



Ministry of **Transport**  
TE MANATŪ WAKA

## Maritime Transport Act 1994

### Maritime Rules

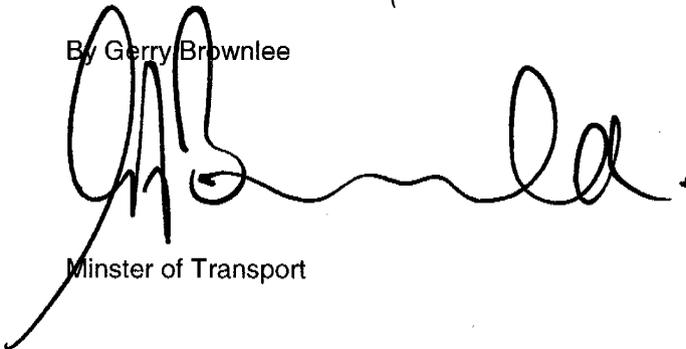
#### Part 24B: Carriage of Cargoes – Stowage and Securing: Amendment 2012

Pursuant to section 36(1)(m) of the Maritime Transport Act 1994, I, Gerry Brownlee, Minister of Transport, hereby make the following maritime rules.

Signed at Wellington

This 16<sup>th</sup> day of April 2012

By Gerry Brownlee



Minster of Transport



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## **Part amendment objective**

The objective of the amendment to Part 24B is to—

- clarify the requirements for securing semi-trailers
- correct minor drafting errors.

### *Rules subject to Regulations (Disallowance) Act 1989*

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 12 February 2011, Maritime New Zealand (“MNZ”) published in each of the daily newspapers in the four main centres of New Zealand a notice inviting comments on the draft amendment to Part 24B. A notice was also published in the *New Zealand Gazette* on 12 February 2011. MNZ then made its invitation to comment and draft amendment available to the public with electronic copies being sent automatically to interested parties. The draft amendment was also posted on, and available for downloading from, the MNZ website. Comments were requested by 1 April 2011.

Five submissions were received on the draft amendment to Part 24B. These submissions were considered and, where appropriate, the draft amendment was amended to take account of the submissions and comments received.

## **Entry into force**

These rules enter into force on 17 May 2012.

**1 Part objective**

The Part objective is amended by omitting “International Standard ISO 9367-1 *Lashing and securing arrangements on road vehicles for sea transportation on Ro/Ro ships – General requirements*” from where it appears in the sixth paragraph, and substituting “New Zealand Standard NZS 5444:2005 – *Load Anchorage Points for Vehicle*”.

**2 24B.2: Definitions**

Rule 24B.2 is amended by—

- (a) inserting the following definitions in the appropriate alphabetical order:

“**NZS 5444:2005** means the New Zealand Standard NZS 5444:2005 *Load Anchorage Points for Vehicles*.”

“**semi-trailer** means any vehicle that is designed to be coupled to a semi-trailer towing vehicle and impose a substantial part of its total weight on the towing vehicle.”

- (b) omitting the definition for **ISO 9367-1**:

- (c) omitting paragraph (a) from the definition for **road freight vehicle**, and substituting the following paragraph:

“(a) a vehicle of less than 3.5 tonnes gross mass; or”

- (d) omitting paragraph (a) from the definition for **road livestock vehicle**, and substituting the following paragraph:

“(a) a vehicle of less than 3.5 tonnes gross mass; or”

- (e) omitting paragraph (b) from the definition for **road tank vehicle**, and substituting the following paragraph:

“(b) a vehicle of less than 3.5 tonnes gross mass; or”.

**3 24B.10: Roll on/roll off ships**

- (1) Rule 24B.10(2) is omitted and substituted with the following:

“(2) The shipper of a road freight vehicle, road tank vehicle, or road livestock vehicle must not offer the vehicle for shipment on a ro-ro ship to which rule 24B.14 applies unless it is—

- (a) fitted with vehicle securing points in accordance with Part 2 of NZS 5444:2005; and  
(b) marked with an information plate in accordance with Part 2 of NZS 5444:2005.”

- (2) Rule 24B.10(3) is omitted and substituted with the following:

“(3) The master of a ro-ro ship must ensure that a road freight vehicle, road tank vehicle, or road livestock vehicle taken on board a ro-ro ship to which rule 24B.14 applies —

- (a) is marked with an information plate in accordance with NZS 5444:2005; and  
(b) has vehicle securing points that are adequate to secure the cargo for the intended voyage.”

- (3) Part 24B.10 is amended by adding the following subrule:

“(5) For the purposes of subrules (2) and (3), Part 2 of NZS 5444:2005 is deemed to apply to all vehicles with a gross mass of 3.5 tonnes or more in weight.”

**4 24B.21: Ships that are not required to have a cargo securing manual**

Rule 24B.21(a) is amended by omitting “inspected and maintained”, and substituting “available, used, inspected, and maintained”.

## Maritime Rules

### Part 24B

#### Consultation summary

(This text does not form part of the rules contained in Part 24B. It provides details of the consultation undertaken in making the rules. Five submissions were received. When made on behalf of an organisation, the organisation name is detailed in this summary. Submissions are italicised.)

#### Independent verification and reliance on marking

The following comment was received from David Shepherd, Terminal Services Manager for Interislander:

*“Interislander supports any requirement to improve lashing capabilities on vehicles over 3500kgs. However Interislander is concerned that there is no independent verification of the lashing points required by this legislation. A lashing point could be attached that does not meet the required strength and fail during a crossing, raising the possibility of damage or injury. This rule change means that our masters and staff have only an unverified sticker to indicate that the lashing points meet requirements.”*

#### Analysis

It appears that the comment is in relation to the reliance of the proposed amendments on the reliability of the marking of the trailer. If the marking is in compliance with the standard it is assumed that the vehicle is compliant to the full scope of that standard. The stated concern is that there is no independent verification to ensure that the marking is only applied following the vehicles verified compliance and that the physical modifications to the vehicle are verified as having passed testing to that standard.

There is the possibility that vehicles may be marked in accordance with the standard but not actually be fitted with vehicle securing points that comply with the standard.

#### MNZ response

There are currently no parallel land transport rule requirements that support the proposed amendments. MNZ suggests that any required testing, inspection, certification or fixing of an official plate, to verify and demonstrate compliance, should be made through an amendment to the *Land Transport Rule: Heavy Vehicles 2004*. MNZ will consider this issue further and take up the issue with the responsible organisations.

#### Request for sufficient publicity to support awareness and compliance

The following comment was received from David Shepherd, Terminal Services Manager for Interislander:

*“Because of the safety requirement Interislander would ask that there is sufficient publicity through MNZ / LTNZ to all operators and equipment manufacturers / suppliers, that commercial vehicles will be expected to have:*

- Lashing points – of required strength and accessible positioning*
- Lashing points adequately marked*
- Trestle position markings*

*We currently have a number of trucks with lashing points located in such a way that they are unable to be used ie. over fuel tanks & exhausts & wheels or beyond the reach of staff.*

*The trestle position marking in particular is not currently known to trucking firms, and it will take some explanation to enable this change. We have informed our customers however experience shows this requirement will be not fully understood by our customers. We would support additional guidance be provided to the industry on this point”*

The following comment was received from Sheryl Ellison, Managing Director, for Strait Shipping Ltd.:

*“We are in full support of the proposal to align rule 24B to cover semi trailers.*

*It should be noted that the majority of our major clients have already applied the rule to all of their interisland fleet.*

*Compliance to NZS5444:2005 2.7.2 Trestle location ‘Trestle Symbol’ on the face of it a sensible solution. However NZS5444:2005 Figure 2.7 states that the recommended range for trestle location is within 750mm of the trailers king-pin marking this area is hence unnecessary.*

*Strait Shipping has invested in a trestle system that locates trestles under the trailers kingpin so the markings would become superfluous. It appears NZS 5444:2005 does not allow for innovative methods of trestling and securing of trailers to be used. MR24B should have a provision in it to allow trestle positions (subject to Director’s approval) other than just those laid down in NZS 5444:2005. Rejection if missing seems onerous when we will mostly not be using the marked area.*

*The ‘Information Plate’ is essential to the workability of the rule. The industry now works on the information plate denoting compliance.”*

## **Analysis**

It appears that the following key points are being made:

- The proposed amendments are supported by the two Cook Strait ro-ro ferry operators.
- Additional publicity and guidance to specifically identified groups would, at this point and over the next period, assist in communicating and supporting compliance to the new rule requirements
- Specifically in regard to trestle position markings there is currently a lack of awareness of the need and function of these markings, indicating the need for additional guidance material
- There is concern that the trestle marking, as required by the standard, is superfluous to some on board arrangements.

## **MNZ response**

MNZ agrees that additional focused guidance to specific groups will assist these parties in understanding and applying measures leading to compliance to the requirements. MNZ will consider working with the New Zealand Transport Authority to develop guidance material for the groups highlighted.

MNZ agrees that the marking requirements for the ‘trestle position’ require to be considered with a view to either not making those markings mandatory or, if doing so, providing additional guidance in the advisory circular on their position, dimension and application.

## **Entry into force date and industry awareness**

The following comments were received from Margaret Wind, Managing Director, for Maritime Management Services:

*“Rule 24B originally came into force on 30 June 2005 for vessel operators and 30 June 2007 for the owners of vehicles travelling on vessels. This allowed a period of 2*

*years for vessel owners to comply. The amendment allows only 6 months for semi-trailer owners to comply. Additionally, 24B.10(2) requires vehicle securing points on all road freight vehicles. Is the land transport industry fully aware of this. Could we have some clarification of this to avoid any embarrassment and or infringement when these vehicles are rejected by the Master.*

*We are concerned that owners of semi-trailers have been made sufficiently aware of the new requirements (being that they are covered under maritime rules)."*

The following comment was received from Andrew Lees, Safe Ship Manager, for Sealink Travel Group:

*"SeaLink opposes the proposed changes for the following reason:*

*Rule 24B originally came into force on 30 June 2005 for vessel operators and 30 June 2007 for the owners of vehicles travelling on vessels. This allowed a period of 2 years for vessel owners to comply. The amendment allows only 6 months for semi-trailer owners to comply.*

*Additionally, 24B.10 (2) requires vehicle securing points on all road freight vehicles. Is the land transport industry fully aware of this? Could we have some clarification of this to avoid any embarrassment and or infringement when these vehicles are rejected by the Master? "*

The following comment was received from Sheryl Ellison, Managing Director, for Strait Shipping:

*"...the time frame from 1 April for submissions to 1 October to compliance is very short."*

The following comment was received from Mark Ngatuere, Policy Analyst, for the Road Transport Forum:

*'We expect that the majority of commercial road freight transport operators presenting their semi trailers for transport on ships will attempt to have compliant ferry tie down points fitted to their vehicles by the time that rule amendments come into force.*

*The same situation might not apply to non-commercial or casual users of ferry/ship services. There may also be examples of extenuating circumstances where exemptions could be offered to vehicles. We have discussed these situations further in Section 10 of our submission.*

*The media attention that preceded the current rule's implementation significantly raised the level of ferry tie down compliance. Although semi trailers were exempted from the current rule's requirements the vast majority of semi trailer operators proactively upgraded their vehicles to meet the rule's requirements.*

*The majority of operators upgraded their equipment voluntarily and the position adopted by ship masters (refusal to transport noncompliant vehicles and high levels of media attention) also assisted with increasing ferry tie down compliance for all types of heavy vehicles.*

*While ferry tie down compliance for existing semi trailers may already be at an acceptable level we expect that future compliance would be elevated if the latest rule amendments were well advertised and an extended implementation period preceding the implementation of this latest amendment to the rule.*

*As industry representatives we will be keeping industry members informed of the amendment rule's progress and its requirements. Similar support from ship operators and Maritime NZ would also be beneficial in raising awareness of the amendment's requirements.*

*We also suggest that at least a 6 month implementation period should follow the rule's signing before it comes into force. Doing so would provide sufficient time for vehicle owners to have their vehicles made compliant and would also provide adequate advance warning of the rule's impending changes.*

*Comments are made preceding Comment Request Three- that drivers could be responsible for ensuring that the vehicles they drive are made compliant with the rule. It is also suggested that drivers should allow sufficient time for modifications to be made to vehicles if required. This is not normally the driver's responsibility. As drivers of other peoples vehicles drivers are not in the position to make commercial decisions regarding the vehicles that they drive. These decisions are the vehicle owner's responsibility.*

*We appreciate Maritime NZ's attempts to minimise the possibility of non-compliant vehicles being presented for transport on ships but these responsibilities can not be transferred from vehicle owners to drivers.'*

## **Analysis**

It appears that there are two key concerns:

- That the period before the coming into force of the rule may be too short
- That there are concerns on whether the 'land transport industry' is fully aware of the proposed amendments.

## **MNZ response**

Semi-trailer owners will have over 12 months lead time between the draft rule being issued for consultation (12 February 2011) and its coming into force (17 May 2012).

In addition, MNZ has signalled that it would be proposing this amendment to the Minister and the new requirements for semi-trailers, including on page 2 of the existing advisory circular issued in April 2007. MNZ has engaged with the Road Transport Forum and the New Zealand Transport Authority to assist in disseminating information and receiving feedback from the land transport industry.

As there is a meeting of two modes of transport it is also likely that the owners of the ships involved may need to make efforts to communicate with their clients. MNZ plans to facilitate this communication over the coming period by preparing additional communication fliers to assist in advising the companies involved of the changes to the maritime rules.

## **Exemptions from the requirements in special circumstance**

The following comment was received from David Shepherd, Terminal Services Manager, for Interislander:

*"That some ability be provided to Masters for urgent shipments of large numbers of trucks to be carried without the lashing requirements spelt out in s24B.*

*In the last year Interislander has had four occasions where large numbers of trucks have needed to travel inter-island that would have fallen foul of the new requirements, being the two Christchurch earthquakes and two instances where Fonterra processing plants had unexpected shutdowns (a fire in one and an operational outage).*

*In the Christchurch earthquakes we were able to get an exemption a couple of days after the event, and for the two Fonterra events the vehicles were semi trailers (then exempt). However there can often be some time depending on the day of the week or night, and authorising staff available from the exemption request and it being processed, which could delay either critical emergency services or customers' business operations."*

*Interislander has long held the International Maritime Organization Code of Safe Practice for Cargo Stowage and Securing as basis for lashing requirements which allows for all units to be carried as long as they can be safely secured given the expected sea state. And it is Interislander's submission that it is important for such events that the master be given discretion to be able to take the vehicles at short notice, provided the sea state allows."*

The following comment was received from Mark Ngatuere, Policy Analyst, for the Road Transport Forum NZ:

*"We mentioned earlier in paragraph 5.1 of our submission that we expect that commercial heavy vehicle operators that have their vehicles transported on ships regularly will comply with the rule's provisions.*

*There are special circumstances that may enable vehicles to be acceptable for special exemption from the rule's provisions. The current situation in Christchurch probably highlights this well as there will be heavy vehicles required in the earthquake area that will need to be shipped inter-island which may not be compliant with the rule's requirements. The time and expense to make these vehicles compliant may prevent their timely deployment.*

*There are civil defence emergency related provisions that will assist with overcoming legislative requirements that may hinder the ready deployment of vehicles to emergency areas. We expect that when required maritime authorities would liaise with authorities to enable expedient "special" vehicle exemptions.*

*We are also aware that there are some trucks and full trailers that are currently provided with exemptions from the rule's requirements. We would expect that semi trailer versions of these vehicles would be similarly considered for exemption."*

### **MNZ response**

MNZ does not consider the case is made for any additional mechanism to that provided by the power of the Director to grant exemptions under section 47 of the Maritime Transport Act.

### **Cargo Securing Manual (rule 24B.5(4))**

The following comment was received from Margaret Wind, Managing Director, for Maritime Management Services:

*"24B.5(4) Cargo Securing Manual : This section reads that ro-ro ships must ensure that all cargo units are secured in accordance with the requirements of the Cargo Securing Manual. It is unclear whether this section only applies to those vessels covered under rule 24B.5(1) or ALL ro-ro vessels, regardless of operating area. Clarification required please."*

The following comment was received from Andrew Lees, Safe Ship Manager, for Sealink Travel Group:

*"SeaLink opposes the proposed changes for the following reason:  
24B.5(4) Cargo Securing Manual. This section reads that ro-ro ships must ensure that all cargo units are secured in accordance with the requirements of the Cargo Securing Manual. It is unclear whether this section only applies to those vessels covered under rule 24B.5 (1) or ALL ro-ro vessels, regardless of operating area. Clarification required please. "*

### **MNZ response**

By way of clarification, rule 24B.5(4) applies only to ro-ro ships that are required to have a cargo securing manual.

## Safety and reliability of securing points

The following comment was received from Margaret Wind, Managing Director, for Maritime Management Services:

*"We are satisfied that the rule now takes into account the requirement for semi-trailers (similar to rules for other vehicles)."*

The following comment was received from Sheryl Ellison, Managing Director, for Strait Shipping:

*"We believe that the changes will improve safety onboard."*

The following comment was received from Mark Ngatuere, Policy Analyst, for the Road Transport Forum NZ:

*"A large number of road freight transport vehicles are transported on ships and are therefore expected to comply with the rule's requirements. Compliance with the rule increases maritime safety by ensuring that heavy road freight transport vehicles on board ships have been adequately secured."*

*The principle purpose of the amendment is to include semi trailers within cargo restraint (ferry tie down) requirements. The current version of the rule references ISO 9367 for ferry tie down requirements. ISO 9367 is in two parts. Unfortunately at the time that the current rule was developed only ISO 9367-1 was referenced within it. By doing so semi-trailers were exempted from having to comply with ferry tie down provisions as semi trailer references are contained within ISO 9367-2.*

*This situation created an undesirable anomaly within the rule which required correcting. From a maritime perspective it would have been a relatively simple process for Maritime NZ to incorporate maritime specific references (such as ISO 9367-2) within the rule to support ISO 9367-1.*

*However, this is not the route that Maritime NZ has taken and they are to be congratulated for the pragmatic approach which has been adopted within the amendment rule. Maritime NZ have chosen to provide as a primary reference the land transport reference document, New Zealand Standard- NZS 5444: 2005- Load Anchorage Points for vehicles."*

And

*"We support this proposal as ISO 9367, being an international maritime document, has limited scope within New Zealand's road freight transport industry. And, given that one of the primary purposes of the rule is to raise heavy vehicle ferry tie down compliance it seems sensible to provide references within the rule which the road freight transport industry (the industry) is familiar with.*

*Virtually no heavy vehicle in New Zealand can transport a load without meeting NZS 5444's requirements. NZS 5444 is one of the industry's main reference documents and as such there is a high level of familiarity within the industry with it. This increased level of familiarity over the ISO standard should further assist with increasing ferry tie down compliance.*

*We support the proposal to include semi trailers within ferry tie down requirements.*

*We note within the dialogue preceding Comment Request 1 that the subject of ferry tie down certification is raised. A vast amount of discussion was held regarding ferry tie down certification during the current rule's development. The decision was made that ferry tie downs should not be required to be certified. The same condition should apply to the current proposed amendment.*

*We support Maritime NZ's position of not favouring ferry tie down certification."*

And

*"We are confident that changes to the rule will increase ship safety. We expect that the rule changes will clarify transporter responsibilities in respect to ensuring compliance with NZS 5444."*

## **Responsibility of the shipper of the cargo**

The following comment was received from Margaret Wind, Managing Director, for Maritime Management Services:

*"It is not practical to expect shippers of cargo to rely on the operator of the semi-trailer to ensure compliance. In some cases, trucks arrive within minutes of driving onto the vessel. Some voyages take as little as 6 minutes. A more practical solution would be to apply this rule to operating limits beyond Enclosed, where appropriate manifests and securing checks can be made."*

### **MNZ response**

It appears that there may be some confusion between the ship owner and the shipper of the goods. The shipper of the cargo is not the ship's owner/operator but the party who arranges the goods to be transported on the ship; normally the 'land based client'. The posed consultation question is asking if the relationship between the vehicle operator and the 'land based client' is such as to support their legal responsibility for the securing points on the vehicle. The operational limits of the ship are not relevant to this issue.

The following comment was received from Mark Ngatuere, Policy Analyst, for the Road Transport Forum NZ:

*"It is entirely practical for a shipper (consignor) to rely on their transport operator to ensure that compliant ferry tie downs are fitted to their vehicles."*

*It would be impossible for consignors to inspect the vehicles transporting their goods and neither should shippers be expected to be aware of the over arching legislation which their transporters should comply with. Therefore, consignors expect that when their freight is transported it is being done so capably and legitimately."*

*However, at times transport operators let consignors down by attempting to transport freight on non-compliant vehicles. There are practices that consignors can employ to protect their interests if these circumstances arise. Contractual and insurance arrangements being the main two."*

The following comment was received from Sheryl Ellison, Managing Director, for Strait Shipping:

*"We believe it is absolutely practical for shippers to rely on operators to ensure compliance. Shippers should be able to expect the units carting their freight to comply with all relevant legislative requirements."*

*The major impediment for shippers will be that any load less than FCL can and are transferred and repacked into different transport units at the transport company's depot making it impossible for the shipper to check compliance for the shipper."*

*Multi shipper consignment would also make shipper confirmation of compliance impractical."*

## Safety on board

The following comment was received from Margaret Wind, Managing Director, for Maritime Management Services:

*"There is no question that securing points will improve safety on board.*

*It would have been interesting to understand the background behind the requirement, particularly with regard to applying the rule to Enclosed limit ships. Loading times and consequent schedule delays will ensue under this rule for vessels operating within Enclosed limits. Most Enclosed limit Ro-Ro and vehicular Ferries do not currently have lashing points installed on their vessels. The process of installing lashing points in many cases, would require re-decking the ship. The lashing points need to be installed inside the steel and made flush to prevent injury to walk on passengers or damage to smaller vehicles.*

*SeaLink vessels which operate in the enclosed limits are of a lightship design which are not designed to operate in conditions where lashing points become necessary or effective. Six months is not considered long enough to achieve this as many companies will not have budgeted for this cost in the current financial year. Has there been a case study or cost benefit analysis completed, to show that safety would be significantly increased through the installation and securing of lashing points for enclosed limit vessels?*

*We would recommend that Enclosed limit vessels be exempt from the rule. This would also reduce the number of exemption applications required."*

The following comments were received from Andrew Lees, Safe Ship Manager, for Sealink Travel Group:

*"SeaLink Enclosed limit Ro-Ro and vehicular Ferries do not currently have lashing points installed on their vessels. The process of installing lashing points in two cases would require re-decking the ship.*

*SeaLink have an extremely limited time to unload and reload a vessel (15 min), a requirement to lash down any vehicle over 3.5 t would severely disrupt our current timetables which we are obliged to keep, not only to our customers but also to Auckland Transport who allocate certain departure times from each port. SeaLink would have to completely re model the operation – everything from reapplying for timetable slots, crew rosters, hours of work of both crew and shore based staff. Due to the increased capacity and the fewer daily trips due to longer turnaround times, SeaLink would be not able to complete our scheduled maintenance days, this would require maintenance to be done during evening hours increasing overheads and therefore increasing fares.*

*We would recommend that enclosed limit vessels be exempt from the rule. SeaLink vessels which operate in the enclosed limits are of a lightship designs which are not designed to operate in conditions where lashing points become necessary or effective. This would also reduce the number of exemption applications required.*

*It is not practical to expect shippers of cargo to rely on the operator of the semi-trailer to ensure compliance. In some cases, trucks arrive within minutes of driving onto the vessel. A more practical solution would be to apply this rule to operating limits beyond Enclosed, where appropriate manifests and securing checks can be made.*

*Has there been a case study or cost benefit analysis completed, to show that safety would be significantly increased through the installation and securing of lashing points for enclosed limit vessels?*

*SeaLink currently has exemptions from the requirements of Lashing Points for enclosed limits vessels. Attached."*

## **MNZ response**

Rules 24B.10(2) and (3) detail the requirements for *vehicles* to have securing points. The rules do not detail the securing arrangements requirements for the ship, which are provided for in rule 24B.7. No amendment is proposed to rule 24B.7.

It is proposed to amend sub-rules (2) and (3) of this rule to restrict their application to ro-ro ships to which rule 24B.14 applies – that is, ships on international voyages or ships of 45 metres or more on a coastal voyages.

## **Infringement fees, compliance and consistent monitoring**

The following comment was received from Margaret Wind, Managing Director, for Maritime Management Services:

*“As with all rules, industry seeks consistent monitoring of compliance by the regulator. We would also recommend a warning or close out period for compliance, followed by infringement. This might be more practical where operators have not been aware of the regulation in good faith.”*

The following comment was received from Sheryl Ellison, Managing Director, for Strait Shipping:

*“We are not in favour of infringement fees for non conformities but rather prefer refusal of passage if the information plate is missing or the unit is non compliant.*

*Fines against the owner of the cargo (shipper) would in our opinion be directed at the wrong party due to their lack of ability to know or effect lashing requirements as discussed in Comment Request 2. How would multi shipper consignments be dealt with? A Freight load made up of 20 consignees (shippers) could mean a fine total of \$60,000 which is disproportionate to the offence.*

*Fines against haulage companies is not the way to get positive change in compliance as not only does this create potential animosity at the modal change area but also serves very little purpose when refusal of shipment is currently working for ISO 9367/1 compliance.*

*Also owners “may” be unaware of the rules through a number of scenarios. If this happens and they are refused passage they can then become compliant however a fine is not a positive way to address such a situation moving forward.*

*History shows that a refusal of passage system has worked very well for truck and trailer units (ISO9367/1)”*

And

*“We object against introducing an infringement fee against the master.*

*As it is, the Master is already held accountable for almost any decision he or his crew makes. The Company has a Safety Management System (Approved by the Director) in place that among other things, manages cargo securing. The Master is ultimately responsible for compliance with the Safety Management System on the vessel. Compliance with the Safety Management Systems is ensured by means of internal and external (MNZ) SMC Audits.*

*It is hard to see how adding an infringement fee is going to contribute anything to improve compliance with the Safety Management Systems.”*

The following comment was received from Mark Ngatuere, Policy Analyst, for the Road Transport Forum NZ:

*"We do not support the proposal to implement an infringement regime for non compliant vehicles and have discussed this further under Section 7.0 of our submission. Despite this we do support the majority of changes that have been proposed.*

*We do not support this suggestion. Infringement regimes are put in place to drive positive changes in behaviour. Implementing a ferry tie down infringement regime will not be instrumental in increasing ferry tie down compliance.*

*The reason that transport operators meet ferry tie down requirements is that unless their vehicles are compliant they will be refused transport on ships. Transport refusal results in substantial immediate and ongoing commercial losses for transport operators until their vehicles are made compliant.*

*Infringement penalties would add to the commercial losses borne by transport operators but wouldn't further compel them to make their vehicles compliant as they would be doing so to ensure business continuity. The implementation of an infringement regime would not increase ferry tie down compliance and would therefore be an unnecessary imposition upon transport operators.*

*The introduction of an infringement regime also seems counter to the Government's attempts to reduce compliance costs within the industry. We suggest that this proposal should progress no further."*

### **MNZ response**

MNZ would observe that there is a difference between compliance costs and any financial incentive associated with enforcement measures. Any infringement fine would be an enforcement cost not a compliance cost.

MNZ will discuss the proposed infringement fines regime with the Ministry of Transport, taking into account the responses received.

### **Miscellaneous Issues**

The following comment was received from Mark Ngatuere, Policy Analyst, for the Road Transport Forum NZ:

*"As mentioned earlier, we welcome the referencing of NZS 5444 within the rule. However, there are clauses within the Standard that could be relaxed as there are viable, simpler alternatives to them. The relaxations that we are suggesting will provide positive operational outcomes for stakeholders while having no adverse affect on safety, compliance or compliance confirmation."*

### **Air suspension**

*"NZS 5444 clause: 2.6.2 Air Suspension Device Clause 2.6.2 requires that "road vehicles equipped with air suspension shall have a device which can easily be used to eliminate the effect of the air on the suspension system during sea transportation". This clause also requires that such devices "shall be readily accessible and be marked "road position and ro-ro position"*

*The fitment of air suspension devices was widely discussed during rule development meetings. The motion was made to forgo this requirement as very few road transport vehicles at that time were fitted with such devices. Very few vehicles since the current rule's implementation have been fitted with air suspension devices as described in NZS 5444.*

*The rule amendment should reflect this as there are simpler more cost effective ways of eliminating air from suspension systems.*

*We suggest providing an exemption to Clause 2.6.2 within the rule."*

### **MNZ response**

The draft rule is amended to refer to securing points in accordance with NZS 5444:2005 (which are covered in clause 2.2) and marking with an information plate in accordance with NZS5444: 2005 (which is covered in clause 2.7.3).

### **Identification of semi-trailers**

*“NZS 5444 clause: 2.7.4 Identification of semi-trailers Clause 2.7.4 suggests that identification of semi trailers at terminals and on ships could be facilitated by marking semi trailers with identification markings consisting of the owners mark and/or a number. The clause continues on with specific marking requirements.*

*We suggest that vehicles be exempted from this requirement. There are other means which ship operators use to match vehicles to their owners and the addition of this requirement would only add further unnecessary costs to the regime.”*

### **MNZ response**

The draft rule is amended to refer to marking with an information plate in accordance with NZS5444: 2005 (which is covered in clause 2.7.3).