

Cleaner air for Oakland — but no one wants to pay for it

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GREEN CITY On Jan. 1, the Port of Oakland and surrounding areas will get cleaner air — and as many as 1,000 truck drivers may lose their jobs.

That's when the port's Clean Truck Management Plan (CTMP) takes effect, setting strict requirements for trucks operating in the port. The new rules are an effort to address the public health crisis in communities near the port, where diesel exhaust fumes have been contributing to rampant asthma and increased cancer rates.

While no one questions the need for cleaner air, there's still a raging battle over who should pay to overhaul old, dirty trucks — and how to make it possible for small independent truckers not to lose their livelihoods.

The new regulations, set by the California Air Resources Board (CARB), ban all trucks older than 1994 from entering the port. Trucks built between 1994 and 2003 are allowed if they're retrofitted with a special filter, which by most estimates costs between \$20,000 and \$25,000.

Eventually CARB's regulations will reduce diesel particulate matter emissions by 90 percent in areas most affected by the noxious pollution.

The problem — at least for some of the drivers — is that two-thirds of the trucks running cargo in and out of the Oakland port are run by independent owner-operators, who say they don't make enough money on the cargo runs to pay for cleaner trucks or upgrades.

The Coalition for Clean and Safe Ports of Oakland (CCSP) is campaigning with Teamsters Union members and some truckers and Congress members to take the burden off independent owner-operators. But some say the industry model itself is the problem — that all the drivers should be employees of larger trucking firms that can pay for the latest equipment.

"The lack of resources among [independent owner-operators] and the inefficiencies in the current system strongly favor a more employee-oriented drayage sector," states an economic impact report on the issue commissioned by the port and prepared by Beacon Economics.

Currently the drivers wait, engines idling, an average of 3.6



Truckers line up to wait -- and wait -- at the Port of Oakland.
GUARDIAN PHOTO BY NEIL MOTTERRAM

hours at or in the terminal. That's in part because they don't get hourly pay — which gives the shippers and trucking contractors little incentive to hurry things.

As independent trucker Abdul Khan puts it: "Everybody certainly wants to have clean air. I might not be happy with this law, but I'm the one in this business being affected by this pollution." Still, with a 2003 engine in his truck, he expects to be out of a job come Jan. 1.

Khan has been a driver at the Port of Oakland for five years. He and his wife and child had to leave their home of 15 years to move in with his brother after fuel prices rose by 300 percent last year.

Khan has been without health insurance for his entire trucking career. The Beacon report states that "most [independent owner-operators] do not have health insurance from any source." Yet they are among those who suffer most from breathing the polluted air all day at work.

In some ways, the problem is the result of the 1990s-era deregulation of the trucking industry. In November, 24 members of California's Congressional delegation, including East Bay Democratic Reps. Barbara Lee, Pete Stark, and George Miller, signed an open letter to the chairman of the House Transportation and Infrastructure committee encouraging members of the House to "consider making changes to [federal law] so that California ports can successfully implement and enforce needed truck management programs."

The Federal Aviation Administration Authorization Act was supposed to standardize the regulation of cargo carriers and encourage competition. But mistreatment of drivers and detrimental working con-

ditions are, says CCSP director Doug Bloch, some of the consequences of deregulation, which essentially bars local or state governments from legislating industry working conditions.

The Port of Oakland, the Environmental Protection Agency, and the Bay Area Air Quality Management District set up a grant fund to help drivers retrofit their equipment to meet the new standards, and some did. But others who sold their older trucks and bought upgradeable models lost out when the money ran dry.

Robert Bernardo, spokesperson for the port, told us the grants were unusual: "Typically, whenever a regulation comes into effect by CARB or DMV, it's incumbent upon business owners to purchase any upgrades," he explained.

That's not a simple story, though, since the finances of port shipping are immensely complex. In theory, the bigger players in the industry — the large trucking companies and the corporations doing most of the shipping — have the access to capital for creating an ecologically-sound fleet and more power to negotiate shipping prices.

When items are shipped from overseas, shipping lines set the prices. Since the commerce is international, there's no regulation of anything, including prices. The shipping lines set the prices for the trucking companies, which in turn tell the independent truckers what they'll pay per load. The independently-contracted drivers have no leverage at all.

Matt Schnap, an intermodal transport expert at the California Truckers Association, notes that international shipping rates "are negotiated somewhere in Shanghai and set by steamship lines. Then you go

into contract for two to three years at locked-in rate." Since the steamship lines aren't subject to antitrust laws, he warns of their ability to collude in price-setting.

So the debate has become as much about labor issues as the environment. Some activists argue that the entire economic model of independent drivers contracting with trucking firms is unworkable, and would prefer to see all the drivers become employees. Not all drivers want that; some are happy with being independent. And the trucking contractors love the current system, since they pay no benefits.

Valerie Lapin, spokesperson for the Coalition of Clean and Safe Ports in Oakland, says that that port drivers are misclassified as independent. She explains that typically they can only work for one company, which tells them where and when to go. With the current classification, trucking companies "skirt all responsibility for paying taxes and benefits. Drivers have to pay for everything — trucks, fuel, maintenance, registration, and parking. And [the trucking companies] pay them really low wages."

The fate of the new regulations may depend on what happens to a legal battle at the Port of Los Angeles. L.A. has sought to mandate that trucking companies hire drivers as employees, and the port would allow only newer, cleaner trucks to enter.

But the American Trucking Association sued the port under FAAAA, saying the law bars the city from requiring employee-drivers. The courts put the program on hold until further hearings, scheduled for May 2010.

Paying with our Health, a 2006 report by the Pacific Institute assessing the practicality of "ditching dirty, diesel" to improve health in the communities suffering from freight transport pollution, concluded that "the industry is quite capable of standing on its own and paying for cleaner technologies, instead of standing on the backs of California's poor and minority communities."

It's not clear what the truckers who own banned trucks will do come Jan. 1. Some say they will look for work elsewhere.

And there's still the issue of whether the port will have enough clean trucks to haul all the cargo. Bernardo insists that won't be a problem. Others, including Wayne Steinberg, terminal manager at Horizon Lines, an all-employee based trucking company with a fleet in full compliance, says the company is "extremely concerned about not having enough drivers Jan. 1." ^{source}