



Ministry of Transport
TE MANATŪ WAKA

Maritime Transport Act 1994

Maritime Rules

PART 82: Commercial Jet Boat Operations – River: Amendment 2012

Pursuant to section 34 and section 36 of the Maritime Transport Act 1994 I, Gerry Brownlee, Minister of Transport, hereby make the following maritime rules.

Signed at Wellington

This *12th* day of *NOVEMBER* 2012

By Hon GERRY BROWNLEE

Minister of Transport

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Part objective

The objective of this Part 82 amendment is to preserve the health and safety of those on board commercial jet boats by limiting the likelihood and consequences of serious harm, due to the impairment of commercial jet boat drivers, particularly as regards drugs and alcohol. Although the safe operational plan required by Part 82 must include a section on managing hazards, which is intended to include identifying and managing the risks associated with drug or alcohol impairment, the Rules do not explicitly mention this risk.

This lack of an explicit reference to the risk of impairment resulting from, or contributed to, by use of drugs and / or alcohol creates a situation where businesses may operate below optimum safety levels by not prioritising the safety risk of drug and alcohol use, whether knowingly or unknowingly.

Maritime rules are subject to the Regulations (Disallowance) Act 1989. Under that Act, the rules are required to be tabled in the House of Representatives. The House of Representatives may, by resolution, disallow any rules. The Regulations Review Committee is the select committee responsible for considering rules under the Regulations (Disallowance) Act 1989.

Extent of consultation

On 4 October 2012, Maritime New Zealand published in each of the daily newspapers in seven main centres of New Zealand a notice inviting comments on the proposed draft rules. A notice was also published in the *New Zealand Gazette*. In addition, copies of the draft rules and consultation documents were sent to interested parties (including all commercial jet boat operators and licensed jet boat drivers subject to Part 82) and made publicly available on the web. Approximately 100 RSS feed subscribers also received a consultation notification by email. Comments on the proposed amendment to Part 82 were requested to be made by 19 October 2012.

Entry into force

This Part amendment enters into force on 15 December 2012.

1 82.2: Definitions

Rule 82.2 is amended by inserting the following definition in the appropriate alphabetical order:

“Impaired means affected by fatigue, injury, medical condition, or by the consumption of alcohol or other drugs to such a degree that the person may be a risk to the safety of himself or herself or any other person:”

2 Appendix 1

Appendix 1 of Part 82 is amended by inserting the following after paragraph 1.20.1(e):

“1.20.1(f) the process used by the operator to ensure that a driver is mentally and physically fit to work as a driver and does not participate in a commercial jet boat operation where, in the opinion of the operator, the driver is impaired.”

Maritime Rules

Part 82

Consultation summary

(This text does not form part of the rules contained in Part 82. It provides details of the consultation undertaken in making the rules. When made on behalf of an organisation, the organisation name is detailed in this summary.)

Four submissions were received from Wilkin River Jets, Jet Stream Tours NZ Ltd, Ngai Tahu Tourism Limited, Maddick Marine Surveys Ltd. These submissions were considered and were generally supportive of the need for a rule change to manage drugs and alcohol. One submitter's preference was that a mandatory drug and alcohol testing regime should be established. No changes were made to the rule amendment as a result of the consultation process.

Ministry of Transport Comment

Introducing a mandatory drug and alcohol testing regime was an option considered. However, this option would impose significant costs, particularly on operators. Due to the diversity and remoteness of many operations, the practicality of a random testing regime was questionable. However, the proposed amendment to Part 82 does not preclude operators from having a testing regime if this is considered appropriate to their circumstances.