

# New Partners, New Approaches to Transform Our Nation's Ports

FOR THE ENVIRONMENT, WORKERS AND COMMUNITIES

**The U.S. Port trucking system is broken.** Diesel pollution from aging trucks is destroying air quality, escalating asthma and cancer rates, and degrading the quality of life for port truck drivers, as well as the children and families who live in port neighborhoods. Port truckers must balance the expense of truck maintenance and upkeep with the demands of supporting their families on low wages with no benefits.

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The port trucking system is not only deadly, but expensive. Government programs provide health care for thousands of port truck drivers who can't afford it on their own, while also meeting the health care needs of low income neighborhood residents sickened by the high concentrations of diesel emissions they ingest every day. The entire port trucking system is propped up by inefficiencies and waste, creating added expense for the general public.

Fortunately, this is a problem with a ready solution. Across the country, new alliances of community, environmental, health and labor organizations are challenging and fixing this broken system. At the heart of these efforts is the recognition that the system is both environmentally and economically

unsustainable. Solving the environmental and health crises starts with addressing the vulnerability and exploitation of port truck drivers that the industry relies upon. Coalitions in Los Angeles, Oakland, Seattle and Newark/New York have found that creating a responsible business model, with truck drivers classified as employees rather than independent contractors, provides the foundation for solving the environmental and public health impacts of the port trucking industry.

## A Broken Industry

The passage of a series of acts related to the Federal Motor Carrier Act of 1980, deregulated our nation's trucking system with an unanticipated array of negative impacts. The

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### DAVID PETTIT

*Director of the Southern California Air Program  
for the Natural Resources Defense Council*

*"Protecting the public health is at the heart of this program... [we need] to get these dirty trucks off the road once and for all. The only way to do that is to make well-capitalized companies — not low-wage workers — responsible for a new, clean-burning fleet."*

floodgates opened for establishment of new trucking companies and the government's regulatory power was limited to issues of public safety in this sector.

In the subsequent decades, approximately 100,000 port truck drivers lost employment benefits and their incomes plummeted, as companies classified them as independent contractors rather than employees. This misclassification is key to the dysfunction and negative impacts of the industry.

As independent contractors, drivers receive none of the benefits of the status and bear all of the costs. Drivers are unable to control which companies they work for or negotiate rates, yet they are required to own and maintain their truck, and bear the full cost of payroll taxes, insurance and other work expenses out of their earnings.

Across the industry the average driver:

- Owns a diesel-spewing rig that was built in 1994;
- Takes home about \$29,000 a year after expenses, fuel and insurance;
- Struggles to afford even the most routine truck repairs and upgrades;
- Works 11–14 hours a day incurring serious safety and health risks;

- Lacks workers' compensation, social security, health care and retirement benefits; and
- Is barred from hauling for more than one company at a time to increase earnings.

While this system generates huge profits for the port trucking industry, truck drivers cannot afford the new, cleaner trucks and local residents are suffering from escalated asthma, cancer, heart disease and respiratory illness rates. The following impacts flow directly from the structure of the port trucking industry and the misclassification of workers:

- Diesel pollution from goods movement overall kills 3,700 people across California each year, more than the state's homicide rate.
- New Jerseyans face the second greatest cancer risk from diesel soot in the nation. Newark's school children experience a 25% asthma rate, double the state and national rates.
- One out of every five West Oakland children suffers from asthma, with asthma hospitalization at 2.5 times the county average.
- Seattle residents have long faced elevated cancer risks due to poor air quality, but scientists now say a spike in dioxin level in soils and the Duwamish River results from a constant stream of 2,000 diesel trucks driving through the area, over 60% of which are over 12 years old.



**JOSE LOPEZ GAMEZ** *Los Angeles Port Driver*

## Port Truck Drivers Struggle to Support Their Families

**J**ose says it's hard to imagine how anyone expects drivers like him to afford to pay for environmentally friendly trucks when they can't afford Christmas presents for their children. He knows the Clean Truck Program would halt deadly pollution, make life better for himself and his family. "For me, the plan is about two things — cleaning the environment, and improving our quality of life as drivers." He wants to become an employee of the trucking company he works for because he cannot afford to buy or maintain the green trucks the Ports will require to clean the air.

## Historic Clean Truck Program Passes at LA Port

On October 1, 2008, the nation's first comprehensive Clean Truck Program was launched at the Port of Los Angeles, culminating an epic battle to bring cleaner air and better jobs to the region's largest industry.

Under the Clean Truck Program, thousands of polluting trucks have been scrapped while conditions for some ten thousand port truck drivers will improve. The new program also shifts responsibility for ownership and upkeep of clean-burning vehicles to the trucking companies, requires companies to comply with environmental and labor standards, and includes a concession model that requires companies to hire drivers as employees rather than independent contractors.

This program has been an undeniable success. Over one thousand pre-1989 dirty trucks have been removed from service, and the Port of Los Angeles is on track to meet the 2012 goal of 80% emissions reductions from overall drayage operations three years ahead of schedule. Additionally, over 800 companies have signed up to become port concessionaires and two national trucking firms have entered port trucking because of the existence of the Clean Truck Program.

Unfortunately, this groundbreaking approach to solving an economic and environmental crisis is being challenged by the American Trucking Association in court. While the legal challenge makes its way through the courts, Congress has the opportunity to amend the Federal Motor Carrier Act to allow ports to exercise the option to exert local control over aspects of port operation that affect local health and safety.



*Los Angeles Mayor Antonio Villaraigosa*



# A Movement for Real Solutions

## Coalitions in four major port regions

— Los Angeles, Oakland, Seattle and Newark/New York — are working to pass clean truck programs that establish a responsible business model addressing employment and environmental standards in tandem. Resolving the impacts created by deregulation is the first step towards reforming this industry. This comprehensive approach includes the following components:

- **Establish responsible concessionaire policies** that define who can do business at the port, creating safety, environmental and operations requirements for all companies, and keeping high-polluters and other violators out of the ports.
- **Change the classification of port drivers** from independent contractors to employees, enabling them to receive workers compensation, Social Security, and OSHA safety protections, and to bargain for better wages and benefits.
- **Shift responsibility to trucking companies** for ownership and proper maintenance of trucks.

A landmark Clean Truck Program that included these components passed at the Port of Los Angeles in 2008. Unfortunately, the American Trucking Association (ATA) is vigorously pursuing a lawsuit that could derail the LA Clean Truck Program, including the state air regulation standards that forced the nation's largest port to be proactive about cleaning up the air. But the ATA's attempt to maintain a system that produces deadly, dirty air, dead end jobs, and rising public health problems is not going unchallenged.

Across the country, coalitions are transforming their communities' approaches to public health and environmental hazards by highlighting the relationship between working conditions, a voice on the job, and the broader environmental and health impacts of the



**KENEL HYPOLITE**, Jersey City Port Driver :

*"I hate that black smoke spews from my rig as I turn into Newark neighborhoods, and I'm sick of breathing the toxic fumes every time I get behind the wheel," said Hyppolite. "But independent contractor drivers like me are forced to choose between food and fuel. We want to drive new clean trucks so badly, we just can't afford them."*

industry. Coalitions have partnered with national allies like Sierra Club, and the Natural Resources Defense Council, and a wide range of local environmental organizations. Together with the Teamsters, other labor unions, environmental, health, community and faith-based organizations, these voices for a cleaner environment are pointing the way to a better future at the ports for everyone

It's important to remember that each stop along the global supply chain affects the next. How goods are manufactured and shipped informs how much we pay for goods at retail stores. Which is why the success of solutions like the Los Angeles Clean Truck Program is important regardless of where you live. Now or later we will have to pay for the destruction, exploitation, and inefficiencies occurring at our nation's ports. Acting now would only add a nickel to the cost of a pair of Nikes and would ensure that children living near ports and across the nation are breathing clean air. ■

## Port of Oakland Commissioners Call on Congress to Act

In Oakland, advocates for a new clean trucks program have found fast friends among an array of local leaders who understand how critical it is to address high rates of asthma among children in the West Oakland neighborhoods adjacent to the port. In June, the Commission passed a resolution calling on Congress to give local ports authority to establish clean truck programs to meet that goal. "Our nation's ports need the tools to protect public health by holding industry accountable to a more responsible means of transporting goods," said Port Commission President Victor Uno who introduced the resolution. "Unless Congress brings transportation law into the 21st Century, we will fail to permanently reduce the toxic diesel pollutants that are contributing to serious illnesses such as asthma and cancer amongst children, port drivers and residents."



Forty year West Oakland resident Shirley Burnell and her grandchildren cope with the safety and health hazards created by port truck traffic in their neighborhood.



## Port of Seattle Tries an End-Run: Finance Clean Trucks But Rely on Underpaid Drivers to Make it Work

Port of Seattle Commissioners recently passed a Clean Truck Plan in an effort to clean up the air at the Port. Unfortunately, the plan will result in an even greater financial burden on drivers, and, in turn, fail to significantly reduce diesel emissions from the trucks in the long-run.

The core of the Port's plan is a ban on the dirtiest trucks (pre-1994 trucks) from port docks, starting at the end of 2010. Under this plan, workers with banned trucks must buy retrofitted trucks or lose their jobs; retrofit trucks would cost up to \$500/month each — costs workers and their families cannot afford, even with the proposed public purchase of the banned trucks.

Fortunately Seattle's Coalition for Clean and Safe Ports is urging the Port Commission to implement a comprehensive clean truck program that would require trucking companies to invest in a clean truck fleet, putting the financial costs on shippers instead of underpaid drivers. By enacting this solution the Port of Seattle will not only clean up the air, they will also improve thousands of jobs and create a more efficient business environment.



Raul Agamenon, a port driver for 23 years, has two children who suffer from asthma, including 4-year-old Edwin.

**The Partnership for Working Families** is dedicated to building power and reshaping the economy and urban environment for workers and communities. Our movement shares a commitment to expanding and connecting community and worker organizing for quality jobs, affordable housing, shared prosperity, and a healthy environment.

In four key ports regions, our affiliates are coordinating and leading the fight for clean and safe ports.

<b>Los Angeles/Long Beach</b>	<b>Coalition for Clean and Safe Ports</b> <a href="http://www.cleanandsafeports.org/">www.cleanandsafeports.org/</a>	<b>Los Angeles Alliance for a New Economy</b> <a href="http://www.laane.org">www.laane.org</a>
<b>Oakland</b>	<b>Coalition for Clean and Safe Ports</b> <a href="http://www.oakland.cleanandsafeports.org/">www.oakland.cleanandsafeports.org/</a>	<b>East Bay Alliance for a Sustainable Economy</b> <a href="http://www.workingeastbay.org">www.workingeastbay.org</a>
<b>New Jersey</b>	<b>Coalition for Healthy Ports</b> <a href="http://www.coalitionforhealthyports.org/">www.coalitionforhealthyports.org/</a>	<b>Garden State Alliance for a New Economy</b> <a href="http://www.ganenj.org">www.ganenj.org</a>
<b>Seattle</b>	<b>Coalition for Clean and Safe Ports</b> <a href="http://www.wa.cleanandsafeports.org">www.wa.cleanandsafeports.org</a>	<b>Puget Sound Sage</b> <a href="http://www.pugetsoundsage.org">www.pugetsoundsage.org</a>



[www.communitybenefits.org](http://www.communitybenefits.org)

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