



January 31, 2011

Cosponsor the Clean Ports Act of 2011

Dear Representative:

The Leadership Conference on Civil and Human Rights, a coalition of more than 200 national organizations that seeks to promote and protect the civil and human rights of all persons in the United States, is writing to you to express its support for the “Clean Ports Act of 2011.” We urge you to join Rep. Jerrold Nadler (D-NY) as an original co-sponsor of the bill. The bill would limit federal preemption of trucking regulation at the nation’s ports, and allow states and their political subdivisions to adopt clean truck programs that establish meaningful environmental standards and attempt in other ways to deal with the port pollution problem.

The severity of the port pollution problem can hardly be overstated. It is estimated that 95% of the 100,000 trucks in operation at the nation’s major ports fail to meet current U.S. EPA emission standards, which largely accounts for the fact that 40 of these ports fail to meet federal-air quality standards. As a result, the approximately 87 million people who live and work in port-adjacent communities are exposed to toxic fumes from dirty diesel trucks that significantly increase their risk of developing asthma, cancer, and respiratory illnesses.¹ Public health costs, which include thousands of premature deaths, amount to billions of dollars annually.²

Several ports, supported by their local governments, have taken the initiative in attempting to combat the port pollution problem. One of the most effective of these initiatives involves the Port of Los Angeles—which is the busiest container port in the United States. In 2008, the Port of Los Angeles adopted a Clean Truck Program. Among other things, this program limits access to the port to trucking companies operating under concession agreements that require the trucking companies to use drivers who are their employees, as opposed to drivers who are classified as “independent contractors.” This requirement places the very substantial financial responsibility for buying and maintaining clean trucks on the trucking companies, rather than on individual drivers, who typically live near or below the federal poverty line, and 90 percent of whom are without private health insurance and are exempt from workplace protections.

In just one year, the Los Angeles Clean Truck Program reportedly replaced nearly 6,000 dirty diesel trucks with clean diesel and alternative energy vehicles, eliminating 30 tons of diesel particulate matter—which reduced diesel particulate pollution by an estimated 70 percent. This is equivalent to removing 200,000 automobiles from the road.³

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¹ Janae Scott and Hilary Sinnamon. “Protecting American Health from Global Shipping Pollution: Establishing An Emission Control Area in U.S. Water.” Environmental Defense Fund. March 30, 2009 *available at* http://www.edf.org/documents/9466_ECA_report_March 2009.pdf.

² *Id.* at 3

³ Sierra Martinez, et. al. “California Restores Its Energy Efficiency Leadership: Smart Policies Provide Enormous Economic and Environmental Benefits.” Natural Defense Legal Counsel. March 9, 2010 *available at* <http://mlui.org/downloads/EECalifNRDC03-09-10.pdf>

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The Los Angeles Clean Truck Program has been tied up in litigation. On July 28, 2008, the American Trucking Associations (“ATA”) filed a complaint in federal court alleging that the requirement for concession agreements violates the federal motor carrier law that pre-empts state and local governments from enacting laws “related to a price, route, or service of any motor carrier.” The ATA’s request for a preliminary injunction was granted, and, in 2009, the Port of Los Angeles was prohibited from implementing several elements of its Clean Truck Program, including the provision for concession agreements that require trucking companies to use drivers who are their employees. In 2010, the U.S. District Court upheld the legality of the Port of Los Angeles’ Clean Truck Program. The truck program remains enjoined, however, while the ruling is under appeal to the Ninth Circuit.

Other ports around the country — including those in New York, New Jersey, Oakland, Seattle, and Miami—are deeply concerned about the pollution generated by port trucking, and have undertaken programs designed to deal with the problem. In light of the litigation involving the Port of Los Angeles Clean Truck Plan -- and particularly the injunction against concession agreements —these other ports are fearful that further efforts to implement and enforce meaningful environmental regulations could subject them to a pre-emption challenge. Mayor Michael Bloomberg of New York City, Mayor Cory Booker of Newark, N.J., and other port-city mayors are urging Congress to amend truck-deregulation law to give state and local governments more power to adopt clean truck programs, including programs with requirements such as those in the Los Angeles Port Clean Truck Program.

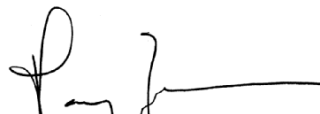
This important legislation will amend truck-deregulation law so that states and their political subdivisions can enact and enforce effective clean truck programs that provide appropriate workplace protections for the drivers of the trucks at these ports and improve the quality of life for millions of people who live and work in port-adjacent communities.

The Leadership Conference agrees that federal legislation is needed to deal with the problem of air pollution at the nation’s ports, and toward that end we urge you to contact Lisette Morton in Congressman Nadler’s office at 202.225.5635 or lisette.morton@mail.house.gov to become an original co-sponsor of the Clean Ports Act of 2011. If you have any questions about this letter, or the position taken by The Leadership Conference, please contact Lexer Quamie at 202.466.3311 or quamie@civilrights.org. Thank you for your valued consideration of this critical legislation.

Sincerely,



Wade Henderson
President & CEO



Nancy Zirkin
Executive Vice President