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Cleaner-Trucks Mandate Will Create Hardships at Port of Oakland

By **FRANCES DINKELSPIEL**

Ablelom Zerfiel sat in the cab of his 1992 Freightliner, waiting in a long line to drop off his empty cargo container at the Port of Oakland. After driving for 12 years, Mr. Zerfiel is used to delays, low pay, grueling hours and the fickleness of the dispatch company that arranges his jobs.

“This is straight-out slavery, only modern,” said Mr. Zerfiel, 49, a native of Eritrea. “The companies tell you to keep your mouth shut, take what they give you, and don’t say anything because if you say anything there’s always another guy who can do it.”

Life for Mr. Zerfiel and many of the other 1,300 independent truckers serving the Port of Oakland is about to get even harder. In an effort to reduce local air pollution, the port has mandated the use of cleaner trucks by Jan. 1. This makes it likely that Mr. Zerfiel, as well as hundreds of other drivers who cannot afford to buy new vehicles, will be out of work.

The new regulations have created a clash between two ideals long held sacred in the Bay Area: the right to decent working conditions and a push for greener technologies.

“The retrofit program and trucking ban are very important for improving air quality and reducing the impact of truck pollution on neighborhoods like West Oakland,” said Doug Bloch, director of the Oakland chapter of the Coalition for Clean and Safe Ports. “On the negative side, it’s the truck drivers at the port who have to pay, and they can’t afford it. Hundreds of them will join the army of the unemployed on Jan. 1.”

West Oakland, a predominantly African-American neighborhood of 22,000 people, sits adjacent to the Port of Oakland. Three freeways and many railroad tracks run through the area. Trucks on their way to the port travel

through the neighborhood at all hours of the day and night.

Their emissions — as well as the smoke and fine particulates coming from the smokestacks of idling ships — means that soot settles thickly on residents' cars and windowsills. It is dirty on these surfaces, and damaging, if not deadly, when breathed.

Asthma rates in West Oakland are five times higher than those for residents of the Oakland hills, and chances of cancer are three times higher than in other Bay Area cities, health studies show.

In 2007, the California Air Resources Board enacted a sweeping set of laws intended to reduce pollution at ports throughout the state. To comply with the law, the Port of Oakland voted earlier this year to ban trucks built before 1994 from picking up or dropping off cargo at the port, said Damian Breen, the state grants program manager for the Bay Area Air Quality Management District.

Trucks built from 1994 to 2003 will need to be retrofitted with a special filter. By 2014, only trucks built after 2007 will have access to the port.

To help pay for the conversion, local, state and regional agencies have paid \$22 million, which Mr. Breen estimates will cover the upgrades of 1,000 trucks. But that will leave as many as 900 trucks out of compliance. Drivers who need to install filters can receive a \$16,000 grant, and those who need new trucks are eligible for \$50,000 in grants. New trucks cost \$174,000, so drivers can finance the balance with a participating bank that is offering federal small-business loans, Mr. Breen said.

But Mr. Zerfiel and others of the 1,989 truck drivers working at the port say they cannot make the switch, even with the financial help. Many, like Mr. Zerfiel, are first-generation immigrants living paycheck to paycheck. They cannot qualify for bank loans since they have bad credit ratings. They are also reluctant to spend the money for retrofits since their vehicles will have to be replaced in four years anyway.

“At the last day of December, my truck is done at the port,” said Manuel Rivas, a native of El Salvador who said he could not afford to replace his 1989 vehicle.

The real problem, Mr. Bloch and other community activists said, is that the trucking system is broken. When

Congress deregulated the trucking industry in 1980, it dismantled an industry dominated by large companies with union drivers. Independent truckers took their place.

Independent truckers occupy a precarious position. They must buy their own trucks, pay for their own gasoline and insurance and compete among one another for jobs. They must accept the pay offered by trucking dispatch companies. Now, they must somehow come up with the money to buy cleaner trucks.

A recent study commissioned by the Port of Oakland estimated that independent truckers earn around \$19 an hour, or \$1,050 a week and work around 57 hours a week. Employee drivers earn around \$1,250 a week. Mr. Bloch's group contends that the average wage, based on a different study, is closer to \$10.50 an hour, or less than \$600 a week.

Unions and advocates for clean air are pushing for the trucking industry to take more responsibility for buying cleaner trucks. They want the dispatching companies to hire the truckers as full-time employees with salaries and benefits, rather than rely on contract employees. "As long as you are making these guys buy their trucks, we are never going to have a clean fleet," Mr. Bloch said. "It's not sustainable."

But not all independents want to work for someone else. Carlos Jordan, 50, came to the United States from Guatemala 34 years ago. He bought one truck and saved his earnings. Today, his Jordan Trucking Company has four trucks, pictures of which he proudly stores on his BlackBerry.

"We come to America because of the freedom and opportunity," Mr. Jordan said. "This is what we want. I don't want to be forced to work for someone else."

Efforts to compel companies to use full-time employees rather than contract drivers have been stymied in court. In 2008, the Port of Los Angeles banned independent owner-operators, but was sued by the American Trucking Association, the nation's largest trucking trade group, which won a preliminary injunction against the ban in federal court. The case is set for trial in 2010.

The trucking association argued that the Federal Aviation Administration Authorization Act gave the federal government the sole authority to impose regulations that could hinder interstate commerce. The mayors of port cities — including Ron Dellums of Oakland, [Cory Booker](#) of Newark and [Michael R. Bloomberg](#) of New

York — and the Bay Area Air Quality Management District have called on Congress to amend the 1994 law to give local jurisdictions more control.

The trucking association, which just settled a lawsuit with the Port of Long Beach over what it characterized as overly stringent requirements, believes that the push to eliminate independent drivers is a ploy to unionize drivers. Clayton Boyce, the vice president for public affairs for the association, said, “This is not about the environment,” but about helping the unions.

Port of Oakland officials are watching the Los Angeles case closely, said Margaret Gordon, the port commissioner. Many commissioners are sympathetic to the burdens of independent contractors but are wary of levying lease requirements that might compel trucking or shipping companies to take their business elsewhere, Ms. Gordon said.

But the Jan. 1 deadline is drawing nearer, and many independent drivers are unsure what to do. Some say the stress is difficult to endure.

“You start thinking what’s going to happen,” said Roberto Soto, 44. “You can’t sleep. You think: What are the chances I will find new work? What’s going to happen to my family? What chance do I have to find another job?”

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