

San Pedro Bay Ports Clean Trucks Program Comments Summary

Comments have been received through the following forums:

- each port's CAAP e-mail address
- letters addressed to the each port's Executive Director or other staff
- two previous stakeholder meetings
- Licensed Motor Carrier workshop, held on May 31, 2007
- two driver workshops, held on June 5 and June 7, 2007

While all of the commentators seem to be in agreement with the need to clean the truck fleet and improve air quality, numerous concerns have been stated regarding the ports' proposed implementation approach. The main comments received on the Clean Trucks Program, as of June 20, 2007, are:

Employee Mandate:

- Concerns were raised that not all concessionaires will want to use employees instead of contract drivers because not all businesses can afford the "benefits" given to employees, and not all workers want those "protections." Truck drivers and industry representatives have commented that many drivers prefer the flexibility and independence of the owner/operator system, and that drivers have the ability to make higher wages as independent contractors.
- Labor and driver representatives have countered that drivers do want to be employees and to receive the benefits of regular hours, increased wages and health insurance.
- Comments were expressed that requiring all drivers to be employees is discriminatory. Several feel that forcing self-employed business operators to be employees is un-American.
- Several other commentators have mentioned that there is nothing that compels employees to work as fast as owner-operators currently do; since they are paid by the hour, employees will receive the same amount of money no matter how many loads they haul in a given time period.
- In addition, comments have been stated that an employee-based system will not be dynamic enough to effectively respond to seasonal variability and peak season demand staffing needs. The concern was that this may have the unintended consequence of requiring a higher number of drivers and trucks, resulting in greater congestion during peak periods and seasonal layoffs during non-peak periods.
- Further, concerns have been expressed that the requirement for all drivers to be employees, in combination with implementation of the TWIC program, will result in an inadequate supply of drivers. Concerns have been raised that there is currently a shortage of drivers and current employee positions for port drayage truck drivers go unfilled.

Concessions Mode:

- Concerns were expressed that trucking firms that purchase their own clean trucks which meet the standards would still be required to purchase a concession, and thought that it was being used as a way of reducing competition at the ports rather than cleaning up emissions.

- Commentators also mentioned that the concession mode would eliminate the ability to negotiate terms and give an unfair advantage to those with large volume negotiating leverage.
- A few owner-operators wanted to know why they could not have a concession, and wondered if it had to do with a transfer of risk of the truck liabilities from the Ports to the carriers. Another thought that it was a throwback to the days before deregulation. Several were concerned that concessionaires must own a minimum of 50 trucks was too high.
- A non-containerized facility commented that organizing their customers into concessions to load cargo would be a difficult task.
- A few mentioned that some might use concessionaire truckers to haul cargo to a site just outside of the port where it would be picked up by trucks that are emitting the same pollution that the ports are trying to control.

Cost to Port-Related Industry:

- Commentators were concerned that the program would hurt the flow of trade and injure local businesses.
- Companies that use owner/operators to move goods were concerned that it would drive up their costs, make movement of their goods less efficient, and result in driver shortages which would in turn result in reduced service.
- Many feared that the program would divert cargo to other ports, several citing international ports in Mexico and Canada.
- Agriculture interests are concerned that it would make shipping their products out of the San Pedro Bay Ports cost prohibitive because of the nature of their market.
- Concerns have been expressed at the lack of economic impact analysis done by the ports on the proposed plan.

Cost to Trucking Industry:

- Owner-Operators expressed concern that the program would prevent them from earning a living at the Ports. The costs associated with buying new trucks are too high for most owner operators, and they are concerned about then being shouldered with payments for new equipment at a lower salary as an employee of a concessionaire or the Ports.
- Many small business owners expressed concern that they will be forced out of business by larger companies who can shoulder increases in costs better. There is concern that the program would also eliminate a large number of minority business owners. Concerns were expressed that this could have an impact on several industry related jobs, including dispatchers, accounting staff, warehousing operations and maintenance facilities.
- Out-of-state drivers involved in interstate commerce have stated that the program will have a negative financial impact on them.
- Some thought that the Truck Impact Fee should be the responsibility of the cargo owner, and that the fee should be charged directly to them by the ports, rather than passing it through the dray companies.
- Some commentators felt that reducing emissions shouldn't come at the cost of doing business at the Ports, and wondered why the responsibility should be placed on trucking industry.

Implementation:

- Concern was expressed that regulating the trucking industry in the Ports will lead to a patchwork of local restrictions in other parts of the state that would create an impossible situation to operate under, and make it hard to enforce any meaningful regulation.

- Comments stated that alternative proposals which establish standards for the industry would be more practical, including the regulation proposed by the CARB. A few comments were received that thought emissions monitoring of trucks would operate better as a program under the Department of Motor Vehicles.
- Several comments stated that the time frame for eliminating 1989 and older trucks was too short (eliminated by January 1, 2008), especially when there isn't currently enough grant money in the Gateway Cities program to fund the replacement of those trucks.

Legality:

- Many comments expressed that the ports do not have the legal authority to place requirements and/or restrictions on the local trucking industry. They state that the Interstate Commerce Clause of the US Constitution protects truck operators' ability to engage in interstate commerce, and that the Ports lack the proper authority to impose limitations. Also stated was the lack of authority of the Ports to implement clean air plans beyond what is imposed by state and federal environmental regulatory agencies.

Unionization:

- Concerns were raised that the employee mandate was driven by the unions and that unionization could result in higher costs, a less efficient workforce, and frequent labor and salary disputes that could bring the Ports to a standstill.