

THE SOURCE

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SOLAS RULES SET TO TAKE EFFECT JULY 1

In less than a month, on July 1, 2016, container lines will be obliged to reject any shipping containers that don't have a verified gross mass (VGM) declaration as called for in the Safety of Life at Sea (SOLAS) rules, which were passed in 2014, and promulgated by the International Maritime Organization (IMO), an agency of the UN.

Historically, carriers have charged shippers based on the size of the container, not its mass. Shippers have been required to include a "declared" weight, but these were often estimates and highly inaccurate. Decisions about the loading of containers onto a vessel, a crucial determination in order to maximize the stability of the ship, cannot be done with any degree of accuracy if the actual mass of each container is not known—container size is one factor, but weight is important for proper loading, and a container of iron fittings is, of course, much heavier than a container of pillows. Stability at the dock is important, but stability at sea is vital for the safety of the crew, the ship, and the cargo.

In 2010, the IMO began examining the issue of container weight as an underlying cause in the loss of containers at sea during weather conditions, including weather conditions that were not especially extreme, and as a factor in some vessel casualties. Their findings strongly indicated that the lack of accurate weight information caused vessels to be loaded improperly, contributing to the instability of container vessels, thus leading to loss of containers and often damage to vessels.

After several years of study, it was formally recommended that shippers be required to verify the gross mass (VGM) of containers presented for carriage in international commerce. The SOLAS convention was accordingly amended in 2014 to adopt this requirement and is applicable global law.

Two methods were set forth to arrive at VGM: (1) Weighing the packed container using calibrated and certified equipment, which can be done at any location freely chosen by the shipper; or (2) weighing all packages and cargo items, including pallets, dunnage and other securing material to be packed in the container, and then adding the tare weight of the container using a certified method approved by the competent authority of the State in which packing of the container was completed, and in accordance with the uniform industry guidance for implementing this method.

No stakeholders deny the importance of vessel stability and global conformity to safety regulations, but from the beginning shippers have voiced concern about their role in compliance with the new rule, as the onus of compliance as outlined in the IMO verbiage has rested heaviest on their shoulders.

There has been, and remains, significant confusion regarding where cargo can be weighed and how the certification of scales will be implemented. In a hearing in mid-April before the House Subcommittee on Coast Guard and Maritime Transportation, Donna Lemm, chairwoman of AgTC's Container Weight Committee, spoke for the agricultural industry and argued that method #1 would be

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SOLAS RULES TO TAKE EFFECT JULY 1*continued from page 1*

impossible, as certified scales are very difficult to find or get to from most agricultural regions. Transporting for the purpose of weighing would add roughly \$200 to \$250 per container—a lot of money on already thin margins—and passing the cost on would impact U.S. competitiveness in the global market. She also cited the West Coast terminal operators' decision to refuse weighing services for shippers using their facilities.

The issue with method #2 is that it would force shippers to claim responsibility for certifying the tare weight of a container that they neither own nor control.

Lemm stated that it's a matter of liability.

In response to shippers' concerns, the U.S. Coast Guard approved two alternative methods for obtaining VGM in late April, and sent a letter to the IMO repeating its stance that there are multiple ways to meet the new SOLAS rule.

The first is for the terminal to weigh the container, and when duly authorized, verify the VGM on behalf of the shipper. This was originally proposed by the South Carolina Ports Authority and would only add a marginal cost to the shipper. No other port has agreed to offer this service.

The second, which was proposed by AgTC and is referred to as the "rational" method, is for U.S. exporters to certify the weight of their cargo and packing materials, while the container lines certify the weight of their containers. The liners would then add the weight together to arrive at the VGM, which will then be submitted to the terminal operator before loading. This method has been met with resistance from various ocean carrier lines, who claim that the IMO law does not allow the carrier to add the tare weight of the container to cargo weights provided by the shippers to obtain a VGM.

The Coast Guard has made statements as the enforcing agency responsible for deeming a container safe or unsafe, and has tried to add clarity and guidance, but has repeatedly maintained that it has no position when it comes to determining who is responsible for obtaining the VGM, that it is a commercial matter between shippers and carriers, not an issue of regulatory compliance. According to the Coast Guard, shippers may collaborate with ports and terminal operators when providing VGM to the carrier. This is assuming, of course, that the ports and terminal operators are willing to collaborate, which is by no means certain.

In a May 23rd circular, the IMO's Maritime Safety Committee advised that "while there should be no delay in the implementation of the SOLAS requirements, it would be beneficial if Administrations and port State control authorities could take a 'practical and pragmatic approach' when enforcing them for a period of three months immediately following 1 July 2016."

The recommendation came, in part, as a response to concerns raised with specific shipping scenarios in mind, such as a situation in which a container was loaded prior to July 1 and then transshipped. In this instance, the container would be allowed to reach its final port of discharge without a VGM.

The recommendation was also to provide some leeway "in order for any problems resulting from software updates, required for the electronic transmittal of VGM, to be rectified without causing delays to containers being loaded."

Notwithstanding, the MSC emphasized that "the stability and safe operation of ships, including the safe packing, handling and transport of containers, is not limited to the provision and use of VGM information and is also covered by a number of SOLAS regulations, including SOLAS regulations VI/2.1, VI/2.2 and VI/2.3, and other IMO instruments, amongst others."

Then there are the marine insurers, already warning that insurance rates for cargo can be expected to increase in the short term after implementation of the new rule. In a May 23rd press release, the International Union of Marine Insurance (IUMI), stated that the issues included "increases in risk exposure due to disturbances in the supply chain; un-weighed containers being refused on board with delays for perishables or time-sensitive cargoes; and the consequent accumulation risk associated with more containers languishing in ports. Additionally, liability underwriters will have short term issues with clients in the logistics sector as their exposure increases."

The press release expressed support for the IMO's efforts, and also urged stakeholders to prepare as best as possible to mitigate short-term upheaval, and to be aware of insurance implications "which can change from region to region" if they find themselves in breach of the regulation, "particularly ship's masters who are likely to come under pressure to accept containers without the approved weight verification."

SOURCE: IMO briefing—5/23/16; IUMI press release—5/23/16; Journal of Commerce—ongoing coverage.



SMALL PLATES

TRUCKING HOURS OF SERVICE UPDATE

Last month the House Appropriations Committee passed a FY2017 transportation spending bill that included removal of the 2011 restart provisions, which came into effect in 2013 and were actually suspended by Congress in 2014. The bill would restore the 2005 restart rules, which allow unlimited use of the restart provision and does not require two back-to-back 1 AM to 5 AM periods in any restart.

If the glitch in the 2015 omnibus spending bill (which stated that if the 2013 restart provisions do not improve health and safety, then the 34-restart itself may be eliminated) is not fixed, truckers may have to revert to the antiquated “rolling recap.”

The Senate passed its own version of the THUD bill, which ties the future of any 34-hour restart provision directly to the results of the FMCSA’s Congressionally mandated study on the 2011 restart provision.

The American Trucking Associations (ATA) praised the House action and urged the full House to quickly pass the legislation and resolve differences with the Senate bill. But that is unlikely to happen and will probably drag out this summer as Congress goes on recess and legislators head home to hit the campaign trail in a very challenging and divisive election year, possibly not even resurfacing until a new Congress is seated in January, 2017.

SOURCE: Journal of Commerce—May-June, 2016 articles.

TIME IS ESSENTIAL IN FILING A FREIGHT CLAIM

Imagine that your vendor has shipped 20 cartons of goods to your DC. Your carrier’s delivery receipt states 1 pallet, with no carton count listed near the quantities and descriptions—it’s somewhere less obvious on the dr as STC 20 CT. Your receiver signs the dr without exception because one pallet was shipped and one pallet was received. So far so good.

But let’s say you discover a shortage in a count taken later - you only have 18 cartons, not 20. It would be natural to assume that the shortage is the fault of the vendor, not the carrier, since the freight was signed for without exception. By the time you short-pay the vendor within your payment terms—maybe 30 to 60 days—and the vendor contacts your accounting department about the deduction, and the research is duly done internally to get to the bottom of who is at fault, you may find yourself up against the clock for filing a claim with the carrier.

Rail and motor carriers are governed by the Carmack Amendment, which states that claimants have a minimum of 9 months from the date of delivery to file a claim. Most if not all carriers will not extend beyond the minimum time period, although in the absence of specification in the tariff this may not be upheld.

Remember that you cannot file a claim until the freight is paid, and be sure to hold onto all paperwork pertaining to the claim—bill of lading, delivery receipt. Photos are a good idea as well. But timely filing is the most important thing you can do.

SOURCE: Cerasis.com; Journal of Commerce—5/30/16 article.

COMING TO A FRIDGE NEAR YOU

You’ve heard of groceries being delivered to your door, right? How about groceries delivered directly to your fridge?

Scandinavian courier company, PostNord AB, and supermarket chain, ICA AB, are testing a new service with about 20 households in Stockholm, Sweden, promising that messengers will remove their shoes and unpack online deliveries even when customers are away.

Customers must install a new add-on lock on their doors that messengers can open with their smartphones. The lock allows

residents to decide remotely when to allow access to their homes.

One tester said she wouldn’t leave her valuables around, but pointed out that other people, including a cleaning lady, had access to her home when she wasn’t there, so she considered it to be a “controllable risk.”

This method of delivery solves one of the problems plaguing online deliveries, particularly of perishables: elusive customers. Without having to work around the schedules of customers, couriers can more efficiently schedule their deliveries, thus cutting costs. In-home, in-absentia

delivery could help the logistics industry meet a continued surge in online commerce, and it has the potential of becoming operational on a large scale very quickly.

There are safety and security issues to solve before this becomes widely used, and many people may never feel comfortable allowing this kind of access to their homes, but this just might turn out to be the next new brilliant idea.



SOURCE: Wall St. Journal online—5/30/16.

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TRIVIA

1. Can you finish this quote? *"I never let my schooling interfere with...."* Can you also name the source?
2. How many U.S. states border Canada, and which states are they?
3. In what Francis Ford Coppola movie does Marlon Brando say *"Horror has a face, and you must make a friend of horror"*?
4. Which month of the year always starts on the same day of the week as does the month of June?

Click here for answers to Trivia questions.