

Recommended

# BEST PRACTICES FOR **BOAT** TRANSPORTERS

NMMA Transportation Task Force



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## INTRODUCTION

### 1.1 Purpose of the Document

The National Marine Manufacturers Association Transportation Task Force has developed this document to provide boat manufacturers and professional boat transporters with a clearly defined set of recommended best practices. The Task Force developed these best practices after a series of meetings in 2005 and 2006. Use of these best practices will help ensure that recreational boat manufacturers transport their products in a safe, prudent and lawful manner, which will further enhance the boat buying experience for all parties.

These best practices are not intended as legal advice nor do they contain every item that a boat transporter should be aware of prior to hauling a boat. NMMA encourages boat manufacturers and transporters to contact their attorney for legal advice regarding their specific situation.

### 1.2 Audience

This document is targeted to transportation managers for boat manufacturers, boat transporters and any other entity involved with the commercial transportation of recreational boats.

## CONTRACTUAL ISSUES

First and foremost, a transportation manager should ensure that a written contract be in place with any transporter detailing the agreement for services and rates to be charged, prior to shipment. The contract should set forth the duties and obligations of each party. The following items should be addressed in a contract and verified by the transportation manager.

### 2.1 U.S. DOT Number

**A carrier must possess a valid and current U.S. Department of Transportation (DOT) number with a Satisfactory Rating.** Other DOT rating possibilities include Conditional and Unsatisfactory. A U.S. DOT number is required for all vehicles used in a commercial application where the combined weight of the vehicle and trailer exceeds 10,000 pounds. A Satisfactory rating indicates that the carrier has been compliant with all U.S. DOT requirements and is a general indicator of compliance with laws.

### 2.2 SafeStat Score and MC Number

**Review the “SafeStat” score of the carrier.** This information can be found on the SaferSys web site at [www.saferSYS.org](http://www.saferSYS.org). Information about the carrier including accident data, out-of-service data, insurance data, etc. can all be found at this web site.

**The carrier must possess a current and valid MC number.** The MC number (indicating that it is an interstate for-hire motor carrier) gives the carrier authority to transport goods for other parties. This is the carrier’s “for-hire” authority.

### 2.3 Safety Requirements

**The carrier will only use properly qualified and trained drivers including all required licenses, physicals, and drug and alcohol testing.** Hiring properly qualified and trained drivers is required by law. Requirements for drivers can be found in the Federal Motor Carrier Safety Regulations under “driver regulations” available at <http://www.fmcsa.dot.gov/rules-regulations/rules-regulations.htm>.

**The carrier will only use safe, properly marked and maintained equipment.** Commercial vehicles must be properly marked as defined by law, which includes annual inspection stickers. The law also requires that equipment be properly maintained and in good and safe operating condition.

**The carrier will possess and use proper safety equipment for the transport of boats and cargo.** Load securement requirements are defined in the Federal Motor Carrier Safety Regulations and every carrier should be familiar with the requirements. This includes load ratings for straps, position of tie-downs, etc. Many times a manufacturer will load boats onto the carrier’s equipment leaving the securement duties to the carrier. Boats are unique in the way they must and can be secured. Any carrier or driver should demonstrate their knowledge of the uniqueness of boats and requirements for safe securement.

### 2.4 Independent Contractor Status

**The carrier will remain an “independent contractor.”** The Task Force recommends that this should part of the legal contract. Simply, this states that the Carrier (and its subcontractors) is and shall remain an independent contractor and is not and shall not be deemed to be an employee, joint venturer, partner or franchisee of the manufacturer for any purpose whatsoever. This provides the manufacturer with legal protections for the actions of the carrier.

## 2.5 Hours of Service

**The carrier will operate within the law including hours of service.** Several laws apply to commercial motor vehicle carriers. If a manufacturer knowingly loads a carrier's equipment in an illegal manner or if the carrier is involved in an accident, the manufacturer will likely be drawn into a lawsuit or enforcement action. Drivers operating a commercial motor vehicle are governed by the Federal Motor Carrier Safety Regulations as to how many hours they are allowed to drive. Any carrier should agree that they will operate within these limits. More information on the hours of service can be found at: <http://www.fmcsa.dot.gov/rules-regulations/topics/hos/hos-2005.htm>.

## 2.6 Insurance Requirements

**The carrier will have all necessary insurance.**

**Workers compensation:** insurance coverage for an employee's work related accident or injury for medical costs and indemnity costs as prescribed by state law. This coverage is important for a carrier to provide for a potential accident or injury that may occur while the carrier's employees are working on behalf of the manufacturer or at the manufacturer's location. Keep in mind that if the drivers are contract employees, the carrier may not have workers compensation. In that case, a transportation manager would need to know how the contract employees are covered for such an injury, if at all. It is recommended that the main contract identify this obligation and that it is the carrier's responsibility to provide this coverage.

**Automobile liability:** insurance coverage that protects the carrier against financial loss because of legal liability for automobile-related injuries to others or damage to their property by an auto. This is essential for carriers as it provides coverage in the event that an accident occurs in the course of a freight delivery. A transportation manager will want the carrier to be adequately protected and have the policy extend additional insured status to the manager's company should the company be named in a claim or lawsuit by any third party that may be involved in the accident. Additional insured language is used when adding a party to a liability policy.

**Motor truck cargo:** insurance for the loss of property in the course of transit. This coverage is important for the insured value of the load that the carrier will be carrying for the boat manufacturer. The value requested should be enough to pay replacement cost for what the carrier is hauling for the boat manufacturer. It is important that the term 'loss payee' is used when adding the boat manufacturer to this particular insurance. Loss payee is used when property is being insured.

**Commercial General Liability:** insurance for the carrier's business organization for liability claims for bodily injury or property damage arising out of the carrier's premises, operations, products, and completed operations, advertising and personal injury liability. The transportation manager will want the carrier to be adequately protected and have the policy extend additional insured status to the boat manufacturer's company should it be named in a claim or lawsuit arising out of the carrier's business activities.

Typically, insurance clauses in a contract are listed after the indemnification paragraph. They are meant to support the indemnification language, although not all items mentioned in an indemnification can be insured. The reason for asking to be named as an additional insured on auto liability and general liability policies are generally so that the transfer of risk outlined in the contract or agreement will allow the boat manufacturer to be protected and defended under the carrier's insurance policy(ies). It may also avoid having losses impact the loss history of the additional insured, thus avoiding increased insurance premiums in future years. And, it may increase the chances of cooperation between the parties in the

event of a claim or suit. It is important to name the correct legal entities that need to be named as additional insured, which may include a parent company, subsidiaries, or affiliates.

Requesting that a policy be **non-contributory** to any insurance that you carry is important so that a boat manufacturer's insurance policies would not be brought into a claim or suit and the carrier's insurance would be primary. Should a claim or suit exhaust their insurance limits, the boat manufacturer's insurance would then be excess.

Requesting **notification of policy cancellation** is important so that the transportation manager can be aware if a carrier loses his insurance by cancellation. Note that most insurance companies have a ten day notice for non-payment of premium, so cancellation notices should be reviewed immediately upon receipt should it impact a particular relationship or load already scheduled.

Requesting a **defined financial rating of an insurance carrier** is important so the transportation manager will know that the carrier is placing their coverage with a financially sound insurance company, and it has the reserves available to pay claims.

A transportation manager should also review the **deductibles** when looking at a carrier's insurance coverage. An evaluation of the carrier's ability to meet the deductibles should be performed in the event of a claim.

## 2.7 SCAC Code

**Does the carrier have a SCAC code?** The Standard Carrier Alpha Code (SCAC) is a unique two-to-four-letter code used to identify transportation companies. The National Motor Freight Traffic Association (NMFTA) developed the SCAC identification codes in the mid 1960s to facilitate computerization in the transportation industry. The Standard Carrier Alpha Code is the recognized transportation company identification code used in the American National Standards Institute (ANSI) Accredited Standards Committee (ASC) X12 and United Nations EDIFACT approved electronic data interchange (EDI) transaction sets such as the 856 Advance Ship Notice, the 850 Purchase Order and all motor, rail and water carrier transactions where carrier identification is required. The SCAC is required on tariffs filed with the Surface Transportation Board (STB). The United States Bureau of Customs and Border Protection has mandated the use of the SCAC for their Automated Manifest (AMS) and Pre-Arrival Processing (PAPS) Systems. SCACs are required when doing business with all U.S. Government agencies and with many commercial shippers including, but not limited to, those in the automobile, petroleum, forest products, and chemical industries as well as suppliers to retail businesses and carriers engaged in railroad piggyback trailer and ocean container drayage. A Google search on "SCAC" will provide many sources for obtaining a SCAC code.

## 2.8 Other

**Prior to transport make sure fuel is drained from any fuel tanks.** Often, warranty return boats or boats that have been used will have fuel in the fuel tanks. In order to avoid spills and damage, dealers and carriers should be instructed to drain all fuel out of boats before transporting.

## DEALER PICK-UP CHECKLIST

Transportation managers should evaluate the following check list prior to allowing a dealer to pick up a boat. (Links to Federal Motor Carrier Safety Regulation websites are included for reference.)

### 3.1 Equipment

**Does the boat dealer's (or its carrier's) equipment meet Federal guidelines with regard to the following?**

#### POWER UNIT

**Weight Class:** Does it have a gross vehicle weight rating (GVWR) or gross combination weight rating (GCWR) or gross vehicle weight (GVW) or combination weight (GCW) of 4,536 kilograms (10,001 lbs) or more in interstate commerce? *See* Definitions, 49 C.F.R. § 390.5 ([http://www.fmcsa.dot.gov/rules-regulations/administration/fmcsr/fmcsrruletext.asp?rule\\_toc=759&section=390.5&section\\_toc=1739Part%20390.5](http://www.fmcsa.dot.gov/rules-regulations/administration/fmcsr/fmcsrruletext.asp?rule_toc=759&section=390.5&section_toc=1739Part%20390.5)).

#### DEFINITIONS COMMERCIAL MOTOR VEHICLE

**Properly Marked:** Is the vehicle properly displaying carrier information and U.S. DOT Number? *See* Marking of CMVs, 49 C.F.R. § 390.21 ([http://www.fmcsa.dot.gov/rules-regulations/administration/fmcsr/fmcsrruletext.asp?rule\\_toc=759&section=390.21&section\\_toc=1748](http://www.fmcsa.dot.gov/rules-regulations/administration/fmcsr/fmcsrruletext.asp?rule_toc=759&section=390.21&section_toc=1748)).

#### TRAILER

- Trailers should be in a safe, working condition and not exceed the recommended towing specifications of the vehicle.
- Trailers should be of **adequate size** for overall dimensions of the load.
- Trailer brakes must meet Federal Regulations: *See* Breakaway and emergency braking, 49 C.F.R. § 393.43 ([http://www.fmcsa.dot.gov/rules-regulations/administration/fmcsr/fmcsrruletext.asp?rule\\_toc=762&section=393.43&section\\_toc=1880](http://www.fmcsa.dot.gov/rules-regulations/administration/fmcsr/fmcsrruletext.asp?rule_toc=762&section=393.43&section_toc=1880)).

#### RIGGING

Are straps, chains and binders provided by dealer appropriately **rated and marked**? *See* Cargo Securement, 49 C.F.R. § 393 (<http://www.fmcsa.dot.gov/rules-regulations/truck/vehicle/cs.htm>).

### 3.2 Driver

#### Credentials

Does the driver hold a **proper license and current medical card**, as required by State and Federal DOT regulations specific to the type of Commercial Motor Vehicle? *See* Qualifications of Drivers, 49 C.F.R. § 391 ([http://www.fmcsa.dot.gov/rules-regulations/administration/fmcsr/fmcsrguidedetails.asp?rule\\_toc=760&section\\_toc=760](http://www.fmcsa.dot.gov/rules-regulations/administration/fmcsr/fmcsrguidedetails.asp?rule_toc=760&section_toc=760)).

### 3.3 Documentation

The transportation manager must ensure that a proper Bill of Lading is completed by the shipper and provided to the driver consistent with any other shipment, in addition to any invoice provided for the dealer. *See* Motor Carrier Bills of Lading, 49 C.F.R. § 373.101 ([http://www.fmcsa.dot.gov/rules-regulations/administration/fmcsr/fmcsrruletext.asp?rule\\_toc=743&section=373.101&section\\_toc=1140](http://www.fmcsa.dot.gov/rules-regulations/administration/fmcsr/fmcsrruletext.asp?rule_toc=743&section=373.101&section_toc=1140)).

## CARGO SECUREMENT

Boat manufacturers and transporters should be aware of the Federal Motor Carrier Safety Administration's (FMCSA) new cargo securement rules (49 C.F.R. § 393) that went into effect in 2004.

The new rules required motor carriers to change the way they use cargo securement devices to prevent articles from shifting on or within, or falling from commercial motor vehicles. The new cargo securement rules apply to the same types of vehicles and cargo as the old rules, covering all cargo-carrying commercial motor vehicles (as defined in 49 C.F.R. § 390.5) operated in interstate commerce.

### 4.1 Performance Criteria

The biggest change in the new cargo securement rules is the performance based criteria or test for deceleration in the forward direction, and acceleration in the rearward and lateral directions. For specifics on this new criteria transportation managers and carriers should read "Understanding the FMCSA's Cargo Securement" that can be found at: <http://www.fmcsa.dot.gov/rules-regulations/truck/vehicle/cs.htm>. In addition, many private companies have also published guides to assist transporters in complying with the cargo securement rules.

Below is the answer to a commonly asked question:

**Do I have to secure my load every ten feet?** The general rules call for a minimum of tie downs for certain sized loads (between every 5–10 feet). However, the FMCSA recognizes that not all loads can be secured in this way. Some industries have asked for "commodity specific" rules. The boating industry does not have a commodity specific rule. However, NMMA has been informed by FMCSA that boat transporters can use the "special purpose vehicle" provision (49 C.F.R. § 393.110 (d)) because boats must be "fastened by special method." According to the FMCSA's guidance—

Generally, the basic rules concerning the minimum number of tie downs do not apply to a vehicle transporting one or more articles of cargo, such as, but not limited to, machinery or fabricated structural items (e.g., steel or concrete beams, crane booms, girders, and trusses, etc.) which, because of their design, size, shape or weight must be fastened by special methods. However, any article of cargo carried on that vehicle must be secured adequately to the vehicle by devices that are capable of meeting the performance requirement and the working load limits.

### 4.2 Tips for Boat Transporters

The Task Force also identified several "cargo securement tips":

- When transporting boats with their trailers be sure to secure both the boat and the trailer with commercial straps, even if the boat is secured by a strap to the consumer trailer. These straps are intended for consumer use and not for commercial transport.
- When securing a boat through its bow eye, in order to keep the boat from moving side to side or being pulled off center, most transporters will use two straps. However, the required rating should be doubled since each strap's rating is reduced by half in this application under the cargo securement rules.
- Make sure all staff, contractors, and drivers who secure your cargo are properly trained in the cargo securement rules, industry best practices, and your company's policies and procedures.

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NMMA welcomes NMMA members and their transportation contractors to become members of the NMMA Transportation Task Force. Please contact Matthew Long at MLong@nmma.org for additional information.

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