



**THE PORT
OF LOS ANGELES**

Executive Director's
Report to the
Board of Harbor Commissioners

DATE: FEBRUARY 13, 2024

FROM: CARGO MARKETING

SUBJECT: RESOLUTION NO. _____ - APPROVE THIRD TEMPORARY ORDER TO AMEND PORT OF LOS ANGELES TARIFF NO. 4, SECTION SEVEN "FREE TIME, WHARF DEMURRAGE, AND WHARF STORAGE"

SUMMARY:

Staff requests approval of a third Temporary Order to amend Port of Los Angeles (Port) Tariff No. 4 (Tariff), Section Seven "Free Time, Wharf Demurrage, and Wharf Storage", Items 720 and 780. Item 720 would be modified to include Saturdays and/or Sundays as part of the allowable free time on inbound containerized merchandise, provided the marine terminal (terminal) operator's truck gates are announced or published as being open for container delivery on those days. Additionally, to deter Port terminal property from being used as a cargo storage facility, Item 780 would be modified to add a third demurrage tier for merchandise remaining on terminal for more than 10 days after the expiration of free time. This third Temporary Order is being proposed within the Board of Harbor Commissioners' (Board) authority to adopt rates for up to 90 days.

At the September 7, 2023 Board meeting, the Board approved Temporary and Permanent Orders amending the sections mentioned above with an effective date of October 1, 2023. Changes in the Tariff beyond a Temporary Order's 90-day effective period require the City Council to approve a Permanent Order by Ordinance. The City Council has not calendared and approved the Permanent Order and Ordinance. The first Temporary Order expired on December 30, 2023; the second Temporary Order will expire on March 28, 2024; therefore, a third Temporary Order is being proposed to allow additional time for the Permanent Order to pass through the City Council approval process. This third Temporary Order, if approved, will become effective on March 29, 2024 and will expire in 90 days after the day it is published or upon execution of the Permanent Order by the City Council, whichever occurs first.

RECOMMENDATION:

It is recommended that the Board of Harbor Commissioners:

1. Find that the Director of Environmental Management has determined that the proposed action is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) under Article III Class 1(31) of the Los Angeles City CEQA Guidelines;

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2. Approve the amendment to Port of Los Angeles Tariff No. 4, modifying rates and regulations in Section Seven “Free Time, Wharf Demurrage, and Wharf Storage”, Items 720 and 780, subject to the California Association of Port Authorities’ review and approval, and authorize the Executive Director to work with the California Association of Port Authorities to secure this approval or proceed to take independent action in accordance with the California Association of Port Authorities’ procedure;
3. Adopt a third Temporary Order No. _____ with an effective date of March 29, 2024, to amend Port of Los Angeles Tariff No. 4, to modify rates and regulations in Section Seven “Free Time, Wharf Demurrage, and Wharf Storage”, Items 720 and 780;
4. Authorize the Board Secretary to certify the adoption of a third Temporary Order by the Board of Harbor Commissioners and cause the same to be published once in a newspaper printed and published in the City of Los Angeles, to take effect on March 29, 2024, for a period not-to-exceed 90 days pursuant to City Charter Section 653(b); and
5. Adopt Resolution No. _____.

DISCUSSION:

Background and Context – Port Tariff No. 4, Section Seven “Free Time, Wharf Demurrage, and Wharf Storage”, includes provisions relating to the duration merchandise can remain on-terminal without being assessed wharf demurrage upon discharge from a vessel or prior to loading to a vessel. Section Seven also lists fees to be charged after the expiration of such free time when cargo is not picked up by the receiver or is delivered to a terminal too early before a vessel’s commencement of loading operations and departure. Extended dwell times on inbound merchandise became evident as a result of the COVID-19 pandemic and its impact on container volumes. In an effort to deter prolonged dwell times, an excess dwell fee was put in place on inbound merchandise that would be charged to the container shipping lines for containers remaining on-terminal over 9 days. While no fee was ever charged, the threat of this fee changed the behavior of supply chain stakeholders and resulted in cargo moving off terminal faster, thus making space available for export cargo and new import cargoes.

Proposed Tariff Amendment – Staff recommends amending Port Tariff, Section Seven “Free Time, Wharf Demurrage, and Wharf Storage” (Transmittal 1), Item 720, to include Saturdays, Sundays or both as part of the allowable free time on inbound containerized merchandise, provided the terminal operator’s truck gates are announced or published as being open for container delivery on those days. The inclusion of Saturdays and/or Sundays as part of the wharf free time will encourage the import community to utilize weekend days to process cargo. It is anticipated that enhanced utilization of weekend hours will increase cargo velocity, increase available terminal space and potentially increase container equipment and truck chassis utilization.

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Additionally, Item 780 would be modified to add a third demurrage tier for merchandise remaining on-terminal more than 10 days after the expiration of free time in an effort to deter Port terminal property from being used as a cargo storage facility. Currently, there are only two demurrage tiers: one for the first five days after expiration of free time, and a second for each day after the fifth day. The daily charge for the third demurrage tier would be double that of the prior tier, for cargo remaining on-terminal for 6-10 days after the expiration of free time (see tables below).

Rates on Merchandise, Not Otherwise Specified (NOS), not carried in cargo containers or trailers, and rates on containerized Merchandise, NOS, billed at either the weight per kiloton (KT) or by measurement per cubic meter, whichever creates the greatest revenue, would see an increase in demurrage charges, as stated below:

Commodity	Charge Per Day for First 5 Days	Charge Per Day for Days 6 – 10	Charge Per Day for Days 11+
Merchandise, NOS, not carried in cargo containers or trailers. Note: If measurement of the cargo is required but not available, the measurement shall be constructed on the basis of one (1) cubic meter for each 125 kilograms of cargo.	\$0.81	\$1.64	\$3.28
Merchandise, NOS, carried in cargo containers or trailers. Note: If measurement of the cargo is required but not available, the charge per day will be based on the overall length of the container or trailer as follows:	\$0.81	\$1.64	\$3.28

Overall Length in Meters Over	Overall Length in Meters but Not Over	Charge Per Day for First 5 Days	Charge Per Day for Days 6-10	Charge Per Day for Days 11+
0	7	\$24.83	\$49.60	\$99.20
7	9	\$30.34	\$60.69	\$121.38
9	13	\$49.66	\$99.32	\$198.64
13	Over	\$64.84	\$129.66	\$259.32

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Rates on vehicles would see the addition of a third demurrage tier as follows:

Commodity Vehicles, motor, self-propelling, set up on own wheels, viz.:	Charge Per Day for First 5 Days	Charge Per Day for Days 6 – 10	Charge Per Day for Days 11+
Automobiles, passenger, seating capacity not exceeding 10 passengers per vehicle, including pick-up trucks or pick-up truck chassis.			
Shipped outbound by water carrier in domestic trade or shipped by manufacturers for distribution to automobile dealers, per vehicle.	\$2.42	\$4.82	\$9.64
Privately owned vehicles or used cars shipped inbound to the Port of Los Angeles, per vehicle.	\$8.07	\$16.14	\$32.28
Commercial or freight vehicles, including chassis, freight trailers or freight semi-trailers, per KT.	\$2.42	\$4.82	\$9.64
Agricultural, earth-moving equipment, or road-making equipment, NOS, per KT.	\$2.42	\$4.82	\$9.64

On September 7, 2023, the Board adopted Temporary Order No. 23-7351, effective October 1, 2023. On November 16, 2023, the Board approved Second Temporary Order No. 23-7355, effective December 31, 2023, which expires on March 28, 2024. If the proposed third temporary order is approved, it would be in effect from March 29, 2024 until the earlier of May 30, 2024 or the City Council’s approval of the Permanent Order.

Need for Amendment – Reducing the on-terminal dwell time for containerized and non-containerized merchandise will provide more space on Port terminals to accept empty containers, export merchandise, and improve fluidity for the wide range of supply chain stakeholders that utilize the Port.

Need for Approval – Pursuant to the Los Angeles City Charter Section 653(b), the Board has authority to make changes to Tariff No. 4 for a period of 90 days by Temporary Order. The first Temporary Order expired on December 30, 2023 with the second Temporary Order expiring on March 28, 2024 and before the Permanent Order and Ordinance can be fully executed. If Council is unable to calendar and approve the Permanent Order and Ordinance before the expiration date, a third Temporary Order (Transmittal 2) is proposed to allow additional time for the Permanent Order to pass through the City Council approval process. The third Temporary Order, if approved, will expire 90 days after the day it is published or upon execution of the Permanent Order and Ordinance by the City Council, whichever occurs first.

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ENVIRONMENTAL ASSESSMENT:

The proposed action is the approval of a third Temporary Order to amend the Port Tariff, which is an activity that modifies any rate, fee, or charge for the use of existing municipal

facilities and services involving negligible or no expansion of use. Therefore, the Director of Environmental Management has determined that the proposed action is categorically exempt from the requirements of CEQA in accordance with Article III Class 1(31) of the Los Angeles City CEQA Guidelines.

FINANCIAL IMPACT:

Approval of the proposed third Temporary Order is expected to result in reduced dwell times and improved fluidity for the wide range of supply chain stakeholders that utilize the Port. Only minimal increases to demurrage revenues are expected as this amendment is operational in nature rather than financially driven.

Fiscal Year 2023 demurrage revenues were \$100,319 of which \$100,000 were derived from one container terminal permit which would not be affected by approval of this Order.

CITY ATTORNEY:

The Office of the City Attorney has approved as to form and legality the proposed third Temporary Order.

TRANSMITTALS:

1. Proposed POLA Tariff No. 4 Revision
2. Third Temporary Order



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FIS Approval: MB (initials)
CA Approval: SO (initials)

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