



US Coast Guard: SOLAS enforcement falls on each port, delay unlikely

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WASHINGTON — The enforcement of the SOLAS [container weight mandate](#) for U.S. exports — if there is any — will be done by each port, and the U.S. Coast Guard will get involved only if it boards an incoming vessel and finds it doesn't have verified gross mass for each box.

Rear Admiral Paul Thomas, the agency's assistant commandant for prevention policy, also poured cold water on [U.S. exporters' hope](#) that the Coast Guard would delay the rule, saying "that would be something that would have to happen at" the International Maritime Organization, which created the rule.

"The only reason I'm even entertaining the idea of putting a policy letter out is because of all the angst in the industry," Thomas said. The Coast Guard doesn't already have specific guidelines on how to enforce the IMO's container weight rules, he added, "because I've never needed it."

He said Coast Guard will detain the vessel and require the country that the ship is flagged under convenience to clear the detention. Thomas didn't disclose whether the carrier would be fined. The U.S. Coast Guard now detains roughly 10 to 12 vessels monthly, both container and otherwise, and the reasons are generally for safety and environmental violations.

The interview with Thomas provides some of the first insights into how the Coast Guard will and won't enforce the global mandate requiring shippers provide a VGM based on actual weighing of the cargo, starting July 1. The mandate, under an amendment to the IMO's, Safety of Life at Sea, or SOLAS, convention originally approved in 2014, prevents carriers from shipping any containers without the VGM.

But U.S. exporters hoping the U.S. Coast Guard policy letter, expected to be released later this month, will clear up their confusion should look elsewhere. The letter will contain "very little" not already covered in the IMO convention and it's up to shippers and carriers to prepare for the rule, Thomas said.

He said it's unlikely that the policy will include a margin of error between the VGM and any containers weighed at the port.

"If agricultural products can vary as much as 10 percent based on temperature, then the vessel's master has to account for that in determining the safe loading of the vessel. But there's no way to write a policy to cover every single loading condition of a vessel." Thomas said.

He said he plans on attending a meeting between shippers and [container lines](#) Feb. 18 at the U.S. Maritime Commission to find out why the industry hasn't worked through potential problems sooner. In contrast, Japan has drawn up [drafts of guidelines and revised ministry ordinances](#) that outline penalties and variation between the verified gross mass and actual weight of a container. The two revised ordinances of the transport ministry, which contain administrative punishments, including fines, for violators of the new international rules, are scheduled to be promulgated on April 1.

"The need for (weight) information in terms of the safe operation of the vessel has always been there, so my question to the industry is, how did you meet that before July 1? This is why I say shippers and carriers need to get their act together, because they're in business together," Thomas said.

Some shippers, however, say it's not so clean-cut on how to meet the mandate, nor is the need for such a rule as pressing as carriers have argued. Led by the Washington-based Agriculture Transportation Coalition, U.S. exporters are calling on the Coast Guard to delay the rule until it can be amended and determined that they won't face a competitive disadvantage against foreign exporters. Carriers are pushing back, saying the law does not allow for any delays.

"We cannot put U.S. exporters at a greater competitive disadvantage than they already are due to the high price of the U.S. dollar," Peter Friedmann, executive director of the group, the Washington-based Agriculture Transportation Coalition, told JOC.com.

Friedmann said the group was calling on the Coast Guard to delay implementation much the same way the Secretary of Homeland Security delayed implementation of the 100-percent scanning requirement for all inbound containers as mandated under the 2006 Safe Ports Act and at the very least the rule should be put off until July 1, 2017, he said.

The issue has been raised by Friedmann's group on Capitol Hill and members of Congress are starting to look into the issue. "There's growing interest in global container weight and it's something that both Representative Hunter and the subcommittee will continue evaluating. With the competing interests involved, it's important to fully understand all the arguments to determine the best way ahead. And that's something we're in the process of doing," said Joe Kasper, chief of staff to Duncan Hunter, R-Calif, chairman of the [Coast Guard and Maritime Transportation](#) Subcommittee.

"The Commerce Committee is making inquiries about the impact of the mandate," said Frederick Hill, communications director for Sen. John Thune, R-S.D., chairman of the Commerce, Science and Transportation Committee. Thune has been a strong supporter of agricultural exporters, having pushed for faster responses to shippers' rail complaints via a Surface Transportation Board reform bill and highlighting late last year how U.S. West Coast port congestion was crippling outbound shipments. He was also instrumental in pushing the Department of Transportation to [create metrics on port productivity](#).

Unlike in the Safe Ports Act, which authorizes the Homeland Security secretary to postpone the scanning rule, nothing in the law behind the container weight mandate allows for a delay in implementation, the World Shipping Council, the Washington-based trade group representing container lines globally, said.

"The Secretary of (the Department of Homeland Security) is authorized to postpone implementation of the 100 percent scanning provision if he/she determines that it cannot be successfully implemented. There is no similar provision in the SOLAS amendments," John Butler, CEO of the World Shipping Council, told JOC.com in an email. "More to the point, nobody can seriously make the case that in 2016 it is unreasonable to require a shipper to accurately describe the weight of a loaded container that it introduces into international commerce. We don't know of any other shippers that are making such a claim."

To the point that the rule shouldn't be implemented in the U.S. until other countries have implemented it, Butler said: "SOLAS is a safety convention; it does not allow member countries to ignore safety on the grounds of economic considerations."

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