



Appeal Denied on Delay of Clean Trucks Program Also, Federal Maritime Commission to hold hearings on Program

September 24, 2008

The U. S. Court of Appeals for the Ninth Circuit today, September 24, 2008, denied a request by the American Trucking Association (ATA) for an injunction to prevent the Port's Clean Trucks Program from going into operation on October 1, 2008.

The court ruled that the ATA "has failed to establish that it will be irreparably injured absent an injunction, or that the public interest lies in favor of granting an injunction."

The ruling of the U.S. Court of Appeals removes the last potential legal impediment to the Clean Trucks Program commencing as scheduled.

The ATA will continue to have an appeal pending from District Judge Christina A. Snyder's denial of a preliminary injunction on September 9, 2008. However, the U.S. Court of Appeals, at the same time as it denied the ATA's request for an injunction, also denied the ATA's motion to expedite its appeal. As a result, it appears unlikely that the ATA's appeal will be decided until after completion of a full briefing and argument in 2009.

Now that the U.S. Court of Appeals has issued its ruling, the Port of Long Beach will continue with its Clean Truck Program, including the requirement that trucking firms enter into a Port-approved concession agreement and the banning of pre-1989 trucks, which will take effect on October 1, as previously scheduled. Other components of the Program, including the imposition of fees to help finance new trucks, will be implemented on a stepped approach. It is anticipated that the fee collection system will be operational a few weeks after October 1 and until the system is up and running, the fee will not be assessed.

The Port is reviewing an Order of Investigation issued by the Federal Maritime Commission late today. "While we appreciate that large-scale environmental improvement projects such as the Clean Trucks Programs are unprecedented in the experience of the Federal Maritime Commission, we believe that the practices that the Commission proposes to investigate are essential to the health, security and safety of the Ports, and those who work and live near the Ports," said Richard Steinke, Port Executive Director.

"We are certain that these practices will be found reasonable and lawful under the Shipping Act of 1984. The Ports will continue to work closely with all interested federal, state and local governmental agencies, including the FMC, to ensure that effective measures to permit further growth and to ensure healthy living and working conditions are implemented as quickly as possible."

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