

Please take note of below message concerning Ports of Los Angeles and Long Beach, as well as news article from The Cunningham Report. Be prepared for major issues and delays.

**Important Reminder to Licensed Motor Carriers and  
Independent Owner Operators!**

BE PREPARED - NEW TRUCK BAN GOES INTO EFFECT  
JANUARY 1, 2010

Beginning **January 1, 2010**, a new truck ban will take effect at the Ports of Los Angeles and Long Beach marine terminals. Port drayage trucks equipped with engine Model Years 1993 and older will no longer be permitted access. Trucks equipped with engine Model Years 1994 to 2003 will also be banned from terminal entry UNLESS equipped with a Clean Trucks Program-approved verified diesel emission control system (VDECS).

**Be prepared for the January 1, 2010 ban date and make sure your port drayage truck meets Clean Trucks Program requirements:**

Truck Ban Requirements

- Trucks equipped with engine Model Years 1993 or older are banned from terminal entry.
- Trucks equipped with engine Model Years 1994 to 2003 are also banned from terminal entry, UNLESS the trucks are equipped with a level 3 verified diesel emission control system (VDECS) that also achieves a minimum 25 percent emission reductions of oxides of nitrogen (NOx). Retrofitted trucks will continue to have terminal access until January 1, 2012.
- Trucks equipped with engine Model Years 2004 to 2006 will continue to have access to terminals until January 1, 2012.
- Trucks equipped with engine Model Years 2007 and newer will have access to terminals beyond January 1, 2012.

Verify Truck Engine Model Year

LMCs and IOOs with trucks Model Years 1994, 2004, and 2007 must verify the Model Year of the truck's engine at the Temporary Access Center (TAC).

The Ports Drayage Truck Registry (PDTR) automatically assumes that trucks Model Years 1994, 2004, and 2007 have engines from the previous year (1993, 2003, and

2006). Visit the TAC today and make sure your truck has the correct engine Model Year entered into the PDTR!

Owners of trucks Model Years 1994 and 2004 should verify their engine model year at the TAC immediately to avoid being turned away on January 1, 2010. Owners of Model Year 1994 trucks should both confirm their engine model year and, if their engine is 1994 or newer, equip their truck with a compliant VDECS device.

The TAC is located at 3593 New Dock Street (Pier S Avenue and New Dock Street), Terminal Island, San Pedro, CA 90731 (next to the Clean Trucks Center).

### Register Your Truck in the PTDR and eModal's Trucker Check

All port drayage trucks must be registered in the PDTR and eModal's Trucker. Check to secure access to the Terminals in both the Port of Los Angeles and the Port of Long Beach.

**Note:** Applicants for Proposition 1B (Prop 1B) funded replacement trucks should contact the South Coast Air Quality Management District (AQMD) for more information about possible continued use of their trucks **IF** they have signed a Prop 1B award contract.

To learn more about equipping your Model Year 1994 to 2003 port truck with a verified emission control technology:

- Visit the Ports' websites [http://www.portoflosangeles.org/CTP/idx\\_ctp.asp](http://www.portoflosangeles.org/CTP/idx_ctp.asp) and <http://www.polb.com/cleantrucks>.
- Call the Clean Trucks Program Help Line - (866) 721 - 5686
- Contact the Clean Trucks Center - 888-KLN-TRUX (888-556-8789)

For more information on the Clean Trucks Program, please visit the following websites: [http://www.portoflosangeles.org/CTP/idx\\_ctp.asp](http://www.portoflosangeles.org/CTP/idx_ctp.asp) and [www.polb.com/cleantrucks](http://www.polb.com/cleantrucks).

The Cunningham Report, **Volume 14, No. 45 November 9, 2009**

### **ATA BACK BEFORE APPELLATE COURT – LOTS OF TALK, NO DECISION**

If their questions and comments are any indication, a three-member panel of the U.S. Ninth Circuit Court of Appeals is unlikely to grant the American Trucking Associations any more injunctive relief from the Port of Los Angeles concession program than it already has.

The judges' discussion indicated that the issues raised by the ATA pertain to the larger matters that will be resolved in district court. They also urged the parties to resolve the matter outside the courtroom.

"This is not the kind of lawsuit where one wins and one loses and you go your separate ways. You're bound together. This is going to go on for years. And if there's a problem, they're going to blame you people for failing to get together and work it out," said Judge Harry Pregerson. The parties appeared last Wednesday in a federal appellate courtroom in Pasadena. At issue is the Federal Aviation Administration Authorization Act and how much authority, if any, it gives the port to have a concession program.

The specific matter before the Ninth Circuit last week was an ATA appeal of a partial preliminary injunction against the concession program. District Court Judge Christina Snyder did not go far enough when she enjoined some provisions, but not the entire program, argued ATA attorney Robert Digges.

The remaining elements duplicate existing federal safety requirements. If left, they allow a concession program whose ultimate goal is to pave the way for an employee workforce that can be unionized.

"The idea that they need a concession program is a complete scam. It's an excuse to allow them to use a concession agreement that allows them to control who goes into the ports. Their own goals are to reshape the trucking industry in their own image," Digges said.

The port's attorney argued that the city and the port are also responsible for safety and security and the concession program is a tool for better enforcement. "Duplicative is okay and more effective," said Steven Rosenthal of Kaye Scholer, the firm representing the port.

The enjoined provisions of L.A.'s concession program include a phased-in requirement for motor carriers to convert to an employee-only driven fleet. The port maintains that provision is also safety-related.

Originally, the ATA brought its case against the Port of Los Angeles and the Port of Long Beach. But the Port of Long Beach, whose program never had an employee mandate, has settled with the ATA. "What's wrong with the Long Beach program?" Pregerson asked.

"It does away with the concession," answered Rosenthal. "It is clearly not as effective and it will not be as enforceable."

Last week's hearing represents the second time the ATA has asked the Ninth Circuit to overturn a district court ruling. Originally, Snyder found no preliminary injunction was needed. She later enjoined key elements of the concession program after the Ninth Circuit reversed her and sent back the case.

A different three-judge panel heard the first appeal and issued its ruling 16 days later. A quick decision is also expected this time.

The trial itself may not happen anytime soon. Originally scheduled for December, the matter has been moved a few times and is now set for March 16. Citing discovery problems, the ATA has asked for a July date. The discovery dispute stems from a behind-the-scenes battle over documents that the ATA thinks will support its contention that the concession program was worked out between the port and the Teamsters and that the port claims are protected from disclosure.