

Transport Topics **Online**

Updated:

ATA, Long Beach Settle Port Suit

Deal Eases Port's Carrier Registration Process

By Eric Miller, Staff Reporter

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The Port of Long Beach and American Trucking Associations last week reached an out-of-court settlement of ATA's federal lawsuit challenging portions of the port's Clean Trucks Plan. The agreement will simplify the registration process for carriers moving containers at the port.

The Oct. 19 settlement drops several carrier requirements in the California port's original plan that were opposed by ATA, including requirements for filing proof of financial capability; information on off-port parking plans, driver training, vehicle maintenance and insurance; and hiring preference.

Under the agreement, the more than 900 trucking companies and 16,900 trucks already approved to perform drayage at Long Beach will be required to register and comply with environmental, safety and security requirements, equip their vehicles with radio frequency identification tags and pay a \$250 fee.

"Unlike the earlier concession contract, the new registration and agreement does not allow the port the discretion to reject an otherwise qualified motor carrier that has submitted a proper port drayage registration," said Curtis Whalen, executive director of ATA's Intermodal Motor Carriers Conference.

Bill Graves, ATA president, said the settlement will allow the port to reach its environmental objectives and permit "strict compliance with, and adherence to, all safety and security laws and regulations."

"We never disagreed with their objectives, only with certain provisions of the concession agreements which we believed were unnecessary for the accomplishment of those objectives," Graves said in an Oct. 20 statement.

The settlement agreement, which was formally approved by a U.S. district judge on Oct. 22, does not affect ATA's legal fight with the Port of Los Angeles over its clean trucks plan, which bans owner-operators in its employee-only concession requirement. The Long Beach program for removing high-polluting older diesel trucks does not ban owner-operators.

A federal appeals court already has ruled that the employee-only requirement and several other provisions in the Los Angeles plan probably are unconstitutional. It sent the case back, with guidelines, to a district court, where a trial is set to begin Feb. 15. Port spokesman Arley Baker would not discuss the case. The port of Los Angeles was not a party to the Long Beach settlement.

Long Beach said this month that it is ahead of its goal to reduce diesel emissions 80% by 2012. More than half of the container moves at the port are made by trucks that comply with federal 2007 emission standards; if the trend continues, the port could meet its goals a year or two ahead of time, officials said.

The adjacent ports of Long Beach and Los Angeles are the busiest container ports in North America and handle much of

the trade between the United States and Asia.

Nick Sramek, president of the Long Beach Board of Harbor Commissioners, called the settlement “a critical milestone for the program, reaching consensus with an important industry partner.”

Art Wong, a spokesman for the Port of Long Beach, said that by settling the case, the port will save on further legal costs and win over the support of ATA.

“Potentially, ATA could win the suit and block our clean trucks plan,” Wong said. “Our settlement focuses the program on our priorities: clean air, safety and security. The judge has already said, in a preliminary ruling, we couldn’t get into hiring, finances and parking.”

Whalen said ATA “doesn’t talk to L.A. I haven’t talked to them in over a year.”

“I do know some of my member companies went in and talked to the [Los Angeles] mayor [Antonio Villaraigosa],” Whalen said. “But he seemed to still be steadfastly demanding the employee issue, which, of course, is a nonstarter with us.”

David Pettit, senior counsel and director of the Natural Resources Defense Council’s Southern California Air Program, said Long Beach “violated the public trust and sold out the citizens of Long Beach” by approving the settlement.

“Rather than clean up the trucks that serve its port, Long Beach ran away from a fight with ATA — an organization that has opposed clean-air regulation locally and nationally — and is content to sit on the sidelines while the Port of Los Angeles pays to clean up the trucks that serve both ports,” Pettit said.

While both ATA and Long Beach officials applauded the settlement, it doesn’t end the simmering controversy over a lobbying effort by Los Angeles and several other ports to convince Congress to exempt them from the federal preemption clause that gives the national government the right to regulate interstate trucking.

One of the goals of the legislation that is being pursued is to allow publicly owned ports to require that drayage operators be employed by a carrier, rather than being independent contractors.

“As a practical matter, the settlement has no impact on the ATA litigation, as the Port of Los Angeles continues to fight for a sustainable Clean Truck Program,” said Fred Potter, port division director for the Teamsters union.

“The problems for ports generated by arcane 20th century statutes remain, and so the amendment process must and will go forward,” Potter said.

In a related development, on Oct. 18, New York City Mayor Mike Bloomberg and Newark Mayor Cory Booker joined an effort by the Teamsters and several nonprofit and environmental groups seeking more control for ports over environmental, security and safety issues.