



OFFICE OF THE  
BRITISH COLUMBIA CONTAINER  
TRUCKING COMMISSIONER

# CTS LICENCE REFORM 2021 OFF DOCK DRAYAGE REFORM

# CONSULTATION REPORT





OFFICE OF THE  
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## Contents

Executive Summary .....	3
Consultation Response .....	3
Off-Dock Reform.....	3
Recommendations 1 & 2.....	3
Recommendations 3 & 4.....	4
All-Hourly Rate Model .....	4
Recommendation 5 .....	4
Enforcement.....	5
Recommendation 6 .....	5
Introduction .....	5
Background .....	6
Consultation Terms of Reference.....	6
Who We Heard From.....	7
What We Heard.....	7
Key Findings .....	7
Recommendation 1 .....	8
Recommendation 2 .....	8
Recommendation 3 .....	9
Recommendation 4 .....	9
Recommendation 5 .....	9
Recommendation 6 .....	10
Next Steps.....	10
Off-Dock Reform.....	10
Recommendations 1 & 2.....	10
Recommendations 3 & 4.....	12
All-Hourly Rate Model .....	13
Recommendation 5 .....	13
Enforcement.....	14

Recommendation 6 .....	14
Conclusion.....	15
Appendix I.....	16
Appendix II .....	17

## Executive Summary

The BC government tasked the Container Trucking Commissioner (the “Commissioner”) with examining the issue of “off-dock drayage” in the Lower Mainland. Specifically, drivers at companies licensed by the Commissioner have been raising concerns about loss of work to lower paid drivers at unlicensed companies that are exclusively performing off-dock container trucking services (“CTS”).

An independent third party was engaged to examine the issue in detail, and, in September 2020, a report titled *Off-Dock Drayage Insights* was released. The Commissioner consulted on that report and responded in May 2021 with the release of the *Off-Dock Drayage in the Lower Mainland Recommendation Report*.

The *Off-Dock Drayage in the Lower Mainland Recommendation Report* made six recommendations that stakeholders were asked to comment on in a Terms of Reference issued on June 30, 2021. Stakeholders provided feedback in response to the recommendations through written submissions and consultation sessions which concluded on September 16, 2021. The information received from stakeholders is detailed in this consultation summary report.

The recommendations were not widely supported by stakeholders. The Commissioner is tasked with ensuring fair and equitable working conditions for drivers that support a stable, efficient and competitive sector. Ensuring stability, in particular, is of primary concern to the Office of the BC Container Trucking Commissioner (“OBCCTC”). It was apparent from the consultations, that the implementation of the proposed recommendations would not encourage greater stability, but rather, the opposite. For this reason, I have concluded that enforcement of the existing regulatory and licensing structure, rather than changes to the regulatory structure, should be pursued at this time. Licence amendments and increased licence fees will be introduced to support the OBCCTC’s enforcement capacity and address stakeholder concerns about the proliferation of unlicensed, untagged off-dock CTS.

## Consultation Response

### Off-Dock Reform

#### Recommendations 1 & 2

Amongst stakeholders, there was almost no support for Recommendations 1 & 2. Licensees, and those who contract with licensees, do not support further regulation and/or do not support any changes that will result in an unfair advantage to those companies that have been conducting unlicensed, untagged off-dock CTS. Drivers and their representative organisations are less focused on rate regulation and more focused on prohibiting the off-dock activity. It has also become clear that the extent of the unlicensed, off-dock activity being conducted on behalf of licensees is not large enough to warrant the proposed changes to the CTS Licence.

If the scope of the problem does not require the proposed changes to the CTS Licence, and the preferred response to the issue is increased enforcement, I will not implement Recommendation 1 or 2.

**Licensees will be prohibited from using unlicensed affiliate companies and from contracting with unrelated, unlicensed companies for CTS. Licensees will be penalized for using affiliated companies or untagged trucks to perform CTS and unlicensed companies that perform CTS may be reported to the police for potential contraventions of section 42 of the *Container Trucking Act* (the “Act”). Truck tags will be redistributed per the Truck Tag Policy to accommodate increased demand for off-dock CTS and off-dock CTS will continue to be considered as part of the truck tag allocation process during licensing periods.**

### **Recommendations 3 & 4**

If untagged trucks are not permitted to conduct CTS, there is no requirement to amend section 25 of the *Container Trucking Regulation* (the “Regulation”). There is also no requirement to tie OBCCTC funding to the number of trucks rather than tags, identified under licence.

Stakeholders generally support increased enforcement, but licensees would prefer that the licence costs were reduced and eventually eliminated through deregulation. However, increased enforcement comes at a cost and there is a direct correlation between licence costs and compliance. As long as increased enforcement measures are required, licence costs will increase.

The OBCCTC’s budget cannot accommodate an increase in audit and investigation activity or the ancillary legal costs. The per truck tag amount charged to licensees needs to be increased.

**OBCCTC funding will continue to be tied to the number of truck tags, identified under licence. The per truck tag amount charged to licensees will increase to accommodate increased enforcement activity.**

### **All-Hourly Rate Model**

#### **Recommendation 5**

There continues to be a lack of consensus on the all-hourly rate model. Drivers and labour representatives only supported the recommendation if it could be guaranteed that drivers would not be worse off financially under an all-hourly model and there was concern that the schedules of some trip rate drivers would be adversely impacted by the rate structure change. Independent operators (“I/Os”) who are currently paid by the hour were more supportive. Other stakeholders raised concern about the cost impact of the change and cited the wide range of business models amongst licensees and the lack of operational flexibility that would result from a change to an all-hourly rate structure.

If the scope of the Commissioner’s Rate Order is not being expanded, then there is no imperative to introduce an all-hourly rate structure at this time. However, the discussion that was facilitated by Recommendation 5 and the input provided by stakeholders was valuable. In certain circumstances, the all-hourly model works. In other cases, the all-hourly model has been trialed and challenges were identified.

**The OBCCTC will continue to compile data and will explore the option of conducting trials across various licensee business models to examine the viability of an all-hourly rate structure.**

## Enforcement

### Recommendation 6

Stakeholders support the use of electronic systems to track driver pay. However, Electronic Logging Devices (“ELD”) track hours of service which, while closely aligned to the hours of paid CTS performed by a driver, are not the same. CTS includes driving and non-driving time and therefore it has been noted that ELDs might not be the most effective means of enforcing rates of pay.

In the absence of an all-hourly rate model, there is no need to require the use of ELDs at this time. However, I am committed to introducing the electronic tracking of driver activity, linked to electronic driver payroll systems, as a means of increasing compliance in the industry.

**ELDs will not be mandated at this time. The OBCCTC will introduce draft licence amendments that will require licensees to provide the OBCCTC with electronic data identifying driver activity and corresponding pay. The CTS Licence will also be amended to include penalties for withholding and altering this information.**

## Introduction

Government tasked the Container Trucking Commissioner (the “Commissioner”) with examining the issue of “off-dock drayage” in the Lower Mainland. Specifically, drivers at licenced companies have been raising concerns about loss of work to lower paid drivers at unlicensed companies that are exclusively performing off-dock CTS. By using untagged trucks at unlicensed companies (many of which are owned by the same individuals who own licenced companies) to perform off-dock container moves, companies operate outside the regulatory structure, pay off-dock rates that are lower than the Commissioner’s rates, and avoid Commissioner audits and enforcement measures. These off-dock moves are being made in support of on-dock moves but remain outside the oversight of the Commissioner.

## Background

On September 16, 2020, the Minister of Transportation and Infrastructure released a report (*Off-Dock Drayage Insights*, Cascadia Partners, September 2020) that examined off-dock container movements in the Lower Mainland for the purpose of informing future policy development. The Minister also announced that the Commissioner would be undertaking further consultation with the container trucking sector on opportunities to make targeted adjustments to the Commissioner's rates, policy and the *Regulation* to "ensure fair and equitable working conditions that support a stable, efficient and competitive Lower Mainland container trucking sector."

The Commissioner consulted on the *Off-Dock Drayage Insights* report and on May 12, 2021 issued the *Off-Dock Drayage in the Lower Mainland Recommendation Report*. The Commissioner's recommendations in the report focused on three areas: regulatory scope, rates, and enforcement. The report included the following recommendations:

- 1: Amend the CTS Licence to apply its terms and conditions to any company that is affiliated with a licensee and moving containers that are currently captured by the *Act* and *Regulation*. Amend the CTS Licence to require licensees to make available upon request any contracts between the licensee and entities carrying out CTS on their behalf, and that those contracts demonstrate that truckers performing CTS on behalf of licensees are being paid the required rate.
- 2: Assign truck tags to licences only for the purpose of identifying trucks that require access to a marine container terminal.
- 3: Amend section 25 of the *Regulation* to require licensees to provide security in an amount that is linked to the number of trucks, identified under licence, that perform CTS.
- 4: Tie OBCCTC funding to the number of trucks, identified under licence, that perform CTS.
- 5: Amend the Rate Order to eliminate trip rates and the Positioning Movement Rate ("PMR") and introduce comparable minimum hourly rates for all employees and Independent Operators.
- 6: Amend the CTS Licence to require that licensees install on each truck a third-party certified ELD and make available to the OBCCTC all data generated by the ELD upon request, and require affiliates to do the same, and include penalties for withholding and altering this information.

These recommendations were consulted on and the results of that consultation are summarized in this report.

## Consultation Terms of Reference

The OBCCTC provided a detailed Terms of Reference and amended CTS Licence and Rate Order for stakeholder comment. The Terms of Reference sought feedback on proposed licence amendments, I/O hourly rates, security requirements and licence fees as well as an ELD requirement. The Terms of Reference were published on the OBCCTC website and stakeholders were invited to provide written submissions prior to the OBCCTC conducting consultation meetings.



## Who We Heard From

The written consultation period commenced on July 5, 2021 and was open until the end of the day on August 31, 2021. Seven submissions were received and posted on the OBCCTC website. A list and a link to the submissions is included in Appendix I.

Meeting opportunities were offered to drivers, licensees, and other stakeholders. Driver meetings were held in September 2021 and 10 drivers attended. Two licensee consultation sessions were held in the same month. A listing of these meetings is contained in Appendix II.

## What We Heard

### Key Findings

- There is generally enough capacity in the tagged fleet to accommodate the amount of on and off-dock work provided drivers/trucks are able to move to the work;
- Licensees use affiliated companies to perform off-dock CTS because of the limits on truck tags;
- The number of licensees that use affiliated companies to perform off-dock CTS is small;
- Allowing licensees to use tagged and untagged trucks will encourage changes in business practices designed for rate optimization rather than efficiency;
- Allowing licensees to use tagged and untagged trucks will encourage licensees to use untagged trucks that do not meet the Port of Vancouver's truck age standards for off-dock work. This would be unfair to drivers who have purchased newer trucks;
- Most drivers prefer off-dock to on-dock work and creating choice could have serious implications for labour stability;
- An all-hourly rate structure will not force greater efficiency but will increase costs for shippers;
- An all-hourly rate structure could have a detrimental impact on the income and working conditions of some trip rate drivers who make good wages on set schedules and hours;
- If implemented, hourly rates should be negotiated by a bargaining group comprised of various labour and employer representatives;
- ELDs will not track all CTS; and
- Enforcement rather than expansion of regulation is preferred.

Stakeholders expressed support for the following actions in response to the recommendations:

1. Enforcement of the existing rules;
2. Prohibition of unlicensed, off-dock CTS;
3. Prohibition on the use of unlicensed affiliated companies to perform untagged, off-dock CTS;
4. Increased enforcement by the OBCCTC;
5. Maintain flexibility in the rate structure to accommodate different business models;
6. Introduce electronic record keeping requirements to encourage greater industry transparency and compliance; and
7. Ensure labour and cost stability in the sector.

## Recommendation 1

### ***Apply terms of CTS Licence to licensees and affiliated companies moving containers***

The Port Transportation Association (“PTA”), an association representing the interests of certain licensees, advocates for a free market and does not believe that off-dock CTS should be regulated. It also notes that Recommendation 1 (and 2) will result in more work going to larger companies that can offset cost increases. Members of the British Columbia Trucking Association (“BCTA”) had a mixed response to the recommendation. Some believe that it would be unfair to allow licensees to maintain separate, unlicensed companies/fleets, even if the correct rates were being paid, because not all licensees can do so. Other members were not opposed to applying the terms of the CTS Licence to affiliated companies, but the BCTA warned that limiting the ability of licensees to contract overflow services could result in capacity issues during peak periods of demand. The BCTA does not believe that it is feasible to require licensees to ensure that contractors are paying the correct rates. Importantly, the BCTA notes that the number of affiliated companies or “shadow fleets” is between five and ten, much less than presumed.

Amongst drivers and labour representatives, Recommendation 1 was not accepted on the basis that the proposed licence amendments would legitimize what they consider to be illegal activity (unlicensed companies performing CTS using untagged trucks).

Drivers were particularly worried that unlicensed companies would use old trucks that did not meet the Port of Vancouver’s truck age standards for untagged off dock activity, resulting in further loss of work for drivers of tagged trucks (The Port of Vancouver is implementing a Rolling Truck Age Program which requires all tagged trucks to be a 2010 or newer model by June 1, 2022). The United Truckers Association (“UTA”) believes that the off-dock issues are more about underemployment than rate undercutting and are absolute in their belief that the *Act* does not intend for unlicensed, off-dock activity. Unifor agreed and noted that off-dock work should only go to licensed companies.

The UTA and Unifor stated that the OBCCTC already has the jurisdiction to enforce off-dock rates and prohibit unlicensed activity and the UTA is prepared to seek clarification from the courts if required. The UTA does not believe that the OBCCTC’s enforcement activities have been successful while Unifor calls for swift enforcement of the *Act* to end the practice of using unlicensed off dock trucks to perform CTS.

## Recommendation 2

### ***Assign truck tags to licences only for the purpose of identifying trucks that require access to a marine container terminal***

Submitters raised concern that allowing untagged off-dock CTS activity, regardless of the rate being paid for the work, will undermine the Port of Vancouver’s Rolling Truck Age Program, and, as noted, unfairly impact drivers of tagged trucks who have had to incur greater costs to perform on-dock work.

The BCTA is worried that the recommendation will have unintended consequences that result in licensees perpetuating business models based on rate optimization rather than efficiency. The BCTA believes that the OBCCTC should hand out more tags rather than allow the off-dock work to continue untagged.

Unifor is opposed to divided fleets. It believes the separation of on and off-dock work is a “recipe for industrial chaos” and is unfair to drivers of tagged trucks who could be forced to accept less work or less preferable work. Unifor notes that “the off-dock work was captured after 2014 and it started to bleed away from CTS licensees over a period of years...the fleet was able to service the work before and it will be able to do so in the future” without an expansion of untagged trucks.

### **Recommendation 3**

***Require licensees to provide a security in an amount that is linked to the number of trucks identified under licence that perform CTS***

There was little comment provided on Recommendation 3. Licensees would prefer that security costs were lower but there was a recognition that the security needs to be linked to the number of trucks performing CTS. The BCTA was concerned about the practicability of monitoring untagged, off-dock trucks and the challenge of setting a licence fee and security costs against fluctuating fleet sizes. The BCTA believes that the OBCCTC is faced with regulating all CTS work (and tagging trucks correspondingly) or not and attempting a compromise policy will lead to an uneven application of licence fees and security. The BCTA and PTA support deregulation.

### **Recommendation 4**

***Tie OBCCTC funding to the number of trucks identified under licence that perform CTS***

There was little support for allowing untagged trucks to perform CTS; therefore, few supported a change that would decouple licence fees from truck tags. However, labour representatives support increased enforcement and thus any supporting licence fee that increases the enforcement capacity of the OBCCTC. The PTA advocated for the Flat Fee Per Truck funding model on the basis that a per truck fee structure represents a fair disbursement of cost amongst licensees. No other submitter provided feedback on the proposed licence fee options.

### **Recommendation 5**

***Eliminate trip rates and the PMR and introduce comparable minimum hourly rates for all drivers***

A considerable amount of the consultation focused on Recommendation 5. Ocean carriers are opposed to the removal of trip rates. The Chamber of Shipping and the Shipping Federation believe that the introduction of an all-hourly rate model will lead to cost increases that they would not be able to recover from trucking companies. They view the rate model as providing pricing stability and clarity. One submitter agreed that licensees may increase their rates charged to customers to hedge against the potential decrease in driver efficiency under an all-hourly model.

The BCTA was not opposed to the introduction of an all-hourly rate model but cautioned that it must be carefully constructed, consistently applied, and aggressively enforced. It was noted, however, that having the choice between trip and hourly rate payments within a mixed fleet is better as the carrier can be flexible based on the job (longer trip vs. short trip) and the BCTA did caution that an all-hourly rate model could put added pressure on the reservation system as companies find ways to cut corners to make tight appointment times.

The BCTA suggests, as next steps, the creation of a framework that identifies and benchmarks elements of driver compensation, followed by a third-party review that would set initial rates. Future rates, it argues, should be reviewed not more than bi-annually in order to strike a balance between predictability and adaptability.

The PTA does not support the elimination of choice and believes I/Os will not support a change to an all-hourly rate model because it would affect their current working conditions and potentially decrease pay. The PTA was also concerned that the all-hourly rate model would result in licensees “dispatching round trips...to save on costs and allowing them to undercut on one of the legs...and ensure no empty chassis are entering or leaving the Ports.”

Teamsters support the all-hourly pay model. The UTA did not provide comment and Unifor supports the model if rates could be arrived at which do not result in less compensation for drivers. Unifor recommends a gradual approach to eliminating trip rates by introducing either a three-year transition period or pilot projects with certain companies to prove the model.

Unifor also recommends the formation of an informal bargaining table with driver and licensee representatives to negotiate an hourly rate and implementation plan. Unifor calls for a general hourly rate increase and inclusion of overtime, vacation pay, and statutory holiday pay provisions in the *Act* and *Regulation* for OBCCTC enforcement.

One submitter noted that he had conducted a trial using the all-hourly model and had challenges making it work for his business. He believes that it may work for some but not all and that those licensees that can make it work will have to have very sophisticated operations.

## **Recommendation 6**

### ***Introduce an Electronic Logging Device (“ELD”) requirement for all licensees and affiliated companies***

Labour representatives do not oppose the introduction of ELDs into tagged trucks and are generally supportive of any initiative that increases the OBCCTC’s enforcement capacity. The Teamsters believe that the all-hourly pay model, when combined with the use of ELDs, will increase dispatch efficiency.

The BCTA supports a requirement to use electronic systems to monitor CTS and support payroll systems but does not recommend the use of ELDs. The BCTA notes that ELDs are not an effective tool to capture payroll, rate compliance and/or accurately calculate the number of CTS hours worked. The PTA does not support any requirement that results in increased costs for its members, noting that they already pay for the Port of Vancouver’s GPS program.

## **Next Steps**

### **Off-Dock Reform**

#### **Recommendations 1 & 2**

In the 2014 Joint Action Plan, the federal and provincial governments committed to put in place a new mechanism to ensure that off-dock trips (including within a property or between properties) were

remunerated consistent with the revised regulated rates and to expand the scope of the audit program to include union and non-union drivers and off-dock movements.

This commitment was fulfilled, but in response, some licensed companies began using unlicensed companies to conduct CTS, undermining the intent of the Joint Action Plan and destabilizing the industry. The unlicensed activity is used to circumvent the Commissioner's rates, including off-dock rates, which apply to licensees and only licensees can perform CTS (on and off-dock work), using tagged trucks. The Commissioner can penalize a licensee for violations of the *Act*, *Regulation*, and CTS Licence, which includes circumstances where a licensee has been found to be performing CTS with an untagged truck. The Commissioner cannot penalize unlicensed companies for rate violations or for performing CTS. Section 42 of the *Act* makes it an offence to perform unlicensed CTS activity without a license; however, this offence is enforced in accordance with the provisions of the *Offence Act* and is outside the Commissioner's authority.

The intent of the Joint Action Plan is clear. Off-dock CTS is to be regulated and unlicensed off-dock CTS is prohibited. The challenge lies in enforcement. Recommendation 1 was intended to ensure that all drivers performing CTS, regardless of whether they were driving a tagged truck, were remunerated fairly. Recommendation 2 addresses the enforcement of Recommendation 1 by tracking driver pay while ensuring that the number of trucks that can access marine terminals remains stable.

Amongst stakeholders, there was almost no support for Recommendations 1 & 2. Licensees, and those who contract with licensees, do not support further regulation and/or do not support any changes that will result in an unfair advantage to those companies that have been conducting unlicensed, untagged off-dock CTS.

Drivers and their representative organisations are less focused on rate regulation and more focused on prohibiting the off-dock activity. They believe that it was the intention of government to prohibit unlicensed, untagged off-dock CTS activity and that the *Act* already prohibits it. They maintain that the OBCCTC has failed to enforce the *Act* and that greater enforcement, not regulatory change, is required to stop the activity. Stakeholders have also called on the OBCCTC to publish clear, unequivocal direction on what activity is allowed, what is not, and the consequences of non-compliance.

Through the consultation process, it has become clear that the extent of the unlicensed, off-dock activity being conducted on behalf of licensees is not large enough to warrant the proposed changes to the CTS Licence. If truck tags were available to accommodate the increased demand for off-dock CTS and the OBCCTC's enforcement capacity was increased, it is likely that the issue could be addressed.

Stakeholders warn that allowing licensees to use tagged and untagged trucks will encourage changes in business practices designed for rate optimization rather than efficiency. Their submission is evidenced by current practice whereby companies pay compliant rates but use mixed fleets and mixed pay structures to optimize costs despite the system being less efficient.

I am concerned about introducing any changes that will have an opposite effect to what was intended. The use of affiliated companies in response to tagging and rate paying requirements demonstrates the lengths companies (and their customers) will go to reduce costs and allowing untagged, off-dock activity

could result in drivers being paid the correct rates but earning less money, particularly if trip rates and hourly rates remain, and drivers are dispatched based on the tag status of their truck.

I am also mindful that the Port of Vancouver's Rolling Truck Age Program not be undermined by the introduction of untagged, off-dock CTS activity. New vehicles on Lower Mainland roads will have a positive environmental impact and I do not wish to introduce a policy that will negate those impacts by allowing companies and drivers to use older trucks.

If the preferred response to the issue is increased enforcement rather than regulation, I will not implement Recommendation 1 or 2. Rather, I will introduce licence amendments at the next licensing period that prohibit licensees from using unlicensed affiliated companies (and untagged trucks) to conduct CTS. The proposed licence amendments restricting licensees from contracting with unrelated, unlicensed companies for the provision of CTS will also be introduced at that time. I will advise licensees of this decision prior to the start of the next licensing round and a date for enforcement of the new licence provisions will be set. Clear interpretation and direction will be distributed to all stakeholders and published on the OBCCTC website.

Following the introduction of the licence changes, the OBCCTC will penalize any licensee found using an unlicensed affiliated company or untagged trucks to perform CTS. Any unaffiliated and unlicensed company performing CTS is in violation of section 42 of the *Act*, and the OBCCTC will compile evidence of the infraction and make a complaint to the police where appropriate.

Truck tags will be redistributed per the Truck Tag Policy to accommodate increased demand for off-dock CTS and off-dock CTS will continue to be considered as part of the truck tag allocation process during licensing periods.

**Licensees will be prohibited from using unlicensed affiliated companies and from contracting with unrelated, unlicensed companies for CTS. Licensees will be penalized for using affiliated companies or untagged trucks to perform CTS and unlicensed companies that perform CTS may be reported to the police. Truck tags will be redistributed per the Truck Tag Policy to accommodate increased demand for off-dock CTS and off-dock CTS will continue to be considered as part of the truck tag allocation process during licensing periods.**

### **Recommendations 3 & 4**

Recommendations 3 & 4 were made in response to the proposals in Recommendations 1 & 2. If untagged trucks are not permitted to conduct CTS, there is no requirement to amend section 25 of the *Regulation*. There is also no requirement to tie OBCCTC funding to the number of trucks rather than tags, identified under licence.

Stakeholders generally support increased enforcement, but licensees would prefer that the licence costs were reduced and eventually eliminated through deregulation. However, increased enforcement comes at a cost and there is a direct correlation between licence costs and compliance. As long as increased enforcement measures are required, licence costs will increase.

The OBCCTC's budget cannot accommodate an increase in audit and investigation activity or the ancillary legal costs. The per truck tag amount charged to licensees needs to be increased.

**OBCCTC funding will continue to be tied to the number of truck tags, identified under licence. The per truck tag amount charged to licensees will increase to accommodate increased enforcement activity.**

## All-Hourly Rate Model

### Recommendation 5

Recommendation 5 was intended to mitigate the increase in OBCCTC enforcement activity that would have resulted from an expansion of the rate paying requirements to affiliated companies. It was also made because the current, two-tiered rate structure (trip/hourly) presents opportunities for rate undercutting and it was anticipated that an industry-wide hourly pay model would increase the competitiveness of the sector by resolving terminal wait time concerns and increasing efficiency in licensee dispatch.

There continues to be a lack of consensus on this issue. Drivers and labour representatives only supported the recommendation if it could be guaranteed that drivers would not be worse off financially under an all-hourly model and there was concern that the schedules of some trip rate drivers would be adversely impacted by the rate structure change. I/Os who are currently paid by the hour were more supportive. Other stakeholders raised concern about the cost impact of the change and cited the wide range of business models amongst licensees and the lack of operational flexibility that would result from a change to an all-hourly rate structure.

If previous recommendations are not being implemented, then there is no imperative to introduce an all-hourly rate structure at this time. However, the discussion that was facilitated by Recommendation 5 and the input provided by stakeholders should not be wasted. In certain circumstances, the all-hourly model works. In other cases, the all-hourly model has been trialed and challenges were identified.

As the supply chain in the Lower Mainland evolves, rates and the rate structure will need to be reviewed in response, but licensees do not necessarily have the luxury of changing their business model to test the practicality of an all-hourly system. The Commissioner is tasked with setting rates and it should be the OBCCTC that tests the viability of different rate structures so that the most appropriate rate model can be employed at the appropriate time. The OBCCTC will continue to compile data and will explore the option of conducting trials across various licensee business models, to determine the viability of an all-hourly rate structure.

**The OBCCTC will continue to compile data and will explore the option of conducting trials, across various licensee business models to determine the viability of an all-hourly rate structure.**

## Enforcement

### Recommendation 6

The requirement to have an ELD installed on licensee trucks was tied to the introduction of an all-hourly rate model. It was anticipated that once the industry was using an hourly rate model, tracking hours of service electronically would increase the OBCCTC's enforcement capabilities and industry compliance generally.

Stakeholders support the use of electronic systems to track driver pay. However, ELDs track hours of service which, while closely aligned to the hours of paid CTS performed by a driver, are not the same. CTS includes driving and non-driving time and therefore it has been noted that ELDs might not be the most effective means of enforcing rates of pay.

I agree that the use of ELDs amongst the licenced fleet is not a panacea, and ELDs may not be the best solution, but mandating the use of electronic systems would go a long way towards increasing compliance. OBCCTC audits have demonstrated that the majority of rate compliance issues identified were either facilitated by or exacerbated by the use of paper systems.

Many licensees already employ various electronic systems to track driver movement and pay. These systems have been employed in addition to the existing Vancouver Fraser Port Authority ("VFPA") GPS program that does not track CTS for the purpose of determining rate compliance. It is not reasonable to require these licensees to introduce a third system, particularly if that system is not employed in conjunction with the all-hourly pay model. Therefore, in the absence of an all-hourly rate model, there is no need to require the use of ELDs at this time.

However, I am committed to introducing the electronic tracking of driver activity, linked to electronic driver payroll systems, as a means of increasing compliance in the industry. Draft amendments to the CTS Licence will be introduced for consultation prior to the next licensing period that will require licensees to provide the OBCCTC, upon request, with electronic data identifying driver activity and corresponding pay. The CTS Licence will also be amended to include penalties for withholding and altering this information.

**ELDs will not be mandated at this time. The OBCCTC will introduce draft licence amendments that will require licensees to provide the OBCCTC with electronic data identifying driver activity and corresponding pay. The CTS Licence will also be amended to include penalties for withholding and altering this information.**

In the *Off-Dock Drayage in the Lower Mainland Recommendation Report*, I noted that OBCCTC enforcement would also be enhanced through the continued issuance of appropriate penalties, and the consideration of compliance history when issuing truck tags under licence. This has occurred, and the introduction of stronger licence conditions, including the requirement to implement electronic systems to track driver activity and pay, are also intended to increase compliance and the OBCCTC's enforcement capacity.



## Conclusion

I made six recommendations in response to a government request to examine the issue of off-dock drayage activity in the Lower Mainland. The recommendations were extensive in scope and had the potential to substantially alter the sector.

Upon release of the *Off-Dock Drayage in the Lower Mainland Recommendation Report*, a series of consultation activities were conducted, and stakeholders were canvassed for responses to the report's recommendations. The recommendations were not widely supported for varied reasons.

I am tasked with ensuring fair and equitable working conditions for drivers that support a stable, efficient and competitive sector. Ensuring stability, in particular, is of primary concern. It was apparent from the consultations that the implementation of the proposed recommendations would not encourage greater stability. Rather, the opposite. For this reason, I will pursue enforcement of the existing regulatory structure, with enhancements, over wholesale change.



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Michael Crawford  
Container Trucking Commissioner

## Appendix I

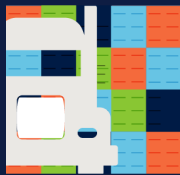
Submission Number	Name of Company
1	Teamsters Local Union No. 31
2	Harbour Link Container Services Inc.
3	Port Transportation Association
4	Unifor
5	United Truckers Association
6	BC Trucking Association
7	Chamber of Shipping

Written submissions can be accessed by using the link below:

<https://obcctc.ca/industry-communications/commissioner-consultations/cts-licence-reform-submissions/>

## Appendix II

Date	Stakeholder
<b>August 12, 2021</b>	BC Trucking Association
<b>September 13, 2021</b>	Port Transportation Association
<b>September 14, 2021</b>	Unifor
	Teamsters
	Truck Driver Focus Group – attended by 7 Drivers
<b>September 15, 2021</b>	United Truckers Association
	Coast 2000
	Truck Driver Focus Group – attended by 3 Drivers
<b>September 16, 2021</b>	Chamber of Shipping
	Shipping Federation



OFFICE OF THE  
BRITISH COLUMBIA CONTAINER  
TRUCKING COMMISSIONER

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