



**THE PORT
OF LOS ANGELES**

Executive Director's
Report to the
Board of Harbor Commissioners

DATE: AUGUST 7, 2012

FROM: BUSINESS & TRADE DEVELOPMENT

SUBJECT: TEMPORARY ORDER NO. _____ AMENDING ITEMS 520 AND 550-033 OF THE PORT OF LOS ANGELES TARIFF NO. 4, SECTION FIVE "TRANSFERRED MERCHANDISE - WHARFAGE"

PERMANENT ORDER NO. _____ AMENDING ITEMS 520 AND 550-033 OF THE PORT OF LOS ANGELES TARIFF NO. 4, SECTION FIVE "TRANSFERRED MERCHANDISE - WHARFAGE"

SUMMARY:

On June 16, 2011, the Board of Harbor Commissioners (Board) approved an amendment to Port of Los Angeles (POLA) Tariff No. 4, Items 520 and 550-033, exempting the assessment of wharfage on Transferred Merchandise for one year through June 30, 2012. Transferred Merchandise is defined as merchandise received at a municipal wharf or wharf premise by land transportation and subsequently removed from a municipal wharf or wharf premise by land transportation. Staff is recommending the Board approve an amendment to POLA Tariff No. 4, Items 520 and 550-033, resulting in the Transferred Merchandise rate reverting back to \$71.66 per container.

RECOMMENDATION:

It is recommended that the Board of Harbor Commissioners:

1. Approve the amendment to Port of Los Angeles Tariff No. 4, Items 520 and 550-033, subject to the California Association of Port Authorities review and approval, and authorize the Executive Director to work with California Association of Port Authorities to secure this approval or proceed to take independent action in accordance with California Association of Port Authorities procedure;
2. Adopt Temporary Order No. _____ and Permanent Order No. _____ to amend Items 520 and 550-033 in the Port of Los Angeles Tariff No. 4, Section Five, "Transferred Merchandise-Wharfage";
3. Direct the Board Secretary to transmit to the City Council for approval the Permanent Order and the Ordinance approving and authorizing the amendments to the Port of Los Angeles Tariff No. 4 pursuant to City Charter 653(a);

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- 4. Authorize the Board Secretary to certify to the adoption of the Temporary Order by the Board and cause the same to be published once in a newspaper, printed and published in the City of Los Angeles, to take effect prior to adoption by Ordinance for a period not-to-exceed 90 days pursuant to Charter Section 653(b) and transmit the Temporary Order to the Chief Wharfinger for implementation and posting to the Port of Los Angeles website as regulated by the Federal Maritime Commission; and
- 5. After the effective date of the Ordinance, transmit the Permanent Order and Ordinance to the Chief Wharfinger for implementation and posting to the Port of Los Angeles website as regulated by the Federal Maritime Commission.

DISCUSSION:

Background – Transferred Merchandise is defined as merchandise received at a municipal wharf or wharf premise by land transportation and subsequently removed from a municipal wharf or wharf premise by land transportation. This rule is significant for shipping lines that have alliances with other shipping lines. Shipping line alliances occasionally off-load containers on Port of Long Beach (POLB) wharves; transport such containers via truck to on-dock rail facilities at POLA to be further transported by rail. On August 19, 2000, October 23, 2002, and February 26, 2003, the Board approved temporary orders to reduce the Transferred Merchandise rate in the POLA Tariff No. 4, Item 550-033. The Board subsequently approved a permanent order in October 2004, reducing wharfage on Transferred Merchandise to \$71.66 per container.

Based on numerous shipping line requests, the City of Los Angeles Harbor Department (Harbor Department) was asked to replicate the POLB and not assess wharfage on Transferred Merchandise. Beginning in 2009, amendments to POLA Tariff No. 4, Item 550-033 exempting the assessment of wharfage on Transferred Merchandise were approved by the Board as follows:

Approved by Board	Commence Date	End Date
1) June, 18, 2009	July 1, 2009	June 30, 2010
2) June 17, 2010	July 1, 2010	June 30, 2011
3) June 16, 2011	July 1, 2011	June 30, 2012

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Need for Amendment – Typically, when a tariff item rate expires, the original rate is restored. However, due to the way the tariff change was originally made, the City Attorney is recommending that we specifically take this Board action and restore the \$71.66 rate POLA Tariff No. 4 (Transmittal 1). The Temporary Order (Transmittal 2) is being proposed to allow ample time for the Permanent Order (Transmittal 3) to be approved by the City Council. The Temporary Order, if approved, will expire 90 days after the day it is published or upon execution of the Permanent Order and Ordinance (Transmittal 4) by the City Council whichever occurs first.

The proposed amendment would still provide a benefit to merchandise discharged off a vessel at POLB and trucked to a POLA container terminal to be transported by rail to an inland destination. Approval of this amendment would continue to provide Shipping lines, operating vessels in an alliance with other shipping lines, an operational efficiency through the use of POLA on-dock rail facilities. Utilizing on-dock rail facilities eliminates the need to dray containers to and from the near dock and off-dock rail facilities, which results in significant cost savings. Harbor Department staff feels the appropriate approach to the issue of Transferred Merchandise is for the Harbor Department and POLB to agree to split wharfage on these moves, regardless of where it crosses the wharf. We will begin discussions with POLB on this approach and will ask for our customers' support for a long-term sustainable resolution.

Need for Approval – Staff recommends amending the POLA Tariff No. 4 which restores the wharfage rate of \$71.66 per container on Transferred Merchandise commencing July 1, 2012. During Calendar Year (CY) 2011, two POLA Terminal Operators, Yusen Terminals Inc. and APM Terminals, reported a combined volume of 9,038 containers of Transferred Merchandise.

As part of this amendment, POLA Terminal Operators will continue to provide information to the Harbor Department the amount of Transferred Merchandise discharged at the POLB and transported by rail out of a POLA on-dock rail facility, as well as Transferred Merchandise discharged at POLA and transported by rail out of a POLB on-dock rail facility. When the amendment was first approved in 2009, the Harbor Department increased the maximum number of allowable containers from 200 to 500 containers per week. In order to ensure compliance, each POLA Terminal Operator will be responsible for dividing the weekly 500 alliance member containers of Transferred Merchandise that are received at their respective on-dock rail facility.

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This POLA Tariff No. 4 amendment would directly apply to Yusen Terminals Inc., Permit No. 692, as wharfage is derived through the tariff in this permit. Where Transferred Merchandise is dealt with in terminal operators' permits with the Harbor Department, permit amendments were previously amended and approved by the Board such that any amendment to POLA Tariff No. 4, Items 520 and 550-033, becomes applicable.

ENVIRONMENTAL ASSESSMENT:

The proposed action is an amendment to POLA Tariff No. 4 Items 520 and 550-033 that would result to the Transferred Merchandise rule reverting back to a wharfage rate of \$71.66 per container. As an administrative activity and an activity involving the modification of a fee for the use of existing municipal facilities involving negligible or no expansion of use, the Director of Environmental Management has determined that the proposed action is exempt from the California Environmental Quality Act (CEQA) in accordance with Article II, Section 2 (f) and Article III Class 1(31) of the Los Angeles City CEQA Guidelines.

ECONOMIC BENEFITS:

This Board action will have no direct employment impacts for the five-county region.

FINANCIAL IMPACT:

If approved, the proposed POLA Tariff No. 4, Section Five, "Transferred Merchandise-Wharfage, reverts to a wharfage rate of \$71.66 per container. Based on CY 2011 performance, the expected Transferred Merchandise revenue will total \$635,560. The adopted Fiscal Year 2012/2013 revenue budget includes the anticipated additional revenue from the restored wharfage rate.

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CITY ATTORNEY:


The Office of the City Attorney has approved the proposed Tariff, the proposed Temporary Order, the proposed Permanent Order, and the proposed Ordinance as to form and legality.

TRANSMITTALS:

1. POLA Tariff No. 4, Section Five "Transferred Merchandise-Wharfage"
2. Temporary Order
3. Permanent Order
4. Ordinance

FIS Approval: KP (initials)

CA Approval: CPB (initials)


for KRAIG JONDLE
Director of Business & Trade Development


KATHRYN McDERMOTT
Deputy Executive Director

APPROVED:


GERALDINE KNATZ, Ph.D.
Executive Director

E. Caris