

US Congress asks FMC if liners' SOLAS approach is lawful

Mark Szakonyi, Executive Editor, JOC.com | May 19, 2016 11:49AM EDT

WASHINGTON — The third-ranking Senate Republican has asked the U.S. Federal Maritime Commission to get more involved in mitigating [SOLAS container weighing concerns](#) and determine if container lines and marine terminals' approaches are consistent with U.S. maritime law.

The May 18 letter from Sen. John Thune, chairman of the Committee on Commerce, Science and Transportation, to FMC Chairman Mario Cordero intensifies congressional pressure on stakeholders in the containerized supply chain to find an agreeable response to the International Maritime Organization rule. Under the rule passed in 2014 and aimed at cracking down on misdeclared container weights, liners are forbidden from loading a container onto a ship unless there is a verified gross mass declaration. "Shippers have continued to raise concerns about technical issues, [international regulatory uncertainty](#) and carriers' individual and collective practices," said Thune, who has been active in working to ensure that exporters from his state of South Dakota and elsewhere in the U.S. are globally competitive. He promised in a mid-April Senate hearing to monitor how the industry responds to the SOLAS amendment.

Shippers can obtain a VGM in [one of two ways](#), according to the IMO. Shippers may either weigh the container and its contents as one unit, which is known as Method 1, or weigh every item and its packaging in the container and add that figure to the tare, or empty weight of the box, which is called Method 2. The U.S. Coast Guard has said there are [multiple methods](#) for U.S. industry to meet the rule, but other countries have not displayed such an interpretation of it.

In his letter, Thune noted that U.S. exporters have found container lines' requirement that they add the tare weight of the container to the weight of their goods to gain the VGM "inflexible and inefficient." [A group of agriculture exporters rejected](#) 19 container lines' attempt to mitigate shippers' liability concerns regarding the tare weight by issuing a common tariff stating shippers would not be on the hook for the accuracy of the box's weight. The Agriculture Transportation Coalition, along with 48 other associations, argue that U.S. companies would not allow employees to certify or take on liability for equipment that they do not own, control, manage or even see.

"If the true weight of the combined container and cargo (VGM) isn't their chief objective, how can this be about 'safety,'" Peter Friedmann, AgTC's executive director said Tuesday in an updated position paper. "And OCEMA still wants the exporter to put their name on the document to certify the container weight (regardless of if the weight is truly accurate), so let's be honest — is OCEMA about 'safety' or shifting liability?"

OCEMA said there are practical reasons for shippers to add the tare weight of containers using Method 2. In many cases, the exporter or its loading agent is best positioned to know which container is being used, OCEMA Administrator Stacey Normington told JOC.com.

"For example, for a large portion of U.S. export moves, the shipper completely controls the selection of the containers from pools of equipment it maintains on its premises. The shipper decides which container contains a particular cargo," she said.

Thune asked FMC staff to brief the committee on SOLAS by May 31. FMC was not immediately available for comment.

Cordero told JOC.com in late April that he was confident the industry would ultimately get its hands around the SOLAS rule. Although the agency did not have a role in the creation of the rule and implementation is left up to the U.S. Coast Guard, the FMC is playing an indirect role in discussing the challenges with shippers and container lines. The FMC provided the Feb. 18 forum for Coast Guard Rear Adm. Paul Thomas to hear industry concerns and explain the agency's approach to the rule.

Contact Mark Szakonyi at mark.szakonyi@jhs.com and follow him on Twitter: [@szakonyi_joc](https://twitter.com/szakonyi_joc).