identify the best contributions AMSA can make to addressing these.

- **strive to deliver simple legislation and administrative processes that do not unnecessarily restrict or burden the regulated community, or overlap with other regulators**

Reduction of unnecessary regulatory burden on the community is best regulatory practice and a government priority. Understanding the impact of regulation, and considering a variety of means by which regulatory outcomes can be achieved is good for all. This includes considering the impact of all regulators in a sector, and working with them to minimise the compliance cost of regulation on businesses and individuals.

- **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**

A risk based approach provides AMSA with a structured framework to identify, analyse, prioritise and respond to risk. Responses and resources can then be effectively targeted, so the regulated community can have confidence that those best placed to address risk are doing so, and regulatory activity is directed where it is needed.

- **be non-prescriptive where possible, leaving choice to those who bear the responsibility for the outcome**

Prescriptive requirements can discourage the regulated community from looking at how they can best manage safety and environment protection, and can stifle innovation. In most cases, the person who is required to manage a risk is best placed to work out how to do that, and we will endeavour to help them do so. In some cases, however, a prescriptive approach is required and appropriate (particularly to give effect to international obligations).

- **communicate with the regulated community in such a way that it is clear what needs to be done to comply with legislation**

Effective two-way communication with the regulated community can lead to positive outcomes for all. Clear communication of requirements helps the regulated community comply with the law because they are less likely to be non-compliant through error, omission or carelessness. Clear communication also promotes voluntary compliance, which requires less regulatory oversight.

- **balance the need for flexibility with the need to be consistent and maintain standards**

Consistent decision-making leads to fair treatment of all members of the regulated community. AMSA will consider all relevant facts and circumstances and look for ways available within the scope of legislative or international requirements to assist compliance in what might be novel, unusual or unique circumstances.

- **be transparent and accountable in decision making**

The regulated community should be in no doubt about the criteria used by AMSA in coming to a decision. Decisions and the reasons behind them should be clearly communicated, as should the avenues that are available to seek more information about, or to challenge, such decisions.

- **apply a continuous improvement model that means that the regulated community can benefit from positive changes in risk level and safety culture**

Regular monitoring and analysis of risk will enable AMSA to adjust its strategies, activities and compliance targets to reflect changing priorities. Compliance costs for regulated entities can be minimised if lower risk entities and those with a strong compliance history can be subject to a lighter touch regulatory approach, free from unnecessary intrusion by the regulator.

- **respect and comply with Australia's international obligations**

AMSA has a statutory duty to perform its functions in a manner consistent with Australia's obligations under any agreement between it and another country. We will always have regard to the conventions and other treaties to which Australia is a party.

- **reflect AMSA's organisational values of being professional, collaborative, dedicated and accountable in all dealings with the regulated community**

AMSA's values describe the culture and identity of our organisation. They provide guidelines for behaviour, leadership and dealing with change. They also guide how we develop our people, define success and recover when things do not go as expected. AMSA's values are relevant to how we treat our stakeholders, our regulated community and each other.

