LOS ANGELES BUSINESS JOURNAL

' Plan Could Boost Teamsters

L, .RICHARD CLOUGH - 6/4/2007
Los Angeles Business Journal Staff

A huge plan to help clear the air at the ports of Los Angeles and Long Beach not only will result in the extermination of hundreds, perhaps 1,000 or more, small trucking firms that serve the ports, but it may well usher in the return of the Teamsters union, the trucking industry says.

"This plan is literally going to change the face of the industry, completely turn it upside down," said Patty Senecal, vice president of Rancho Dominguez-based Transport Express and an official with the California Trucking Association.

The plan is called the Clean Trucks Program,and it is a joint effort by the ports as part of their wide-ranging Clean Air Action Plan. It is designed to reduce diesel truck emissions by as much as 80 percent by retrofitting or replacing old, heavily-polluting rigs with new, cleaner burning vehicles. Only the new, cleaner trucks, which can cost $100,000 or more, would be permitted in the ports.

Since the ports will heavily subsidize the retrofitting or purchase of the cleaner trucks and will have first liens on them, the ports are calling for the trucks to be operated not by independent owner-operators, who now number about 16,000 and who mostly work as contractors for small trucking companies. Instead, the trucks will be operated as fleets by a few companies.

- could well usher in the return of the Teamsters as the now-independent short-haul drivers switch status and become company employees. As independent contractors, the truckers are prohibited from joining labor unions. But as employees, they could join a union.

"If they're employees, then they have certain rights to organize," said Barry Broad, legislative representative for the International Brotherhood of Teamsters. "We're hopeful that drivers will soon be in a position where they can unionize if they want to unionize. We need to fundamentally change the actual economic model at the ports."

Since the plan was unveiled in April, the Teamsters have put the proposal on their front burner.

The truck program will only apply to the ports in Los Angeles and Long Beach, but the union hopes that approval of this proposal will provide a model and springboard for similar efforts nationwide. Broad said the union plans to present similar proposals to the commissioners of four other ports – Oakland, Seattle-Tacoma, New York-Newark and Miami.

"This is a very, very serious effort by the Teamsters on a national basis," Broad said. "We're out there organizing again."

To gain support, the union last month conducted what it called a "10-Day Blitz" at the local ports: Dozens of Teamsters walked around the complex, talking to drivers and handing out leaflets. Organizers say they collected more than 3,000 signatures in support of the plan.

T' Teamsters further beefed up their chances at the ports by teaming with environmentalists and immigrant rights groups Coalition for Clean and Safe Ports.

Patricia Castellanos, co-chair of the Los Angeles Alliance for a New Economy, which is a member of the coalition, said the

groups came together when they realized their broad objectives of reforming the port trucking industry were complementary.

,ust seemed like a natural issue to work on together," she said. The coalition also recruited drivers and community members who would help push its cause. They put together a proposal to reform port trucking that they said would reduce emissions and improve working conditions by forcing the ports to grant contracts only to trucking companies "that agree to honor basic environmental, labor and national security standards."

But before the plan can become effective, it must be approved by the ports – and there could be legal challenges.

Both the California Trucking Association and Curtis Whalen of the American Trucking Association have said they do not believe the plan could stand up to legal challenges due to the intricacies of federal interstate commerce laws.

The industry has been upset because the plan means that the 1,300 or so trucking companies that currently serve the ports in some fashion, according to the California Trucking Association, could shake out to only about 100 larger firms.

"This will wreak havoc on our business," said Michael Lightman, president of Long Beach-based Great Freight Inc. "It's hamstringing my company already because I don't know what the business will look like a year from now."

Great Freight contracts with about 60 independent drivers who visit the ports regularly. Lightman said if the program passes, he may not be able to stay in business at his current size.

'ed to get either a larger depot or go out of business," he said. "I'm between a rock and a hard place."

The ports invited trucking companies to give feedback on the proposal last week during a presentation in Long Beach, and nearly all trucking company representatives at the meeting opposed the plan, saying it would drive many of them out of business.

Senecal of the trucking association said, "They're going to eradicate small business. What happens to the companies that are put out of business?"

The ports are to vote on the plan next month.

'Stable workforce'

James Hankla, Long Beach Harbor Commission president and a member of the committee that developed the proposal, said it was not the intention of the program to phase out the owner-operator system at the ports, but it became necessary as a matter of practicality.

Since the plan is so expensive – $1.2 billion – and since the ports have promised to subsidize a portion of the program, officials say they need to be able to track the trucks. They claim that would be difficult with thousands of individual owner-operators.

eel we need a stable workforce and we can't have individual relationships with 16,000 truck drivers," Hankla said.

He rejected the idea that the Teamsters wielded any unusual influence in the formulation of the proposal, which was developed jointly by the ports' harbor commissions.

was not a plot," Hankla said. "We met with them early on. They offered a plan, we rejected it."

The parties involved with the Teamsters' original proposal declined to offer details of the plan.

The Teamsters did at one time have a major presence in the ports. Union membership swelled in the mid-20th century, hitting its peak of more than two million in the late 1970s, but started declining about that time as Congress deregulated the freight industry. Since deregulation opened the door to competition from small, non-union trucking companies, several hundred unionized trucking companies soon went out of business.

"The union really lost a lot of presence after deregulation," said Kristen Monaco, a trucking industry expert and professor at California State University Long Beach.

The Teamsters currently represent just a small fraction of local port drivers – mostly proprietary fleet drivers or those with specialized trucks, such as refrigerated units.

Today, more than 90 percent of the drivers serving the local ports are independent contractors – the result of a flood of predominantly Latino immigrants willing to work long hours for low wages. At least some seem willing to join a union.

For example, German Merino, a 53-year-old immigrant from Ecuador, has worked as an independent contract driver at the complex for 23 years. He said that with the cost of fuel, permits and fees, he takes home only about $7 an hour – it such benefits as health insurance or a retirement plan – and he struggles to support his wife and four children.

"All of my colleagues, all of my people are waiting for the moment that they will make us employees," he said. "Once we become employees and we're able to get together and decide if we want a union, we'll be able to have the benefits and decent wages we deserve."

But Lightman of Great Freight said most of his drivers do not want to become employees because they like having the freedom to work just two or three days a week if they choose.

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THE PORT OF LONG BEACH

San Pedro Bay Ports Clean Air Action Plan

FOR IMMEDIATE RELEASE **June 27, 2007**

Ports Extend Clean Trucks Program Development Schedule to Further Analyze Operational Considerations and Study Economic Impacts

LONG BEACH, Calif. – Officials at the ports of Long Beach and Los Angeles today announced that they are extending their "Clean Trucks Program" proposal development schedule beyond the targeted July completion goal. The ports anticipate that it will take a minimum of 60 days to complete a comprehensive plan that can be presented to the Los Angeles and Long Beach harbor commissions. The goal now is to bring a plan to the boards during the month of September.

The ports are developing a sweeping proposal to replace or retrofit the 16,000 diesel-powered trucks working the ports to reduce truck-related air pollution by 80 percent within five years. While thousands of comments and numerous operational considerations will be further assessed during the extended program development period, the ports also will undertake an economic impact study to assess the financial impact of the proposed program. In addition, an industry task force will be assembled by the ports in the coming weeks to study and make recommendations that pertain to the mechanics of implementing the program from an operational standpoint. The ports will also proceed with the selection of a program administrator that will oversee the concession application, contracting and program administration elements of the program.

"Our stakeholder process hasn't been a 'window-dressing' formality -- feedback has been constructive and valuable in shaping this plan," said Geraldine Knatz, Ph.D., executive director at the Port of Los Angeles. "Many business stakeholders in particular wanted more economic data, and this extended timeline will enable us to study the economic implications of the plan. The extra time and analysis will make for a stronger program."

"In the interests of fairness to those who offered their input, we need time to analyze their suggestions," said Richard Steinke, executive director of the Port of Long Beach. "We remain committed to aggressively reducing air quality with a Clean Trucks Program, but our aim is to get this right."

The economic impact study that will be commissioned by the ports will supplement a trucking industry wage study that was conducted earlier this year. Based on public

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The San Pedro Bay Ports Clean Air Action Plan was developed with the participation and cooperation of the staff of the US Environmental Protection Agency, California Air Resources Board and the South Coast Air Quality Management District.

comment, the economic impact study, the wage study and input from a stakeholder group, the staffs at the two ports will prepare a final proposal.

The Clean Air Action Plan in November 2006 calls for a Clean Trucks Program in which drayage truck owners scrap and replace the oldest of about 16,000 trucks working at the ports, and retrofit the others, with the assistance of a port-sponsored grant subsidy.

The program under development by the port staffs would only allow port-licensed concessionaires, operating "clean" trucks, to enter port terminals without having to pay a new truck impact gate fee. "Clean trucks" are defined as 2007 or newer trucks, retrofitted trucks manufactured in 1994 or newer, or trucks that have been replaced through the Gateway Cities truck modernization program.

The 2007 and newer trucks are 90 percent cleaner than older trucks. Year by year, the oldest trucks would be barred from the ports until only trucks meeting the CAAP "clean truck" standard would be permitted to work in the ports.

The ports of Long Beach and Los Angeles adopted the landmark San Pedro Bay Ports Clean Air Action Plan (CAAP) to curb port-related air pollution from trucks, ships, locomotives and other equipment. A model for seaports around the world, the CAAP is the boldest air quality initiative by any seaport, consisting of wide-reaching measures to significantly reduce air emissions and health risks while allowing for the development of much-needed port efficiency projects.

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SoCal ports delay truck re-regulation plan by two months

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In a move that surprised opponent and proponent alike, the ports of Long Beach and Los Angeles Wednesday delayed votes to approve a controversial multibillion-dollar truck re-regulation plan by at least two months.

The port trucking plan, originally set to be voted on in late July or early August, will now have to wait until late summer or early fall before being presented to the two ports' governing commissions.

In announcing the delay, the ports said they needed more time to evaluate "suggestions and conduct an economic impact study."

In May, the ports said they were not interested in conducting an economic impact study on the $1.8 billion plan, citing an inadequate amount of time to complete one before the scheduled board votes. When the ports did start an in-house study earlier this month, port officials suggested that it might not be done in time for the late July or early August votes. Insiders at the port say the study, being conducted by a prominent Los Angeles economist, is set to be completed by Sept. 1.

"Many business stakeholders in particular wanted more economic data, and this extended timeline will enable us to study the economic implications of the plan," said Port of Los Angeles Executive Director Geraldine Knatz in Wednesday's release.

Opponents of the plan have said it could threaten thousands of local jobs, including drivers, and wind up costing taxpayers close to $800 million.

The truck plan, announced by the ports in April and scheduled to take effect Jan. 1, seeks over the next five years to replace or retrofit more than 16,000 drayage trucks that service the ports daily. The replacements would be newer models that run up to 80 percent cleaner than older models.

To accomplish this, the plan would force independent drivers to become employees of port-licensed truck companies. Drivers not employed with these port-licensed truck companies would be banned from the ports under the plan.

Until they meet port-defined emission standards, port-licensed trucks would be charged fees to enter port facilities. The collected fees, as well as port and state monies, would be used to pay for a little more than half of the plan's estimated $1.8 billion cost. The ports are

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seeking state bond money to cover the rest. (See California Connection analysis.)

Heavily supported by the Teamsters union, the ports' plan seeks to essentially re-regulate the local port trucking industry. While universally supportive of the emissions control aspects, the transportation industry has opposed the labor and financing components of the plan. The California Trucking Association, the Pacific Merchant Shipping Association, the National Industrial Transportation League and others have vocally expressed opposition to the plan. Some industry groups have also indicated they may litigate the plan as a violation of the U.S. Constitution's Interstate Commerce and Export clauses.

Wednesday's announcement also flies in the face of plan proponents who have been pushing for quick approval of the plan by the port commissions.

In a letter to the two ports on Monday, the National Defense Resource Council and the Coalition for Clean Air warned the two ports' directors that "This is not the time for half-measures and inaction ... The ports must stand firm on their path to a comprehensive solution to the port trucking issues."

Announcement of the delay came immediately after a third meeting of a port-sponsored task force on the plan. The task force -- comprising representatives from environmental, labor, academia and industry picked by the mayors of Los Angeles and Long Beach -- was created to counter criticism on the lack of stakeholder input into the plan. The makeup of the 24-member task force has itself been criticized as skewing heavily toward environmental and labor groups. Criticism has also been levied on the meetings for minimizing and ridiculing the views of task force industry representatives.

The ports, which refer to task force members as "stakeholders," disagree.

"Our stakeholder process hasn't been a 'window-dressing' formality -- feedback has been constructive and valuable in shaping this plan," Knatz said.

The public will have to wait until the plan is presented to the port commissions in several months to find out what feedback has been offered as the task force meetings have been held behind closed doors, unrecorded and with no notes being taken.

The first task force meeting in April turned into a miasma of name-calling and obscenities when labor representatives attacked an industry-proposed alternative to the ports plan. The second meeting in May stayed on track but raised more questions than answers as port staff was unable to offer details on most aspects of the plan.

Wednesday's meeting, previously set to be the last to focus on the plan, also revealed no new details on the plan, according to task force members.

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Southern California truck plan — Green or mean?

By Keith Higginbotham

A multibillion-dollar program to cut diesel truck emissions in the ports of Long Beach and Los Angeles threatens thousands of jobs and may wind up costing California taxpayers nearly $1 billion.

The ports' Clean Truck Plan is also, according to insiders, being guided by political efforts to re-regulate and unionize the Southern California port trucking industry.

Analysis

The plan, announced jointly by the ports in April and scheduled to take effect at the start of 2008, seeks over the next five years to replace or retrofit more than 16,000 drayage trucks that service the ports daily with newer models that run up to 80 percent cleaner than older models. It also aims to define who can and cannot operate a truck in the port.

The ports' plan itself is not entirely new. It has morphed over several years from a simple idea to provide cash for upgrading the ports-servicing fleet of trucks to a truck company licensing plan that sets requirements for emission, safety, security and labor on truck owners seeking access to the ports.

As the plan has evolved, it has also gone from attracting nearly universal approval within the trucking industry to one that now faces, if enacted, a virtual wave of litigation alleging everything from interference with interstate commerce to violations of antitrust laws.

Proponents claim the plan would:

- Result in cleaner air throughout the port area.
- Raise drivers' standard of living by making all drivers employees of trucking companies.
- Improve truck safety.
- Improve security within the ports.

Critics of the plan universally accept the need for cleaner trucks but have serious concerns about:

- The legality of local port authorities to re-regulate the trucking industry.
- Forcing independent drivers to become employees of truck companies.
- Reducing competition within the trucking industry.
- A possible $800 million burden on taxpayers to pay for the plan
- Chaos and disaster in the transportation industry leading to higher consumer prices.

The National Industrial Transportation League summarized the industry position in a recent opposition letter to Long Beach and Los Angeles officials: "While the league is supportive of the plan's stated goals and objectives of fostering a cleaner environment, we believe that it will unnecessarily increase costs, reduce competition, threaten vital operating capacity and most importantly will have a minimal effect toward improving the environment."

The need

The adjacent ports of Long Beach and Los Angeles together make up the San Pedro Bay port complex, the Western Hemisphere's busiest container port complex. In 2006, 15.8 million 20-foot equivalent units (TEUs) of containers moved over the complex' wharves, representing 40 percent of all goods coming into the United States and 28 percent of all domestic exports.

To move these containers to and from the ports, the industry utilizes a fleet of about 16,800 trucks, which according to the ports, account for 80 percent of the annual truck calls into the San Pedro Bay complex. An additional 24,200 trucks call much less frequently — less than once per week — and account for the remaining 20 percent of the 8.2 million annual truck calls to the ports.

The trucks, along with off-road equipment used in the port terminals and oceangoing vessels calling there, have contributed to the complex being identified as the largest single point generator of diesel emissions in Southern California. These emissions, each with their own negative environmental and health impacts, fall into three types:

- Diesel particulates, seen as soot.
- Nitrogen oxides, or NO_x, a precursor of smog and the respiratory irritant ozone.
- Sulfur dioxides, or SO_x, another contributor to smog.

Trucks account for 10 percent of the ports' diesel particulate emissions, 26 percent of the NO_x emissions, and 1 percent of the SO_x created by port-generated activity. Though the trucks are the most numerous generators of emissions in the ports, trucks as a category does not rank as the leading polluter in any of the three categories. In fact, trucks rank fourth in diesel particulates, second in NO_x, and fourth in SO_x. Oceangoing vessels lead each category, accounting for nearly 60 percent of particulate emissions, 36 percent of NO_x emissions, and 90 percent of SO_x emissions from port-generated activity.

However, as vessels calling at the ports are mostly foreign

owned, their regulation falls under the auspices of the federal government and international treaties. Domestic trucks, on the other hand, have typically been regulated for emissions at the state and federal government level. The ports, frustrated by what they see as glacial action by state and federal officials on truck emissions standards, designed the Clean Trucks Plan to shift this regulatory power to the local government level.

The plan

Two years after a 2000 study revealed the enormous scope of the Southern California diesel emissions problem, the ports began funding a local quasi-governmental effort to replace the oldest and dirtiest trucks working in the ports. The program, still in operation, makes grants available to drivers willing to swap out their older trucks for newer ones. While not as successful as originally envisioned — to date less than 550 trucks have been replaced at a program cost of nearly $11 million — the program provided a test bed for concepts that became the foundation of the ports' own program.

The current version of the ports' truck replacement plan is an elaboration on a series of options to address pollution from heavy-duty diesel vehicles included in the ports' omnibus environmental document, the Clean Air Action Plan approved by the ports last November. The truck plan proposes a multi-pronged approach to achieve the primary goal of cleaning up the fleet of port-servicing drayage vehicles.

The ports' governing bodies would modify their ports' respective tariffs to restrict who goes in and out of the privately run terminals. Starting Jan. 1, only port-licensed trucking firms would be permitted to access port terminals.

To obtain the license, companies would be required to pay a $1,500 application fee, an annual fee — now estimated at $5,000 — and meet a port-determined set of criteria. As the plan stands now, these criteria will require a trucking firm to:

- Hire per-hour employee drivers instead of per-load independent truck drivers.
- Maintain a truck fleet of at least 50 trucks that all meet the CAAP emission standards.
- Replace any truck in its fleet that does not meet the CAAP standards with a 2007 or newer vehicle.
- Install radio frequency identification tags on each vehicle in its fleet.
- Maintain its fleet to all local, state and federal requirements of environmental, security and safety standards.

Companies not meeting these criteria would be ineligible for a license and would be, in effect, banned from operating within the port. Individual drivers not associated with licensed companies would face a similar banned status.

Port-licensed truck companies under the plan would still need to meet further requirements. Licensed firms operating trucks that do not meet the port-defined emission standards would be required to pay a "truck impact fee," now given by the ports as a range of $34 to $54 each time the truck goes in a terminal, with or without a container. Trucks serving non-container terminals are expected to face similar rules. The ports have said they would "allow" trucking companies to pass along the fee to the end user of the cargo.

The collected fees would be used to fund administration of the fee collection and the truck replacement and retrofit subsidy portion of the overall plan.

Truck companies that have obtained a port license would be eligible for grants, administered by the ports, to fund truck replacements and retrofits of their fleets. This subsidy is set to cover up to 80 percent of the cost of a new vehicle and up to 100 percent of the cost of a retrofit device and installation.

The ports estimate that each vehicle replacement would cost upwards of $140,000 and each retrofit would cost nearly $20,000. A sliding scale based on the amount of port service a vehicle performs would also help determine the final purchasing funds available.

Under the plan, only certain years of currently operating trucks — those made in 1994 or later — would be eligible for retrofit, while the remaining trucks in a port-licensed truck company's fleet would have to either be a 2007 or newer model or be replaced by such a model. Trucks made before 1989 would be banned at the plan's Jan. 1 start date. A year later, all trucks made from 1989 to 1993 would also be banned. On Jan. 1, 2010, all un-retrofitted trucks made from 1994 to 1998 would be banned. Jan. 1, 2011 would see trucks made from 1999 to 2003 banned, followed by 2004 to 2006 trucks banned on Jan. 1, 2012. (The port's fact sheet on the plan is available at www.polb.com/civica/filebank/blobdload.asp?BlobID=3759)

Who would pay

To obtain the $1.8 billion required to replace or retrofit the 16,000 trucks identified by the Clean Trucks Plan, the ports and the state's South Coast Air Quality Management District would provide initial funds. Combined with the estimated return from the impact fees, the ports and SCAQMD are planning to proffer close to $1 billion of the estimated program costs over five years, with the ports picking up the majority of this.

The ports are also hoping to receive up to $400 million from state infrastructure bond money that was approved by voters in November.

The remaining $335 million portion of the estimated costs would be made up by adjusting the amount of the per-truck impact fee proposed under the plan.

What is at stake

The ports, painting themselves as "reformed-polluters-turned-good-corporate-citizens," have moved quickly to implement the truck plan. Despite their professed newfound belief in environmental protection, the real reason behind the "green" push may not be as entirely humanitarian as it would seem. The bottom line is if the two ports do not cut pollution, they face lawsuits that would prevent any further development of the ports and/or the loss of federal funding for infrastructure development that is also key to future port growth.

In 2001, the National Resource Defense Council sued the Port of Los Angeles over the development of a container terminal for China Shipping Co. A year later a court determined that the port failed to fully determine the environmental impacts of the project and stopped the port from opening the nearly complete facility. The port settled six months later, but the agreement, negotiated by the port without input from China Shipping, rocked the port industry.

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As part of the agreement, Los Angeles agreed to implement a vast array of environmental mitigation plans at the terminal including ship-to-shore power, replacing already installed gantry cranes with lower profile models, and establish a $50 million fund to mitigate the terminal's future environmental impacts. The settlement, while allowing the port to open the 174-acre terminal, set a precedent that allowed groups like the NRDC to demand the same type of mitigation on future projects at any port. The result was the virtual cessation of construction throughout the port complex as development plans were re-evaluated for environmental impacts.

An additional reason for the ports going green revolves around federal clean air standards. The Southern California region is one of the worst violators of federal standards on air quality, and port-generated activity is a major contributor. The U.S. Environmental Protection Agency has given polluters in the area until this year to come up with plans to reach federal standards by 2010. A possible one-time extension could stretch the date for full attainment to 2015.

Penalties for non-compliance are steep: the loss of all federal funding for infrastructure development. Given that the infrastructure going in and out of the ports is nearing saturation and needs sizable federal investments to deal with projected increases in container volumes, the loss of such funds could neuter any advantages gained by development within the ports.

Trucks serving the ports, being a sizable contributor to the pollution problem and one seemingly easy to address — replace the trucks and the pollution goes away — thus became a central part of the ports' and their respective cities' clean air plans to reach attainment of the federal standards.

Reality check

"Seemingly easy to address," is the key phrase here, because despite the above general details of the ports' plan, specifics of how each part of the plan woulde actually work have been noticeably lacking. The ports contend that the plan is a work in progress by port staff, and they are seeking input from a stakeholders group on the final version that is expected to be voted on by the port boards in July.

Indeed, at first glance, April's inaugural meeting of the CAAP Implementation Task Force sounded like a public relations stroke of genius: take two-dozen representatives from industry, academia, environmental groups and labor, each handpicked by the mayors of Long Beach and Los Angeles, and allow them to contribute ideas toward port efforts on improving the environment.

The task force idea, on the surface, certainly promised to counter a nagging concern over the CAAP: namely the lack of industry and community input.

At the group's April meeting, which was closed to the public and neither recorded nor transcribed despite protests from task force members, the truck plan was at the top of the agenda.

For their part, the ports' entered the meeting ready, even down to ready-to-send-out press releases claiming the meeting's success.

According to attendees, and despite what the releases claimed, the ports did not come to listen.

And the meeting itself, instead of being the collective Kumbaya session suggested by the later distributed releases, quickly devolved into a miasma of personal attacks, name-calling and cursing.

For many of the attendees, the meeting was a severe disappointment, with some threatening not to return.

Of the 19 members of the 24-member task force contacted by *American Shipper*, only one member would willingly talk about the April meeting on the record. Beyond stating the previously released details of the plan, even this person cited political considerations for not commenting further.

The politics

Politics appears to suffuse the entire plan.

Last year, industry members, state environmental officials and the ports met to talk about details of how impending state regulations on diesel equipment emissions would affect all stakeholders. According to attendees, who requested not to be identified, progress was made and cooperation was in the air towards a plan to address the truck emission problem.

Some time last year, however, according to attendees that wish to remain anonymous, Teamsters union President James Hoffa met with Los Angeles Mayor Antonio Villaraigosa, during which the union's vision for a truck replacement program was discussed. Unlike the original port plan that simply called for providing money to expand an already operating truck replacement program, the Teamsters' plan diverged sharply into social engineering, including criteria that would set labor standards for truck owners and drivers.

Hoffa

Meetings on the cooperative plan with the industry stalled immediately afterward, and at some point were ended altogether.

The truckers

The Teamsters, in presenting their plan, pointed to what they claim are substandard wages and work conditions faced by port drayage drivers.

Since the deregulation of the trucking industry by President Jimmy Carter in 1980, truckers have been allowed to operate as independent owner-operators, hiring themselves to trucking companies on a per-contract or per-load basis.

While this has been beneficial for the cheap movements of goods, it has also resulted in abuses, especially on the short-haul drayage side. According to several non-industry studies, truckers carrying containers in and out of the Los Angeles-Long Beach ports are some of the lowest paid in the trucking industry.

A study by the Gateway Cities Council of Governments earlier this year found that the average independent operator driver working in the ports made the equivalent of $12.13 an hour. The same study found that less than 2 percent of the drivers were hourly employees, making an average of $16.30 per hour.

With such low wages being paid and shippers wanting to cut costs wherever possible, rates for moving a container are notoriously low, ranging by some accounts from $50 to $200 depending on the cargo. Given that some terminals have long wait times and depending on where the container is headed, some drivers claim they are able to make only a couple of "turns" a day. And, because a paid-per-load driver must subtract the cost of fuel, vehicle maintenance, vehicle mortgage payments and health care from his or her wages, it is not unheard of for a driver in the ports to bring home less than $30,000 a year.

Despite this, and contrary to some claims, the turnover rate for drivers in the ports is not as high as one would suspect. A Cal State Long Beach study found that the average retention time of a driver involved in port drayage is a little more than eight years.

Ironically, the 1980 trucking deregulation that led to this situation has also been one of the main reasons the ports have been able to experience such rapid and sustained growth over the past quarter-century. Prior to deregulation, most short-haul port trucking was handled by unionized drivers and rates were essentially

fixed. Paid a union per-hour wage reduced the drivers' financial incentives to move more containers, and it was not uncommon for an average union driver to top out at two port trips a day.

Today, per-load truckers' wages are dependent on how many containers are moved and the consensus average is closer to four trips per driver per day. Per-load truckers, while being paid much less than their pre-deregulation union counterparts are by most accounts more efficient.

Add to this the growth of the truck broker business, where rates can be shopped to hundreds of small trucking firms almost instantaneously, and it is easy to see why truckers have been forced to cut rates to the barest minimum just to capture enough work to survive. It is not unheard of today for contracts involving hundreds of container moves to hinge on a few dollars more or less per load.

Union efforts

In an industry so allegedly suffused with low wages and employee pains, it would seem that a union as powerful and as skilled at organizing as the Teamsters would have little problem mobilizing the drayage truckers, even with deregulation.

However, numerous unionizing efforts over the past decade or so have seemed to attract very little interest from drayage drivers. Past Teamster organizing rallies in the ports have rarely attracted more than a handful of drivers, leaving many involved scratching their heads at the reason.

One reason suggested by many in the industry is that the drayage business attracts a great percentage of undocumented workers that tend to shy away from the attention unionization may bring. Estimates of the number of undocumented drayage drivers range from 15 percent to 50 percent of the port-servicing fleet.

> ***"This program will improve driver's quality of life."***
>
> **S. David Freeman**
> *chairman, Los Angeles Port Commission*

Another possible reason offered by many in the trucking industry for the lack of interest is that a percentage of the drivers enjoy the freedom that being an independent owner-operator affords them — setting their own hours, maintaining their own vehicle, choosing who they work for.

An industry-sponsored study completed this year found that 80 percent of the 1,090 truckers surveyed would prefer to remain independent operators while 15 percent would, if they had the choice, prefer to be employees. Five percent declined to make a choice.

Drivers wishing to remain independent operators consistently cited their ability to earn more than an employee driver as well as their freedom to set their weekly and annual schedules, choose who they work for and ability to decide how much to work.

A third reason for lack of interest in unionizing is purely market driven. Per-hour truckers are at a clear disadvantage as long as the lower cost per-load drivers dominate the port services. The shipping industry is notorious for always seeking the path of least cost and the available work follows this path. This has kept the number of per-hour positions, those that typically are more receptive to union organizing, to less than 2 percent of the workforce.

Whatever the drivers' lack of motivation, the Teamsters have so far been unable to achieve a critical mass of support among the drayage fleet.

One thing is clear, though. A central theme to the Teamsters' efforts over the past several years has been the elimination — by either port-fiat or legislation — of the per-load drivers and companies. In 2005, the Teamsters began courting state officials in California to pass legislation to essentially re-regulate port truckers. Gov. Arnold Schwarzenegger twice vetoed Teamster-supported bills. In late June 2006, the Teamsters' national assembly unanimously approved a union campaign aimed specifically at eliminating the per-load port drivers.

The Teamsters' first push of their plan began with Hoffa's meeting last year with Villaraigosa, a former union organizer with close ties to labor unions and well known to personally take action on city department issues. Villaraigosa's office did not respond to *American Shipper* requests for comment.

Following the meeting with Hoffa, the plan filtered through the mayor to his head of the Los Angeles port commission, S. David Freeman. The mayor's office, Freeman and Los Angeles port staff pressed so hard regarding the Teamsters licensing and labor components of the plan that officials at the Long Beach port refused to stand in the way. Long Beach port insiders describe the internal attitude toward the plan as "whatever Los Angeles wants, they get."

When the two ports' governing boards met in a rare joint session in November 2006 to approve the full Clean Air Action Plan — which included various options to solve the truck issue — Villaraigosa made an appearance. He offered his support for the ports' approval of the CAAP and also said the truck issue had to be addressed.

Most port trucks "are from very small companies or individual operators," the mayor told the commissioners. "We have to think long and hard on how we expect these individuals, living on the margin, to address our environmental growth, safety, and security concerns."

Freeman told the audience at the same meeting, "We are linking the welfare of the truck driver with the pollution control so that our program embraces both with equal strength and determination."

Four months later, as the ports were forging the CAAP options into a single truck plan, Villaraigosa met with the Teamsters executive board in Washington, D.C. to discuss the ports' truck plan.

Days later, and just two weeks before the ports unveiled their draft version of the plan in April, a Teamsters-led coalition of religious, environmental and community groups publicly released their own version. A week later, the coalition and ports plans, laid side-by-side, mirrored one another. Moreover, both were nearly identical to the licensing and labor plan the Teamsters had been publicly advocating for years.

Implications

Virtually everyone involved with the ports' plan — proponents and opponents alike — agree on two key things: trucks should be cleaner and truckers should make a decent wage.

So how do members of an industry that has such a common foundation wind up with such divergent views on a plan that seemingly addresses both issues?

Essentially the debate over the plan comes down to three questions:

- Who pays for it?
- How will it be run?
- What will the impact be to the rest of the shipping industry?

Paying for trucks

Trucks are not cheap.

A new diesel big rig used for carrying containers can cost upwards of $140,000. Although the port plan calls for the outright

replacement of up to 10,700 trucks, one-third of those covered under the plan — nearly 5,200 trucks — would be retrofitted with devices to reduce emissions. Despite not having to replace all 16,000 port drayage trucks, the port-prepared CAAP document still estimated a price tag of close to $1.8 billion over five years for the plan.

The ports have committed a combined $166 million per year for five years and the South Coast Air Quality Management District has made a one-time pledge of $36 million. These funds, together with the collected truck impacts fees, would pay for nearly half of the plan's $1.8 billion.

The remaining $735 million would have to come from other sources. The ports have identified the state's Proposition 1b infrastructure bond money passed by voters in November as the most likely source. In fact, it is the only identified source for the shortfall. Given that the funds would not be available indefinitely and must be applied for soon, it is also one of the main reasons for the ports' rushing to implement the plan.

"Part of our thinking is that we can leverage some of the bond money with our own matching funds," said Richard Steinke, Port of Long Beach executive director. "It's not dependent on bond money, but part of our financial runs show some contribution from the bond money."

Experts say, however, that it is unlikely the ports would receive some, if any, of these funds for the truck plan. For one thing, the money is not there. The funds that the ports would be eligible for next year are but a small fraction, just over a quarter of the $400 million needed. In fact, the approved bonds allocate a statewide total of $1 billion for air quality measures related to goods movement.

Add to this the state and federal governments' past reluctance to give the highly profitable ports any money for internal development and the likelihood decreases even further.

It is also unlikely that, if the public finds out what the bond money is being used for, that it would quietly accept it. Industry experts estimate that the average new diesel truck has a lifespan of about 10 to 12 years. Given that the bond money would be repaid by taxpayers over the next 30 years, this would leave taxpayers paying for nearly 20 years on trucks that, under the ports' plan, would already be scrapped.

In addition, by the end of the 30 years, taxpayers would actually wind up paying close to double the original bond amount. The $400 million in bond money the ports might request for the plan would end up costing taxpayers closer to $760 million. Add the $36 million being offered for the plan by the state's SCAQMD and the taxpayer bill rises to just shy of $800 million.

The ports have remained shy about the bond issue. Port conversations with credit rating agencies about the possible impacts of the truck plan on port finances have steered clear of the bond issue altogether.

When asked last month about the appropriateness of the bond component, port officials said the state, vis-à-vis the voters, has already designated the money for such uses, so why not use it for the truck plan?

Details still lacking

Considering that the ports' plan is essentially a rewriting of the entire port drayage industry, it has struck some as strange that very few details on how the program would work have yet to be released, despite the impending port votes to approve the plan.

At the second Implementation Task Force meeting held in May, and despite nearly six months of work on the plan, the ports were unable to provide details on virtually any aspect of the proposed program.

For example, when pressed by task force members on the specific detail of how the Truck Impact Fee would be collected, port officials admitted that while they had a "concept," they had no idea how, when or who would collect the fee.

Port officials were also unable to detail how many licenses to truck companies would be available, how adequate levels of drivers during peak times would be maintained, or even how to document a driver's proof of employment.

> ***"The lack of details, vague assurances by port staff and the underlying political goals of this process are creating an atmosphere of uncertainty across the international trade community."***
>
> Pacific Merchant Shipping Association

And, while Freeman, Los Angeles port commission president, told attendees that security has to be a component of the plan, he was unable to detail exactly what that would entail or how that it would be accomplished.

According to attendees at the meeting, confusion at the ports seems to reign over the entire program. From conversations at the meeting, it was clear that harbor commissioners disagreed with their own staff as to what the entire program would actually entail, and that port staff had no idea how to implement the program or any idea of the program's net effect on truck capacity.

In fact, port officials at the meeting said they were not interested in doing an economic impact study of the program — they don't have time if they are to meet the proposed Jan. 1 start date. The ports eventually reconsidered this stance and have since started an in-house economic impact study of the program that may be completed by the time the ports vote on the plan in late-July or early August.

The opposition

For their parts, the ports predict that the Clean Truck Plan would dramatically curb truck emissions, provide a more stable workforce and offer better security at the ports.

"This program will improve driver's quality of life," Freeman said at the May task force meeting.

The industry, while universally agreeing that cleaner trucks are good for everyone, is not so confident about the port plan.

The California Trucking Association, in a June letter to the ports opposing the plan, repeated a widespread industry concern that thousands of trucking jobs are actually at stake.

The letter said the ports' licensing scheme would result in the consolidation of the 1,400 trucking companies serving the two ports into a handful of large motor carriers.

"The consolidation ... will effectively eliminate many smaller motor carriers and their non-driver jobs," the CTA said. Those at risk are dispatchers, clerical support, payroll, customer service, scheduling, safety compliance, human resource and recruiting personnel.

The plan, according to opponents, could also result in a loss of drivers right from the start.

By the ports' own accounting, nearly 15 percent of the drayage fleet would be banned from entering the port on Day One of the plan due to the age of the trucks. This represents more than 2,400 drivers. However, the port plan ramps up slowly in the first year, providing funds for the replacement of some 200 trucks. This

leaves, by the ports' own estimation, about 2,200 drivers that would not have access to the ports or a chance to have the port plan buy them a truck.

These numbers have those that rely on an already notoriously thin port drayage workforce holding their breath in anticipation. A 15 percent reduction would undoubtedly have a serious impact on the ability to move containers in and out of the ports in a timely fashion.

> ***"The consolidation ... will effectively eliminate many smaller motor carriers and their non-driver jobs."***
>
> California Trucking Association

Add to this the possible loss of additional drivers to other non-port trucking sectors due to the introduction of the plan and reason for the concern is easily understandable.

A June 14 letter of opposition to Villaraigosa and Long Beach Mayor Bob Foster from the Pacific Merchant Shipping Association cited a lack of "fundamental issues and details" regarding the plan. The PMSA, which represents shipping lines and terminal owners and operators, said, "the lack of details, vague assurances by port staff and the underlying political goals of this process are creating an atmosphere of uncertainty across the international trade community."

The PMSA, which has represented the industry on the ports' task force, asked in its letter for the mayors to provide assurances that the plan's implementation would not cause serious disruptions across the industry. It also pointed out areas it felt were lacking in detail, including everything from "who will collect the truck impact fee" to "who will ultimately pay" for the entire port plan.

The Association of the California Recycling Industry, warning that the proposed plan "will negatively impact our members and will place an insupportable burden on shippers across the state," called for port and city officials to reconsider the plan and make structural changes to it before seeking a vote.

The association, in a letter to Villaraigosa and Foster, predicted that the plan "will detrimentally impact the flow of trade, injure local businesses, create inefficiencies which will undermine environmental objectives, and particularly injure small business in the greater Los Angeles area."

The Pacific Coast Council of Customs Brokers and Freight Forwarders, which represents more than 6,000 industry professionals engaged in international logistics along the West Coast, also raised the specter of legal violations by the plan in a seven-page opposition letter to the two mayors and the ports.

"We believe that the proposed economic regulation would be a local restriction on U.S. international trade, very possibly in violation of the Export Clause of the United States Constitution," the PCC said in the letter.

Legal issues

James Hankla, outgoing president of the Long Beach port's Harbor Commission, boasted to attendees of the May task force meeting that the ports had the nation's "finest legal minds" review the plan, and the ports were confident that the plan was on firm legal ground.

In fact, the ports have reportedly paid upwards of $700,000 for the review. A request to the Port of Long Beach for the names of the "legal minds," however, went unanswered.

The legal grounds of the plan, cited by many in the industry as a source of concern, may ultimately be its downfall.

Litigation to stop the plan is either being prepared or under consideration by several trucking industry groups. Most focus on the same issues brought up by the CTA, which has publicly announced it would sue if the plan is approved.

"Local agencies such as the ports do not have the legal authority to regulate how trucking services are to be provided," said the CTA in its letter to the ports. "This authority resides with the state and federal agencies under their respective laws. Moreover, trucks that provide services to the ports are engaged in interstate commerce, and their right to have access to and conduct business in the ports is protected under the U.S. Constitution's Interstate Commerce Clause."

The National Industrial Transportation League, which represents nearly 600 businesses, said in its opposition letter to the ports: "We believe that there are serious questions concerning the legal authority of the ports to implement the CAAP under federal laws, including the Constitution."

The Owner-Operator Independent Drivers Association, a national group representing drivers, also said it was looking at possible litigation, describing the port plan as something "the Sopranos would have thought up."

Is it green?

Despite all the politics, legal questions and financial implications, the ports claim the plan is ultimately about reducing emissions from trucks operating in their facilities.

It would be hard to question that removing the oldest and most polluting trucks from the highways and replacing them with cleaner trucks could do anything but reduce emissions.

But, are the port trucks really as old and dirty as laid claim to by the ports?

The ports' own research has shown that the average age of diesel trucks working in the ports is 12.9 years. While this may seem old, the average age of a diesel truck in the state, according to the ports, is 12.2 years, or six months less than the average port truck.

As for their status as being excessively dirtier than other trucks, port trucks must pass the same state air emissions standards as all other trucks on the road. Moreover, there is no research to suggest that the extra six months of average age for port trucks makes them any less clean than non-port trucks.

Perhaps the sheer volume of the port trucks makes them a massive source of pollution. Again, the numbers do not bear this out. According to the state, all port-generated activity accounts for 21 percent of the total diesel pollution in Southern California. The ports' own research breaks this 21 percent total out more specifically. Port-generated activity accounts for 12 percent of the region's total diesel particulates, 9 percent of the region's total NO_x and 45 percent of the region's total SO_x.

However, these numbers are for all port-generated activity and trucks only account for small portion of this. As stated earlier, port trucks generate a smaller proportion of pollution than the rest of the region's diesel sources. When viewed as percentages of the entire region, port trucks generate 1.2 percent of the region's entire diesel particulates, 2.4 percent of NO_x, and 0.45 percent of SO_x.

Widdows

As the CTA said in their opposition letter to the plan, it "supports the objective of cleaning up the port drayage fleet but feels that this task is beyond the capacity of the ports to accomplish."

Ron Widdows, chief executive officer of ocean carrier and Port of Los Angeles tenant APL, even more succinctly voiced the opinion of many in the industry during an industry conference earlier this month. "The objectives of the (ports') plan are good, but the details still have some hair." ■

American Shipper
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S. Calif. port truck plan supporters warn current version will fail

Officials at Southern California's ports just cannot seem to get any love these days.

Already facing vehement outcry from the transportation industry over a proposed $1.8 billion trucking re-regulation plan, the ports now face a new critic -- the plan's main public supporters.

The Coalition for Clean and Safe Ports, a Teamster-led collection of environmental, labor, community and religious groups, warned Long Beach and Los Angeles port officials Monday that the truck plan "will fail if enacted as it is currently drafted."

Under the $1.8 billion plan being finalized by the two neighboring ports, local trucking companies would require a port-administered license to operate within the port complex. To obtain a license, trucking firms would have to meet a long list of port-defined criteria on everything from driver documentation and company finances to insurance and workers' compensation.

Trucking firms would also have to agree to use only employee drivers instead of the current system where more than 90 percent of the 16,800 port drivers are independent owner-operators paid by the load. The trucks of port-licensed firms would also have to meet port-defined emissions standards according to a five-year schedule that would ban certain model years of truck each Jan. 1 through 2012. Dirty trucks would be charged a fee to enter port facilities, with port and state money used to replace older trucks.

In a release, CCSP officials listed criteria that the group wants to see in the plan. These include:

* A no-loophole environmental standard for trucks.
* Requiring that 50 percent of the 16,800 trucks are replaced with alternative fuel vehicles.
* Immediate transition on the plan's Jan. 1 start date to the employee driver model.

The group, which formed earlier this year, wants to see the truck plan funded entirely by retailers and trucking companies.

The plan must be approved by the two port commissions, with votes now expected sometime in late September or early October. An economic impact report recently commissioned by the ports is expected to be completed at the start of September.

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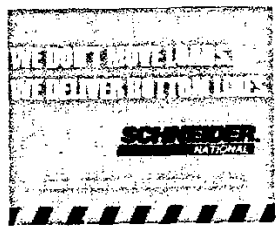

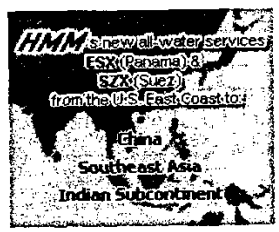

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COALITION FOR CLEAN & SAFE PORTS

Environmental Justice Leaders, Green Groups Warn Ports: Polluted Air Here to Stay Without Stricter Clean Trucks Program

For Immediate Release:
Monday, July 2, 2007

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Environmental justice and other green organizations indicted the trucking industry's efforts to sustain pollution-plagued ports in the San Pedro Bay, today warning Long Beach harbor officials that their proposal to reduce truck emissions as mandated by their own Clean Air Action Plan will fail if enacted as it is currently drafted.

"Trucking companies must be held accountable to clean up the air now," said **Adriano Martinez** of the Natural Resources Defense Council.

The L.A. and Long Beach Ports are gearing up to put hundreds of millions of tax dollars toward new clean trucks. Nine key organizations that help make up the Green L.A. Port Working Group, a coalition of environmental justice, community, and public health organizations, told the harbor commissioners that a successful Clean Trucks Program must include:

- A real "clean truck" standard, which means the cleanest available individual truck, at the time of purchase - based on the truck's toxic, criteria pollutant and greenhouse gas emissions. (The Program should not rely on "averaging" or allow other loopholes.)
- Explicit criteria to ensure 50% of trucks falling in the "frequent and semi-frequent" visit categories are replaced with clean alternative-fuel trucks as proposed in the Clean Air plan.
- Immediate employee status for truckers to ensure trucking companies, not individual drivers, are accountable for environmental and safety maintenance.

Representatives from the Green L.A. Port Working Group appeared at today's Long Beach Harbor Commission meeting to deliver the message that stronger labor and environmental standards are needed to curb severe pollution in harbor communities. Additionally, environmental organizations asserted in two letters last week to **Dr. Geraldine Knatz** and **Richard D. Steinke**, Executive Directors of the Los Angeles and Long Beach Ports, that the trucking companies, not the current workforce of 16,000 individual drivers, should be immediately accountable to maintain the new, clean trucks.

The twin ports have held two forums on the proposal, at which hundreds of port drivers spoke, with the majority supporting an immediate transition to employees to solve the pollution crisis in the harbor. Overwhelmingly these drivers testified that they were unable to meet the current maintenance needs for the trucks, and they would be unable to afford or take care of newer clean trucks without a change in their economic status.

The trucking industry is aggressively lobbying to avoid responsibility for the cleaner, alternative-fueled trucks and technologies required to cut deadly pollution by 90 percent and more. Currently, the responsibility for buying and maintaining the trucks that move goods from the Ports to retailers like Target, Wal-Mart, and Home Depot rests on individual truck drivers, not the companies who contract them. Cleaning up the pollution from the trucks under the current system is untenable because after the drivers pay insurance, taxes, gas, and other basic operating expenses, they in effect become minimum wage workers unable to meet clean air compliance standards.

"It's time for the trucking companies and their shipper clients to clean up their act," said **Angelo Logan**, Director of East Yard Communities for Environmental Justice. "The responsibility for halting deadly pollution should fall on the industry, not the thousands of underpaid drivers who serve the ports."

Added **Rupal Patel**, of Communities for Clean Ports: "The goods movement industry has profited while Southern California communities and taxpayers have paid the bill for its toxic air pollution. The Ports can change that - if they require the cleanest available trucks, and replace the current, broken trucking system with an immediate employee workforce. Otherwise, they'll just have to subsidize the industry again."

Today's testimony by environmental justice leaders and the recent letters signal mounting support among major stakeholders within the Port system for a key provision to shift responsibility from individual drivers to the trucking companies and their Big-Box shipper clients.

The genesis of the trucks proposal was pressure from environmental and community groups concerned about the San Pedro Bay Ports to clean up the harmful pollution stemming from their operations. As a result, the Ports now are required to take dramatic steps to stop pollution prior to expanding to meet the trade demands of today's global economy, projected to triple by 2020.

Diesel fumes resulting from dirty trucks have led to a high incidence of asthma, cancer, and other pollution-related

diseases, disproportionately affecting children in area communities, including those of the port truck drivers.

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*Coalition for Clean & Safe Ports * 1714 Franklin St., Suite 325, Oakland, CA 94607*

The Coalition for Clean & Safe Ports is committed to working with Port stakeholders to develop a lasting solution to the crisis in port trucking. The Coalition includes environmental, labor, faith, public health and community organizations that are promoting sustainable economic development at the Ports of Los Angeles and Long Beach.

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Read our Blog

CCSP Oakland

Historic Clean Air Victory in LA

Standing Together for Clean Air and Good Jobs

Drivers are Taking Action - You Can Help

Clean air and good jobs could be a reality at our ports, but Wal-Mart, Target and the trucking companies are standing in the way. Harbor commissioners will cast their vote soon, so let them know underpaid drivers cannot shoulder the cost of green trucks. The only way to halt deadly pollution is to make environmental accountability the cost of doing business in our communities.

Take Action

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