

Revolution or Evolution Underway at the Ports?



■ Trade and Transportation

By *Thomas O'Brien*

October 1 is looming large at the Ports of Los Angeles and Long Beach. On that day, the two ports are determined to begin implementation of their Clean Trucks Program. The first phase of the program denies access to the ports to older, dirtier trucks with model years before 1988. A number of other key provisions of the plan are being tested in the courts, including the highly controversial decision by the Port of Los Angeles to deny access to independent owner operators.

Whether or not that employee driver provision survives, the Clean Truck Program is a major change in the way business is done at the Ports. The Clean Air Action Plan, of which the Clean Truck Program is part, begins a new era of cooperative efforts by LA and Long Beach to address the environmental impacts of trade-related operations. The question is whether or not the change underway is truly revolutionary or part of an evolution from legislatively mandated environmental regulations to more port-directed (albeit legislatively inspired) environmental policy.

It was not all that long ago that off-peak gates at the ports were also considered revolutionary. Prior to 2005, trucks picked-up and dropped-off cargo largely between the hours of 8 AM and 5 PM. But that year, terminal operators changed their operating procedures in response to the threat of legislative action by Senator Alan Lowenthal. Lowenthal proposed a bill that would have otherwise mandated evening and weekend gates. Instead, terminal operators established PierPASS, a program which assesses a surcharge on containers moved during peak hours. The intent is to spread out truck traffic, eliminating queuing at the ports, and as a result, improving congestion and air quality. PierPASS was designed as a voluntary program and allowed terminal operators to control not only the collection process but the use of the surcharge fees themselves.

Although withdrawn, Lowenthal's proposed legislation, by and large, had its desired impact. Port operations changed dramatically with the implementation of port-wide off-peak gates, something that elected officials and many in the community had been demanding for years. Almost overnight, PierPASS reached its first year goal of moving 20% of the eligible container moves to the off-peak. In our own research funded by the METRANS Transportation Center at CSULB and the University of Southern California, we determined that, in shifting truck traffic out of the peak periods, PierPASS offset about two years of port growth. The ports and terminal operators likely benefited from increased trade volume, and certainly benefited from having the fee contribute to the added costs of off-peak operations.

The cooperative action that resulted in PierPASS was built upon earlier efforts by ports and terminal operators to take advantage of the flexibility of federal law which allows them to jointly discuss and implement programs of this nature. This is a right not enjoyed by everyone along the supply chain. But PierPASS represents a significant shift in strategy. The growing evidence on the health effects of port activity has made it impossible for political leaders not to embrace an aggressive mitigation strategy. Those involved in international trade have no choice but to actively participate. Operational changes like off peak gates are one way of responding to the environmental imperative in a substantive way while limiting the role played by outside actors.

PierPASS has set a precedent. Ports and terminal operators have a new level of responsibility to reduce impacts both inside and outside the gates. California Senate Bill (SB) 927, which called for a container fee of \$30 per TEU to support infrastructure and emissions mitigation passed both houses of the California Legislature in 2006, but was vetoed by the Governor later the same year. A revised bill, SB 974, was introduced in February 2007 and awaits the fate of all the bills pending the Governor's signature now that a state budget has passed.

With more goods movement-related legislation addressing both financing and operations being introduced in the legislature, and with the likelihood that new container fees will eventually pass, the ports of Los Angeles and Long Beach have adopted their own infrastructure fee which will first be collected next January. Like the PierPASS surcharge, the ports will directly control this fee.

This brings us back to the Clean Truck Program. The PierPASS model is also being used by the terminals to collect a clean truck tariff as part of the program. Fees collected will be used by LA and Long Beach to modernize the port-serving drayage fleet. Companies registered with PierPASS will automatically have their information transferred to a new database for this purpose.

If you're a truck driver, October 1 will see the start of some dramatic changes; but they can't be considered truly revolutionary. The Clean Truck Program and the Clean Air Action Plan grew out of lessons learned by the industry over the past few years; and these voluntary measures will continue as the lesser of two evils as long as there is a need to identify funding sources for both infrastructure development and environmental mitigation. This evolution will likely impact other parts of the State and the country. The institutional structure that made PierPASS possible is not unique to Southern California. The framework exists in other places for similar outcomes to occur.

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