



Queensland

Transport Operations (Marine Safety) Regulation 2004

Regulatory Impact Statement for SL 2004 No. 159

made under the

Transport Operations (Marine Safety) Act 1994

PROPOSED NEW TRANSPORT OPERATIONS (MARINE SAFETY) REGULATION 2003

REGULATORY IMPACT STATEMENT

JULY 2003

INTRODUCTION

Over the past ten years significant and ongoing improvements have been made in Queensland's maritime safety record. With Queensland's population growing steadily and with commercial and recreational vessel numbers and activity growing rapidly, there is no room for complacency in the ongoing management of maritime safety.

Maritime Safety Queensland recognises that to achieve the best outcomes from its maritime safety programs, regulatory requirements and standards need to be developed in a consultative and integrated manner with all stakeholders.

With this in mind, Maritime Safety Queensland has undertaken a comprehensive review of the *Transport Operations (Marine Safety) Regulation 1995*. The review has included two formal rounds of

community and industry consultation. As an outcome of these review and consultation processes and operational experience since the existing regulation was introduced, a new marine safety regulation is now being proposed to supersede the existing regulation.

Consistent with the government's commitment to full and open community consultation, an invitation is now extended to stakeholders, including Federal and State maritime authorities, education and enforcement agencies, the maritime industry, the boating public and those affected by boating activities, the media, and other interested community groups, to comment on the Regulatory Impact Statement (RIS) for the proposed new regulation.

BACKGROUND

Maritime Safety Queensland is responsible for administering the *Transport Operations (Marine Safety) Act 1994* (TO(MS)A) which has as its objective the achievement of an appropriate balance between the regulation and management of maritime safety and the ongoing efficiency and effectiveness of the maritime industry in Queensland.

Following the introduction of a new performance based approach to maritime safety management in the TO(MS)A in 1994, the *Transport Operations (Marine Safety) Regulation 1995* (TO(MS)R) was introduced without the benefit of a full consultation process. Consistent with the government's commitment to full and open community consultation, a regulatory impact assessment has been undertaken and is now available for a final round of consultation prior to finalising the *Transport Operations (Marine Safety) Regulation 2003*.

With the passage of time since the proclamation of the *Transport Operations (Marine Safety) Regulation 1995*, a number of additional policy and operational issues, initiatives and improvements have been identified, primarily as a result of the transition from a prescriptive to a performance-based legislative framework.

In remaking the regulation, the primary outcome being sought is an improvement in the effectiveness of the regulation and therefore maritime safety and maritime industry vibrancy.

While the RIS addresses the overall impact of the proposed new *Transport Operations (Marine Safety) Regulation 2003*, Maritime Safety Queensland

has progressed a number of amendments to the existing regulation independently of the full remaking of the regulation. Maritime Safety Queensland considered that these amendments needed to be introduced as quickly as practicable, given their largely positive impact on stakeholders. The more notable of the amendments introduced in the last year are outlined below. These amendments are reflected in the draft of the proposed new regulation.

SIGNIFICANT RECENT AMENDMENTS TO EXISTING LEGISLATION

Class 1A, 2A and 3A commercial and fishing vessels under Queensland jurisdiction

Class A vessels operating beyond 200 nautical miles of the Australian coastline only fall within the operational responsibility of the Australian Maritime Safety Authority (AMSA) if the vessel visits a foreign country as part of a voyage. In all other situations the vessel not only falls outside of AMSA's jurisdiction, but also outside individual Australian State jurisdictions.

In order to facilitate the safe operation of Class A vessels, all Australian maritime jurisdictions are moving to include these vessels within their safety and operational jurisdiction where the vessel is not visiting a foreign country as part of its operation. Consistent with this national approach, Maritime Safety Queensland has now included USL Class A vessels within its jurisdiction.

The changes require Class A vessels to comply with Queensland vessel registration, safety equipment and operational requirements. The changes as they will affect Class A vessels can be found variously in parts 2, 3 and 4 of the proposed new regulation.

Commercial vessel registration requirements

To assist the commercial shipping industry a range of improvements have been made to commercial vessel registration policies and procedures. The changes were aimed at streamlining the vessel registration process, particularly where a vessel has been previously registered or surveyed in another Australian jurisdiction, or where a vessel has been previously registered in Queensland but its registration has expired.

The changes, which generally relate to acceptable registration documentation requirements, can be found in part 3, division 4 of the proposed new regulation.

Safety equipment requirements for commercial, recreational and fishing vessels

A number of amendments aimed at clarifying safety equipment requirements for commercial, fishing and recreational vessels have also been made in the last 12 months. Generally, the amendments clarify the standards with which equipment such as Emergency Position Indicating Radio Beacons (EPIRBs), fire extinguishers and personal flotation devices must comply and be maintained.

For commercial and fishing vessels the safety equipment standards mirror those prescribed in the USL code. However, to facilitate compliance a number of these standards have been reinterpreted in Queensland's regulation for specific situations. For example, a bona fide commercial training vessel may not be required to carry all of the normally prescribed safety equipment for its class provided an attending or supervising training vessel is fully equipped with the prescribed safety equipment.

Provision has also been made in the current regulation for USL Class 3B deep sea fishing vessels to operate beyond the class limits set out in the USL code provided they carry certain additional safety equipment.

Licensing provisions for "wing-in-ground effect" craft

Additionally, new licensing provisions have been introduced to specifically cater for the emerging technology of wing-in-ground effect craft.

POLICY OBJECTIVES

The objectives of the *Transport Operations (Marine Safety) Act 1994* are generally met by imposing a general safety obligation on designers, builders, owners and operators to ensure the seaworthiness and safe operation of vessels, as well as other aspects of maritime safety. This obligation can be satisfied by compliance with relevant Queensland maritime standards or the national Uniform Shipping Laws (USL) Code, or in other ways chosen by the person on whom the obligation is imposed.

Safety obligations under the Act are intended, as far as possible, to be performance based rather than prescriptive and to allow users to find an appropriate balance between the achievement and maintenance of adequate standards of safety and the cost of such endeavours. Standards are issued to assist industry and other users to make decisions about their general safety obligations. There are nonetheless, some matters that, in the interests of achieving adequate safety levels, the government considers should not be optional or discretionary. These provisions have been included in the Act or, where appropriate, in the current regulation. The proposed regulation will mandate some of the provisions of existing Queensland maritime standards, the USL Code and other specific provisions.

The proposed regulation represents a comprehensive review of the existing regulation. The changes being proposed have a number of objectives in view:

1. To improve maritime safety in the light of experience gained from the 1995 regulation. (In some cases a more prescriptive approach is proposed - adopting relevant parts of the USL Code or a relevant Queensland maritime standard);
2. To increase flexibility for the maritime industry and vessel operators by amending those regulations found to be overly burdensome, or unable to be easily met for technical reasons. For example, it is impractical to require commercially operated personal watercraft to carry all of the normally required safety equipment. Any change made on these grounds will have no measurable effect on safety;
3. To improve the clarity of the existing regulation which in turn should improve safety and reduce uncertainty, costs and delays for users; and
4. To improve efficiency in administering the regulation.

While the existing legislative framework is workable, it is arguably more complex than it needs to be and has in some cases proved difficult for users to interpret and understand. Failure to address this situation will result in continuing criticism and complaints, and may ultimately compromise maritime safety in the state through misinterpretation or misunderstanding.

LEGISLATIVE INTENT

The intention is to amend the regulation in a number of ways to improve the balance between safety and efficiency. Some of the changes proposed will provide direct benefits to industry and the community while others will impose some additional obligations and/or costs. These additional costs are considered justifiable in the light of the anticipated improvement in maritime safety standards.

Industry and the community in general look to government to provide a safe environment for maritime operations in the state. Indeed, it can be argued that the government has a responsibility to the public to provide a framework for ensuring maritime safety, and, as a component of that responsibility, a system of penalties and sanctions for those who fail to meet their safety obligations within this framework.

CONSISTENCY WITH MARINE SAFETY LEGISLATION

The proposed amendments are consistent with the overall objectives outlined in the *Transport Operations (Marine Safety) Act 1994*, s 3(1), and contribute to the provision of a system that achieves an appropriate balance between:

- (a) regulating the maritime industry to ensure maritime safety; and
- (b) enabling the effectiveness and efficiency of the Queensland maritime industry to be further developed.

CONSISTENCY WITH OTHER LEGISLATION

The proposed regulation is part of a broader framework of state and federal maritime safety management law. Consistency with Commonwealth maritime legislation and the legislative provisions of the other Australian states and territories is being achieved through the coordinated development and adoption of uniform national marine safety standards. All states and territories have agreed to adopt these standards within their regulations within 12 months of their approval by the Australian Transport Council.

FUNDAMENTAL LEGISLATIVE PRINCIPLES

The proposed amendments do not compromise or offend any of Queensland's fundamental legislative principles.

CONSISTENCY WITH NATIONAL COMPETITION POLICY

The move to a performance-based rather than prescriptive legislative scheme is intended to be consistent with the aims of the National Competition Policy. Insofar as it is consistent with the need to provide for a system of fixed minimum safety standards, the proposed regulation provides the flexibility to ensure that this outcome is achieved. The general intent is to ease prescriptive burdens on industry in an effort to improve vibrancy and competitiveness both locally and nationally.

RISK ASSESSMENT

The diverse nature and range of operations undertaken in the maritime environment mean that identification of risk must be approached on a case-by-case basis. The change from a prescriptive legislative framework to a performance based approach has resulted in the clearer identification of safety responsibilities. This shift towards a derogated maritime industry has seen the imposition of safety obligations on vessel designers and builders, marine surveyors, owners, masters, and operators of both commercial and recreational vessels.

Since the introduction of a performance based maritime safety management framework, marine incident trends have remained relatively stable, with a small improvement with fatalities resulting from marine incidents. This would tend to support the view that placing the safety onus upon industry and operators has not had a deleterious impact on maritime safety and operations. Furthermore, the government resources freed up by this shift have enabled a corresponding shift from purely administrative to enhanced monitoring, compliance and educational activities. While it has proven difficult to quantify the impact of these changes, anecdotal evidence and feedback suggest there has been a generally positive impact on industry.

Enhanced educational activities have been aimed at assisting operators to conduct their own safety risk assessments, and to make reasoned judgements as to the relative risks of their operations. While it could be argued that these changes have imposed an additional cost burden on the industry, it also could be argued that such requirements should always have been complied with in discharging an operator's general duty of care.

While risk potential in certain sectors of the industry is perceived to be high, the performance based legislative approach to maritime safety management has thus far proven to be no less effective than the former prescriptive regulatory regime.

Enforcement of safety obligations is clearly catered for in the proposed regulation. Indeed, it would be completely inappropriate to use a performance based legislative framework without a clear and unequivocal backstop of penalties and sanctions for application when parties do not voluntarily comply with their obligations.

A feature of the proposed regulation is the continued use of alternative means to satisfy the general safety obligation. That is, if an operator can demonstrate that their operation was safe, regardless of the means employed, they will be deemed to have satisfied their obligation.

This approach allows enforcement and compliance personnel the ability to monitor industry, and to take action in areas that warrant attention. To support this process, a detailed mechanism exists for the capture of marine incident data. This system is designed to identify problem areas, and enable a coordinated range of interventions to be implemented when appropriate.

Enforcement functions and responsibilities have also been more clearly defined and delineated in recent years. Under the proposed new regulation, enforcement agencies will have enhanced powers to act in the interests of ensuring maritime safety.

LEGISLATIVE ALTERNATIVES

Option 1 ~ Maintain the status quo

Whilst workable, Option 1 does nothing to enhance maritime safety and improve the efficiency and effectiveness of the maritime industry in Queensland. Failure to intervene in areas identified as being deficient or lacking in some way will potentially have real impact on the safety of people using Queensland waterways.

Option 2 ~ Maritime safety management reform

The changes contained in the proposed regulation will continue to reform maritime safety management in Queensland while at the same time balancing the safety agenda with the need to promote the efficiency and effectiveness of the maritime industry. This will enable business to develop without safety obligations creating a de facto form of business regulation through the use of overly restrictive rules.

STAKEHOLDER CONSULTATION

There are five primary groups of maritime industry and safety stakeholders:

- the commercial maritime industry;
- the commercial fishing industry;
- the recreational boating industry;
- the recreational boating public; and
- the Queensland government.

A wide range of consultation has been undertaken with these stakeholder groups. The results of the initial consultation round are contained in the *Final Report on the 1997 Review of the Transport Operations (Marine Safety) Regulation 1995*. Sound relationships have been established with all stakeholder groups to the extent that ongoing consultation and interaction with industry is now embedded as a feature of the maritime safety management framework in Queensland.

A further comprehensive round of consultation addressing many of the issues raised by stakeholders during the initial consultation round was conducted between July and September 1999. This consultation involved dissemination of the draft revised regulation to key industry and boating community stakeholders. The draft regulation was also published at that time on Queensland Transport's web site.

Invitations were also extended to some 8,700 maritime industry and community stakeholders to attend one of a series of public consultation

meetings throughout Queensland. Consultation meetings were conducted at the following centres:

- Cairns
- Gladstone
- Mackay
- Scarborough
- Townsville
- Bundaberg
- Mooloolaba
- Southport
- Airlie Beach
- Urangan
- Manly

Attendees at consultation meetings were given a presentation outlining the proposed regulation changes and their rationale, together with a brochure outlining the substantive regulation changes being proposed. Attendees were also invited to make either verbal or written submissions. A total of 592 people attended the public consultation meetings. Closed meetings were held with a further 57 people, mainly representing industry organisations.

The feedback received in the form of written submissions (either by surface or electronic mail) was generally supportive of the proposed changes. The small number of objections/concerns raised tended to be isolated to issues that affect only a small proportion of the boating community such as the extension of recreational vessel licensing to include all registrable recreational vessels powered by engines of 4.5 kW or greater.

An overview of this and other significant initiatives is included below.

Recreational vessel licensing initiative

This initiative will see recreational vessel licensing and registration requirements more closely aligned. Presently, a recreational vessel licence is required to operate a vessel that meets all three of the following criteria:

1. The vessel is powered by an engine of 4.5 kW or greater (greater than 6 hp); and
2. The vessel is capable of speeds in excess of 10 knots; and
3. The vessel is capable of planing.

Registration requirements apply to all vessels, except tenders, powered by an engine of 3 kW or greater (greater than 4 hp).

The changes being proposed will see recreational boat licensing and registration requirements more closely aligned, by removing the earlier mentioned speed and hull design criteria. The vessels most likely to be affected by this change are recreational motorboats and sailing boats with

auxiliary engines. Recreational motorboats are generally larger recreational vessels including launches and vessels with displacement or non-planing hulls.

Under the proposed new regulation, a licence will be required to operate powered recreational vessels including recreational sailing boats and motorboats powered by engines of 4.5 kW or more (greater than 6 hp)—irrespective of their hull design or speed capability.

Marine incident statistics reveal that both recreational motorboats and recreational sailing boats were significantly over represented in reported marine incidents in Queensland in between 2000 and 2002. Combined, recreational motorboat and recreational sailing boat incidents in 2001 resulted in seven of the state's twelve marine incident fatalities and six of the 36 recorded serious injuries. In 2002, incidents involving these types of recreational vessels resulted in a further two fatalities and seven serious injuries.

Recreational motorboats represent only 13% of the Queensland registered vessel fleet, yet in 2001 they were involved in incidents that resulted in 50% of the state's total marine incident fatalities. There were also five people seriously injured (requiring hospitalisation) in non-fatal recreational motorboat incidents in 2001. In 2002, there was an improvement in the level of involvement of these types of vessels in fatal and serious injury marine incidents in Queensland. Despite this, they continue to be over represented with one fatality and five serious injuries recorded.

While recreational sailing boats represent only 3% of the registered vessel fleet, they were involved in 7.3% (45) of reported marine incidents in 2001. Three of these incidents involving recreational sailing vessels resulted in one fatality and one person being seriously injured. In 2002, one person died and two were seriously injured in recreational sailing boat incidents.

The proposed extension of licensing requirements will enhance safety on the state's waterways through improved safety awareness and operational competency levels.

Queensland Transport registration and licensing data indicates that approximately 7,750 boat owners will potentially be affected by the proposed new licensing requirement, although some of these may already possess some form of interstate recreational or commercial maritime qualification.

Those ultimately affected by the proposed changes to recreational boat licensing will be able to undertake a practical test for \$33 (including GST).

This, together with a one-time licence application fee of \$32.05 (for a lifetime licence), is the only cost that will need to be borne by affected owners and operators. Queensland Transport is proposing a twelve month transitional period during which those affected will be able to obtain the necessary licence.

Hire and drive boats, including hire jet skis will not require a licence when operated in accordance with the relevant standard made under the regulation. This includes formal supervision of operators within a defined area of use. If hire and drive boats are not operated in accordance with the standard, the person operating the vessel will be subject to the normal recreational licensing provisions.

OTHER SIGNIFICANT AMENDMENTS BEING PROPOSED

Renaming of the recreational ship master's licence

As part of the new marine safety legislation introduced in 1995, the recreational ship master's licence (RSML) superseded Queensland's former recreational speedboat drivers licences and water ski licences. Since its introduction the RSML has attracted a sizable amount of criticism. Many in the boating community have labelled the licence name as out of touch with common language usage and have suggested the name be changed to a simple, more meaningful name such as 'boat licence' or 'boat driver's licence'.

While there are some legislative restrictions on what names can be used, the notion of a driver's licence for recreational vessels is sound. Maritime Safety Queensland is now proposing to redesignate the RSML as a recreational marine driver's licence. In everyday usage the licence will likely be known as a marine driver's licence. Holders of the former speed boat licence, Water Ski Licence and RSML will not need to have their licence converted to the proposed new marine driver's licence.

The proposed change to the name of the licence to operate a powered recreational vessel will become effective with the commencement of the new regulation.

Recreational vessel capacity labelling requirements

Vessel overloading, particularly for recreational vessels, has long been a challenge for maritime safety educators and regulators. Following a number of tragic overloading boating incidents in the early 1990s, a number of Australian jurisdictions introduced mandatory vessel capacity labelling requirements for their recreational vessel fleets.

In December 1999, the Maritime Division of Queensland Transport began issuing vessel capacity labels to owners of registered recreational vessels in Queensland. Owners were encouraged, as a voluntary boating safety initiative, to attach an appropriately marked capacity label to their vessel to clearly indicate the vessel's safe person's capacity in smooth water conditions.

With over three years of voluntary familiarisation with the objectives of the vessel capacity labelling initiative, Maritime Safety Queensland is now proposing to make vessel capacity label requirements compulsory for all recreational vessels requiring registration in Queensland. The proposed new capacity labelling provisions will require owners of these recreational vessels to ensure a capacity label showing the vessel's safe person's capacity is attached to the vessel where it can be clearly seen from the vessel's steering position/s. Owners will have a number of options in determining their vessel's capacity including guidance from:

- Australian Standard 1799.1-1992
- their vessel's manufacturer
- other qualified personnel such as marine surveyors and naval architects.

The proposed new requirements will become mandatory twelve months after the commencement of the new regulation.

High-speed craft rating endorsement

With the emergence over the past decade of large passenger carrying ferries capable of speeds in excess of 20 kn, a need has arisen for masters of such vessels to upgrade their skills and competencies to safely operate the new vessels. Twelve months after the commencement of the new regulation, masters of commercial vessels in excess of 20 metres in length and capable of speeds in excess of 20 kn will need to have their commercial licence endorsed to permit the operation of the particular high-speed craft for a particular route.

To obtain a high-speed craft rating endorsement on a licence, a person will need to satisfy Maritime Safety Queensland that they have the necessary skills and experience in operating high-speed craft.

Typically, this requirement will be satisfied by completing specific high-speed craft training for the type of craft to be operated and the particular route of operation. Training will need to meet the requirements outlined in the International Code of Safety for High-Speed Craft published by the International Maritime Organisation. These requirements represent world best maritime safety standards.

The proposed new requirements will be phased in over twelve months.

Additional radio communications monitoring requirement for fishing vessels

A new operational safety requirement has been included in the draft regulation for fishing vessels in response to a recommendation from a recent Oil Spill Risk Assessment for the Coastal Waters of Queensland and the Great Barrier Reef Marine Park. The risk assessment report recommended that all trawlers be fitted with a loudspeaker to the after deck as an aid to monitoring VHF radio transmissions and maintaining a proper lookout.

On both safety and environmental grounds the recommendation has been included in a new section in part 5 of the draft regulation. The new requirement will take effect with the commencement of the new regulation.

Clarification of validity period for marine engine driver certificates for fishing vessels

Since the introduction of the existing regulation in 1995, Queensland Transport has been issuing Marine Engine Driver (MED) certificates (licences) for both trading and fishing vessels in accordance with the provisions of the Uniform Shipping Laws (USL) Code. Under the USL code MED certificates for trading vessels are valid for five years from the date of issue while MED certificates for fishing vessels are valid in perpetuity (do not have an expiry date).

An administrative difficulty has arisen in that the current regulation requires an expiry date to be shown on all MED certificates, thereby failing to differentiate between the five year validity of a trading vessel MED certificate and the perpetual validity of a fishing vessel MED certificate.

Maritime Safety Queensland is proposing to amend the regulation to specifically provide for the perpetual nature of fishing vessel MED certificates. Once implemented, all new MED certificates will still have an expiry date in relation to their trading vessel validity, but they will also include a rider statement indicating the perpetual status of the certificate when a certificate holder is working on fishing vessels.

Clarification of the perpetual status of fishing vessel MED certificates will become effective with the commencement of the new regulation.

Amended professional indemnity insurance requirements for accredited persons

Presently, Maritime Safety Queensland currently requires accredited persons (vessel designers, vessel builders and marine surveyors) to carry, as a condition of their accreditation, product liability insurance of at least \$2 million to cover any legal liability arising from their accredited activities.

Maritime Safety Queensland is proposing to amend the *Transport Operations (Marine Safety) Regulation 1995* to require accredited vessel designers, vessel builders and marine surveyors to carry professional indemnity insurance (rather than product liability insurance) that is both commensurate with the risk they carry and acceptable to the General Manager of Maritime Safety Queensland.

The new provisions will take effect either from the commencement of the new regulation or, where accredited persons already hold policies required under the existing regulation, from the next renewal of those policies after the commencement of the new regulation.

PRELIMINARY IMPACT ASSESSMENT

Option 1 ~ Maintain the status quo

By maintaining the status quo, the following potential impacts are likely:

1. Loss of confidence by the maritime industry in the industry development and regulatory reform process;
2. Loss of the department's moral authority and good working relations following the extensive consultation undertaken; and

3. Potential limitations on industry's effectiveness and vibrancy.

Should the proposed regulation not proceed, a number of substandard operators who presently may be escaping liability for their actions would continue to avoid their safety responsibilities. Additionally, there are some aspects within industry considered to be over regulated. Reduced regulatory control would further facilitate industry/business development.

Maintaining the status quo is also unrealistic from the point of view that government has a duty to provide a framework for the safe and effective maritime operations in Queensland. While this state has the most forward looking maritime legislation in Australia, this can only be maintained through review and continual improvement. To do nothing would be at odds with this approach.

Having achieved a shift in maritime safety management focus by placing an onus for maritime safety on industry, the government's role is to ensure that this new regulatory framework continues to be relevant and responsive to the needs of the end users.

Option 2 ~ Maritime safety management reform

As an outcome of the comprehensive consultation process, all of the earlier identified stakeholder groups appear to consider the proposed regulation changes desirable. Proceeding with the proposed changes will result in the adoption of an agreed package of legislation, which is the product of genuine liaison between government, industry and the community. While there may be some additional costs for government in performing its monitoring role, the net effect on stakeholders is expected to be minimal.

This outcome accords with stakeholder expectations, and provides a balance between maritime safety and with industry efficiency and will further enhance the relationship between the government as regulator and affected stakeholders.

The changes will also further facilitate business growth, without the burden of unreasonable safety requirements.

QUALITATIVE IMPACT ASSESSMENT

An analysis of the costs and benefits of the proposed amendments was undertaken using the Business Regulation Reform Unit (BRRU)

Cost-Benefit Analysis Model. It was not possible to accurately measure the economic impact of the regulatory changes on business, the general community and government due to the absence of quantifiable data on future benefits and costs. Accordingly, only the qualitative assessment stage of the cost-benefit assessment has been completed. An assessment has been made for each stakeholder group and is summarised below.

The commercial maritime industry

The effect on the commercial maritime industry is rated as low positive (L+) impact in view of the potential for improved business efficiency through improved business flexibility and choice.

The commercial fishing industry

The effect on the commercial fishing industry is rated as low positive (L+) impact. The cost impact is assessed as negligible as there will be little or no material impact on the fishing industry. If anything, improved flexibility will result in a positive cost impact for operators.

The recreational boating industry and boating public

The effect on the recreational boating industry and the boating public is rated as a neutral impact. The move to more closely align recreational vessel licence requirements with registration requirements will require the expenditure of small amounts of time and money by those presently operating those types of recreational vessel for which licences are not currently required. This is balanced by potentially improved safety through increased knowledge and competence by those on the water as evidenced by reduced involvement of these types of vessels in marine incidents.

The government

The effect on government stakeholder agencies is rated as a low negative (L-) impact. Some additional costs will be incurred in delivery of monitoring and compliance services. While it is accepted that the majority of operators take their obligations seriously, those who do not must be made aware that they are liable to penalty for failing to observe their responsibilities.

Table 1 – Summary of qualitative impact assessment

Stakeholder group	Cost	Benefit
The fishing industry	Low positive	Improved efficiency through the reduction of prescriptive regulatory requirements
The commercial maritime industry	Low positive	Improved business efficiency through choice of ways of achieving safety obligations
The recreational boating industry and boating public	Neutral	Costs associated with expanded licensing base will be balanced by improved safety levels through better knowledge and operator competence
Queensland government agencies	Low negative	Marginally increased costs through monitoring/enforcement operations

Summary of qualitative impact assessment

In the analysis it has been presumed that positive benefits will accrue to the maritime business sector. These will take the form of improved business opportunities for the vessel design and vessel building industries as a result of increased flexibility and reductions in costs from some of the proposed licensing and registration changes. By far the greatest benefits however will come from improved operational safety in the commercial shipping and fishing sectors.

These benefits will be partially offset by some increased costs associated with upgrading training and qualification requirements for maritime licensing and some reduction in operating flexibility that will be introduced in the interests of safety.

Overall, the qualitative analysis shows positive net benefits to the maritime industry and to maritime safety generally.

QUANTITATIVE IMPACT ASSESSMENT

The diverse nature of the maritime industry, coupled with the wide range of compliance choices available to operators, makes an accurate quantitative analysis difficult to undertake. The fact that an operator may employ a range of methods to meet their general safety obligation means that impacts potentially will be different for each operator. The costs of undertaking a detailed quantitative analysis in these circumstances was likely to be significant and it was considered that little useful data would reasonably be obtained.

Generally, there will be little direct cost imposition on the maritime industry. While some recreational vessel users will, under the proposed regulation, have to bear the cost of obtaining a licence, this will not be excessive, and potentially may be lessened where evidence of prior learning and experience can be demonstrated.

Feedback from earlier extensive consultation processes indicates that the stakeholders are supportive of the package of changes proposed in the *Transport Operations (Marine Safety) Regulation 2003*.

The relatively minor costs associated with the changes rest predominantly with the government, with a small imposition on both the commercial maritime industry and the recreational boating sector. These costs are considered justifiable in the context of anticipated improvements in maritime safety and industry vibrancy.

CONCLUSION

It is considered that the best means of achieving a balance between maritime safety and the efficiency and effectiveness of the maritime industry in Queensland is to proceed with the proposed making of a new *Transport Operations (Marine Safety) Regulation 2003*.

NEXT STEPS

At the completion of the Regulatory Impact Statement round of consultation, submissions received will be taken into consideration in finalising the drafting of the new *Transport Operations (Marine Safety)*

Regulation 2003. The proposed new regulation will then be referred for Executive Council approval.

Certain provisions, as outlined earlier, may have later effective commencement or operational dates. These are specified in the transitional provisions found in part 11 of the draft regulation. A comprehensive public awareness campaign will accompany the introduction of the new regulation.

COMMENTS

In accordance with the requirements of the *Statutory Instruments Act 1992*, part 5, submissions are invited on this Regulatory Impact Statement for the proposed new *Transport Operations (Marine Safety) Regulation 2003*.

Additional copies of the Regulatory Impact Statement, or copies of the associated draft regulation may be obtained:

- from the Maritime Safety Queensland web site at:
www.msq.gov.qld.au

or

- by e-mailing a request to: maritime.safety@msq.qld.gov.au

or

- by writing to: Director (Maritime Safety)
Maritime Safety Queensland
GPO BOX 2595
BRISBANE Q 4001

or

- by facsimile to (07) 3224 8718

Submissions should be forwarded no later than Monday, 25 August 2003 via mail, e-mail or facsimile to:

By post

- Director (Maritime Safety)
Maritime Safety Queensland
GPO BOX 2595
BRISBANE Q 4001

By e-mail

- maritime.safety@msq.qld.gov.au

By facsimile

- (07) 3224 8718
-

ENDNOTES

- 1 Laid before the Legislative Assembly on . . .
- 2 The administering agency is the Department of Transport.