

DATE: JANUARY 6, 2022

FROM: EXECUTIVE OFFICE

**SUBJECT: RESOLUTION NO. _____ - APPROVE TEMPORARY
ORDER TO AMEND PORT OF LOS ANGELES TARIFF NO. 4, SECTION
TWENTY-FIVE, CONTAINER EXCESS DWELL FEE**

SUMMARY:

Staff requests approval of a Temporary Order to amend Port of Los Angeles (Port) Tariff No. 4, (Tariff No. 4) amending Section Twenty-Five, "Container Excess Dwell Fee". Effective on January 30, 2022, a Container Excess Dwell Fee shall be assessed to the ocean common carriers (OCCs) for each discharged container transported under their bill of lading that dwells on a Port terminal beyond a prescribed period depending on the modality of the container. The assessment and collection of this fee shall commence upon notice provided by the Executive Director at a public meeting of the Board.

Both the Port, and the Port of Long Beach (POLB) independently pursued initiatives to implement fee structures. Initiatives were developed in coordination with the Biden-Harris Supply Chain Disruptions Task Force, U.S. Department of Transportation and multiple supply chain stakeholders.

Under this proposed Tariff No. 4 amendment, the Port will continue to assess a fee for container excess dwell time, payable by OCCs responsible for discharging the specific containers. For containers scheduled to move by truck (local) and by rail (intermodal), OCCs would be charged for every container dwelling nine days or more following vessel discharge of \$100 per container, increasing in \$100 increments per container per day of excess dwell time beyond the prescribed period.

The amount of fees to be generated under the proposed Amendment currently unknown given the reduction in dwell times observed since the original Temporary Order was initially approved in October 2021. The goal of this initiative is to continue the reduction in dwell time on both intermodal and local containers stored within a Port terminal.

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 adding Section Twenty-Five, "Container Excess Dwell Fee"; 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 Temporary Order No. _____ to amend Port of Los Angeles Tariff No. 4 adding Section Twenty-Five, "Container Excess Dwell Fee";
4. Authorize the Board Secretary to certify the adoption of 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 prior to adoption by Ordinance for a period not-to-exceed 90 days pursuant to City Charter Section 653(b); and
5. Adopt Resolution No. _____.

DISCUSSION:

On October 29, 2021, the Board approved a temporary order establishing the Container Excess Dwell Fee charging OCCs for local import loaded containers dwelling longer than nine days and intermodal import loaded containers dwelling longer than six days. Actual assessment of the fee would be upon notice provided by the Executive Director. OCCs would be charged an Excess Dwell Fee of \$100 per loaded container, increasing in \$100 increments per container per day of excess dwell time beyond the prescribed period.

Since the approval of this temporary order, the dwell time on loaded intermodal import containers has reduced dramatically to pre-COVID19 levels. For example, on December 15, 2021, the rail dwell on loaded import intermodal containers was two days compared to a peak of 13.4 days. The significant reduction in rail dwell has occurred largely because Beneficial Cargo Owners (BCOs) have directed their containers to be moved by truck rather than rail. As a result of this modality change, additional stress has been placed on the local trucking community which now needs to handle more containers that would have otherwise moved by rail.

With the intermodal dwell time having improved, resulting to excess intermodal capacity estimated at 40% of normal operations, OCCs and marine terminal operators are in continuous conversation with the BCO community to change the routing of what was converted to local cargo, back to intermodal cargo. Success has been very limited. Additionally, because local cargo will be charged an excess dwell fee for nine days or more of dwelling on Port terminal versus six days for intermodal cargo, BCOs are reluctant to change the routing back to intermodal out of concern that their cargo could be subject to the excess dwell fee sooner than if left as local cargo.

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Under the new temporary order, all loaded import local and intermodal containers on a Port terminal for more than nine days at the commencement date of the fee are deemed to be at nine days for the purposes of fee charges.

An example of how the program will work is as follows:

Local and Intermodal Import Loaded Container

Days on Terminal	Daily Charge (\$)	Cumulative Charge (\$)
9	\$ 100	\$ 100
10	\$ 200	\$ 300
11	\$ 300	\$ 600
12	\$ 400	\$ 1,000
13	\$ 500	\$ 1,500
More than 13	Incremental \$100 increase per day with no limit	

The Container Excess Dwell Fee shall be billed directly to the Ocean Common Carrier under whose bill of lading a container subject to this fee was discharged, monthly and without proration.

Staff recommends approval of this new temporary order whereby loaded local and intermodal import containers would be assessed an excess dwell fee when dwelling on Port terminals over eight days.

Need for Amendment – The need to amend the tariff upon expiration of the current temporary order and charge the same excess dwell fee structure for loaded intermodal containers and local containers that are dwelling at Port terminals for nine days or more would no longer disadvantage intermodal cargo from local cargo. With the excess dwell fee remaining in effect, OCCs will continue to focus working with the BCO community to vacate containers dwelling on Port terminals for extended periods. Expediting the movement of cargo through the Port is necessary to work down the number of ships at anchor and en-route to the Port. Reducing the on-terminal dwell time for loaded import containers will provide more space on our Port terminals to accept empties, handle exports, and improve fluidity for the wide range of BCOs that utilize our ports.

Need for Approval – Pursuant to Section 653(b) of the Los Angeles City Charter, the Board has authority to enact a rate or charge for a period of 90 days by Temporary Order (Transmittal 1).

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ENVIRONMENTAL ASSESSMENT:

The proposed action is approval of a Temporary Order to amend Port of Los Angeles Tariff No. 4 to increase rated tariff items (Transmittal 3), which is an activity involving modification of 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 Temporary Order would amend Tariff No. 4 to add a Container Excess Dwell Fee payable on local and intermodal loaded import containers.

In the event that a loaded import container destined to be trucked locally or destined to be moved via rail dwells at a Port terminal for nine days, a fee of \$100 would be billed directly to the Ocean Common Carrier under whose bill of lading a container was discharged. Local and intermodal loaded imports dwelling longer than nine days would be subject to daily fees in addition to the initial \$100 fee incurred on the ninth day.

Assuming that 36,600 containers continue to dwell on Port terminals for nine days or more, the proposed Container Excess Dwell Fee could raise approximately \$3.7 million in incremental Port revenues. Implementation of the proposed Temporary Order is intended to: (i) increase Port terminal velocity; (ii) reduce dwelling of aging import containers; and (iii) ultimately ensure that cargo reaches consumers in a more timely manner. If these objectives are accomplished, then the \$3.7 million in revenues expected to be generated from this fee would ideally be lower than anticipated

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CITY ATTORNEY:

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

TRANSMITTALS:

1. Temporary Order
2. Tariff No. 4

FIS Approval: MB
CA Approval: SO

Michael DiBernardo

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Deputy Executive Director

APPROVED:

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EUGENE D. SEROKA
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