



AIR POLLUTION: L.A. port official pushes for federal fix for 'clean trucks' program (05/06/2010)

Sara Goodman, E&E reporter

An official for the Port of Los Angeles yesterday called for congressional action to ensure a program to clean up the port's polluted air will not be limited by litigation or other challenges.

At issue is a program to clean the air surrounding the ports of Los Angeles and Long Beach by banning older diesel trucks and blocking some independent drivers from accessing the ports, which are the busiest in the United States.

John Holmes, deputy executive director of the Port of Los Angeles, told the House Highways and Transit Subcommittee that his port needs lawmakers' help. "The ambiguity of federal transportation law, specifically the Federal Aviation Administration Act of 1994, jeopardizes our continued success toward clean air," Holmes said. "Without the program intact, the ability to achieve and sustain the program's goals over the long term is threatened."

Since the program was launched in 2008, the port of Los Angeles estimates that port truck air emissions have been reduced by more than 70 percent compared with 2007 levels, while the Port of Long Beach has reduced emissions by 80 percent, two years ahead of schedule.

T&I Chairman James Oberstar (D-Minn.) said yesterday's hearing was a first step in determining whether a change to federal law is required. "We must seek to strike a balance between giving ports the ability to develop proactive solutions to unique, local problems and not unnecessarily impeding competition and the free movement of goods," Oberstar said.

A portion of the program became stymied after the American Trucking Associations successfully halted part of the rule in federal court, arguing it is more of a boon for unions than a genuine attempt to address air quality in the Los Angeles region. The ATA is particularly concerned with a portion of the plan that would block some owner-operators unless they work for established trucking companies.

As a result of the legal fight, the Port of Long Beach decided to bypass the Los Angeles program in favor of a self-styled cleanup effort crafted with the ATA. Environmental groups have sued to block that arrangement, claiming Long Beach and ATA cut a backroom deal to avoid tougher upgrades ([*E&E Daily*](#), May 3).

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"The issue here seems to be not environmental and not air quality," said Rep. Gary Miller (R-Calif.). "The issue is not who drives the truck, it's does that truck meet the standards? ... It does not make sense to me to discriminate against anybody in this country because they don't work for a particular company."

But Holmes said the Los Angeles program is company-focused rather than individual truck-focused in an effort to put the burden of switching on companies. Holmes said independent drivers often cannot afford the hefty price tag of a new truck, meaning that the port would often be left having to pay large subsidies to help drivers make the transition. "We can't continue to give 80 percent of the cost of the truck plus the maintenance," Holmes said. "The ports simply don't have the money."

Robert Digges, ATA's vice president and chief counsel, said his group is not opposed to any provisions in the program that actually lead to emissions reductions, but just the section that addresses independent operators and their contribution to air pollution.

Digges and others argued that the programs attained remarkable emissions reductions without the disputed portion. Calling the individual owner-operator provision a "drastic step," subcommittee ranking member John Duncan (R-Tenn.) called Los Angeles' insistence on this section "a solution in search of a problem."

Chris Lytle, deputy executive director of the Port of Long Beach, said he has not seen any difference in compliance between independent contractors and those who are company-employed. According to some estimates, 90 percent of port drivers are independent contractors.

But Melissa Lin Perrella, staff attorney for the Natural Resources Defense Council, testified that the Port of Los Angeles' approach is "essential" to the port's long-term success at reducing emissions because it allows the port to hold a financially responsible party accountable for complying with the clean truck rules.

Perrella agreed that federal action is warranted to protect the program's success. "The proposed legislation only protects port authority across the nation to mitigate environmental and safety threats posed by port trucking," Perrella said, "if and when the port decides to act."