



Concern rising about how SOLAS weight rule can actually be implemented

Peter Tirschwell | Jan 26, 2016 2:42PM EST

When a container without a signed weight declaration shows up at a marine terminal as of July 1, when a new SOLAS rule takes effect, what happens next? Will the terminal allow the container in, hoping that the weight will arrive in time for the container to be handled and loaded without having to be pulled aside? Or does the terminal avoid the risk, telling the carrier and its customer that containers without the [Verified Gross Mass](#) won't be allowed in under any circumstances?

That and many other unresolved issues are raising anxiety levels among shippers, carriers and terminals as the implementation date is just a few months away.

U.S. exporters say the amendment to the SOLAS convention requiring shippers to provide a signed, certified weight to the ocean carrier and terminal is unworkable. They are asking how a shipper can be held responsible for the weight of a container whose tare weight, or unloaded weight, may be inaccurate, especially if the shipper never sees the container in cases where it's loaded at a transload facility, possibly thousands of miles away from the exporter's point of origin.

"It's a fiasco," said Peter Friedmann, executive director of the Agriculture Transportation Coalition, a group representing roughly 2,000 shippers. "Everyone who knows about how cargo moves from the origin and onto a ship knows that this thing is absolutely unworkable and will create unbelievable congestion unless minds who are familiar with how cargo moves are allowed to intercede."

Friedmann said the SOLAS issue was a bigger issue than merging [container lines](#) and shipping alliances, noting that virtually all agricultural exports — 75 percent to 80 percent of all U.S. outbound container shipments — would be affected.

Key to the discussion of how the SOLAS rule will be implemented involves what will happen at the terminal gate when containers arrive. If terminals bar entry to containers for which a VGM hasn't been provided, there could be significant disruption to trade flows. All parties appear to be waiting on the U.S. Coast Guard to issue guidelines, which are expected to be published in February.

Eleven U.S. terminals have told one of the large container lines that they will refuse to admit containers that arrive at the gate unaccompanied by a signed VGM provided by the shipper. Thus it would appear that a number of terminals are adapting, or at least hoping to adapt, the position [stated](#) by Maher Terminals at New York-New Jersey in December, which was that after July 1 it won't admit any container for which a VGM has not already been received via electronic means. That position puts the onus on the carrier to obtain the VGM from the shipper earlier in the process, which could create difficulties for carriers in facilitating the flow of its customers' cargo and amounted to a stake in the ground that one carrier executive said "doesn't appear to be consultative."

The story is likely far from over, as the carrier that was told by the 11 terminals that containers would get turned away said, "we as a carrier will probably ask" the terminals to be flexible. Flexibility in essence means

allowing containers into the terminal without the VGM. And given that the carriers are the main customers of the terminals, it remains an open question whether those terminals will be uncompromising in sticking to the position of no-VGM, no entry. Indeed, three other U.S. terminals told the carrier that they would accept containers without the VGM with the understanding that such containers can't be loaded as that would be a violation of U.S. law under the SOLAS rule.

“What does a [terminal operator](#) do when a box shows up and doesn't have the right information in order to validate the weight? That is where a lot of the discussion takes place,” Ron Widdows, the former APL CEO who is now a consultant and chairman of the World Shipping Council, the trade group representing container lines, told JOC.com in an interview this month. “Is a terminal going to take the box and then seek to get the information? Or are they going to reject the box at the gate for the lack of the information? There seem to be different views on how the terminal operators are going to behave in that regard.”

The terminals' position stems in part from their fear of congestion stemming from having to pull out and sequester containers for which a VGM has not been received, which would require additional storage space and handling costs that the terminal might have to absorb, and perhaps more importantly, interfere with the increasingly difficult task of handling the surges of containers coming moving on and off [mega-ships](#). Anything that could create exceptions, that is, situations where containers can't be loaded and where documentation or other issues need to get resolved, is a red flag for terminals. One senior carrier executive suggested that some terminals will take a wait and see approach, possibly allowing in some containers without the VGM, but watching carefully to see the number of exceptions and additional handling that is created.

How to meet the container weight mandate

As a shipper, what are your options?

OPTION A. Take a loaded container over a **weighbridge**, subtract the weight of the truck, chassis, and fuel to get the weight of the packed container.

OPTION B. Weigh each item – including its packaging, palleting, dunnage and other packing and securing materials – going into the box. Add that sum to the weight of the container to find the weight of the packed container.

TOTAL WEIGHT - TRUCK, FUEL, etc. LOADED WEIGHT

GOODS + PACKING, etc. + CONTAINER LOADED WEIGHT

Scales must be certified and calibrated in line with the national standards of the country where the weighing occurred.

What are you required to do?

Provide a document signed by the shipper to the shipping line and terminal declaring that the **shipper verified** the weight and that it was weighed properly.

The SOLAS amendment will be enforced by the coast guard or other agency responsible for SOLAS regulations in a given country and punishments for violations will vary by country.

What happens in the case of noncompliance?

There are all kind of possibilities for what could happen to the box that failed to provide the certified weight document but none are settled.

Terminals may choose to hold a container or send it back, but whatever happens, the ship will leave and the container will not.

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Also, few terminals so far seem to believe there is a viable business model in conducting weighing on behalf of shippers and charging them a fee, given the requirement to invest in weighing equipment and find space for the weighing process and associated storage. In its announcement in December, Maher said it would not offer weighing services and one senior carrier executive told JOC.com this week that he “is not seeing terminals lining up” to provide weighing services even if it would create an additional revenue stream. One senior terminal executive said his company fears that what starts as a revenue generating service could end up creating no revenue gains as a result of tough negotiations with carriers that could end up with terminals swallowing the associated costs.

A terminal's refusal to admit a container arriving without a VGM places the burden on the carrier to ensure that its shipper provides the VGM sufficiently in advance to avoid the container being turned away at the gate. The burden is especially heavy given that only some shippers submit documentation electronically, while many others submit documentation via fax or in hard copy form. According to the ocean container portal Intra,

approximately 300,000 container weights will need to be certified each day globally, and roughly half of all booking requests and shipping instruction submissions each day are non-digital currently.

Indeed, sensing an impending disruption to trade once the rule takes effect, some are saying that implementation of the VGM rule needs to serve as a catalyst globally to convert more documentation to electronic form.

“The carriers themselves, and their IT linkages, their EDI connections to their customers, becomes the most efficient means” of conveying the VGM information, Widdows said. “Not all customers interact electronically, you still have customers that send information by fax or a variety of different ways, but the most efficient system is getting that electronic, EDI connectivity to be a much more significant percentage of the business. That is going to ensure a more timely movement of the information and provide some consistency.”

One carrier serving the U.S. market said that all VGMs will need to be sent by shippers to the carrier electronically, thus indicating — if that carrier and others hold to that in practice — that the rule may already be having an effect on converting shipper-carrier interactions to electronic means.

Under the SOLAS rule, the VGM needs to be used for stowage planning and the carrier and terminal operator are barred from loading a container for which a VGM hasn't been received. Normally there is a two to three day cutoff in advance of vessel loading for containers to arrive at the terminal. But the ocean carrier compiles the load list one day after the cargo in-gate cutoff, so that theoretically leaves a day after a container arrives at the terminal for the VGM to be received. If it's not received by the time of loading, one carrier said, the terminals would have the ability to assess fees for any re-handling and storage of the container until the VGM is received, thus creating an additional revenue stream.

But for agriculture shippers, the issues in some cases go back further into the supply chain. For example, given that the shipper is legally responsible for providing the verified gross mass, how can the shipper know what the weight is if its cargo is loaded at a transload facility near the port by a third party?

Exporters are asking, for example, what variances to the declared VGM will the U.S. Coast Guard, the agency implementing the rule in the U.S., accept for inspections? Exporters say that the tare weight, or unloaded weight of the container, which is stenciled on the side of every container, can vary significantly from the actual weight of the container. Thus shippers should not have to be responsible for certifying the tare weight of the container under Method 2 of SOLAS, which allows the VGM to be calculated from the contents of the container weighed separately, and added to the tare weight of the container. Export transload facilities, which take cotton, soybeans, grain, or other agricultural commodities that arrive by rail or truck and transfer them to containers, are high volume operations where the containers are picked, packed and sent to the marine terminal in rapid succession. Agricultural shipper representatives said this makes it almost impossible for the VGM to be provided soon enough in the process to avoid disruption at the ports.

Friedmann said the AgTC has raised the issue with the Federal Maritime Commission and with members of Congress, describing why it feels the rule is unworkable but also expressing the fear that other exporting nations may not enforce the rule to the degree the U.S. does, creating a competitive disadvantage for U.S. exporters.

“If you want to see ports gummed up as they were two years ago, with the West Coast labor issue, just wait until the end of June when this new container weight certification goes into place and carriers begin to reject cargo.”

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