

**ORDINANCE NO. \_\_\_\_\_**

An ordinance approving Order No. 13-\_\_\_\_\_ of the Board of Harbor Commissioners of the City of Los Angeles amending the Port of Los Angeles Tariff No. 4, Section 20 – Clean Air Action Plan Clean Truck Program.

**THE PEOPLE OF THE CITY OF LOS ANGELES  
DO ORDAIN AS FOLLOWS:**

Section 1. Order No.13-\_\_\_\_\_, passed and adopted by the Board of Harbor Commissioners of the City of Los Angeles on the 25th day of July 2013, amending Port of Los Angeles Tariff No. 4, is hereby ratified, confirmed, and approved. This Order is in words and figures as follows:

**“ORDER NO. 13-\_\_\_\_\_**

A permanent Order of the Board of Harbor Commissioners of the City of Los Angeles amending the Port of Los Angeles Tariff No. 4.

**THE BOARD OF HARBOR COMMISSIONERS OF THE  
CITY OF LOS ANGELES DOES HEREBY ORDER AS FOLLOWS:**

Section 1. The Port of Los Angeles Tariff No. 4, adopted July 12, 1989, by Order No. 5837, and Ordinance No. 165,789, adopted April 10, 1990, as amended, is further amended to revise Items 220, 2040 and 2090, as set forth in Exhibit “A,” attached hereto and incorporated herein by reference. The Executive Director is directed to submit this amendment to the California Association of Port Authorities (CAPA) to secure approval or proceed to take independent action in accordance with CAPA procedure.

Section 2. The Director of Environmental Management has determined that the proposed action is an administrative activity that is exempt from the California Environmental Quality Act (CEQA) under Article II, Section 2(f) of the Los Angeles City CEQA Guidelines.

Section 3. The Board Secretary shall certify to the adoption of the 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 Charter Section 653(b).

Section 5. The Board Secretary shall transmit to the City Council for approval the permanent Order and Ordinance approving the amendment to Tariff No. 4 pursuant to City Charter 653(a).

Section 6. The Board Secretary shall execute the proposed permanent Board Order and Ordinance amending Tariff No. 4, and upon its publication, transmit the permanent Order and Ordinance to the Chief Wharfinger for implementation of the tariff change and posting the amended Tariff No. 4 to the Port's website as regulated by the Federal Maritime Commission.

I HEREBY CERTIFY THAT the foregoing Order was adopted by the Board of Harbor Commissioners of the City of Los Angeles at its meeting held on

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JULIE HUERTA  
Board Secretary"

Sec. 2. Pursuant to the provisions of Section 653 (b) of the City Charter, the Board of Harbor Commissioners shall have the power to suspend, modify, or amend temporarily any of the rules or regulations, or any of the rates, tolls, or charges prescribed by this Order of the Board of Harbor Commissioners for periods not exceeding 90 days, and shall have power to place in effect for a like period of time any temporary rule or regulation, or rate, toll or charge for the Harbor District.

Sec. 3. The City Clerk shall certify to the passage of this ordinance and have it published in accordance with Council policy, either in a daily newspaper circulated in the City of Los Angeles or by posting for ten days in three public places in the City of Los Angeles: one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall; one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall East; and one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

I hereby certify that this ordinance was passed by the Council of the City of Los Angeles, at its meeting of \_\_\_\_\_.

JUNE LAGMAY, City Clerk

By \_\_\_\_\_ Deputy

Approved \_\_\_\_\_

\_\_\_\_\_  
Mayor

Approved as to Form and Legality

MICHAEL N. FEUER, City Attorney

By \_\_\_\_\_  
JOY M. CROSE  
Assistant General Counsel

Date \_\_\_\_\_

File No. \_\_\_\_\_

EXHIBIT A

PORT OF LOS ANGELES – TARIFF NO. 4

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SECTION TWO GENERAL RULES AND REGULATIONS – Continued		Item No.
UNLAWFUL TO FAIL OR REFUSE TO PAY TARIFF CHARGES		
<p>Every person who fails or refuses to pay, or by false returns or in any manner avoids the payment of all or any portion of any charge for dockage, wharfage, wharf demurrage, wharf storage, or any other charge or fee which may be due to the Board from any source or cause, as provided for by this Tariff, is, in addition to the general penalties provided for in this Tariff, liable for and shall pay to the Board twice the amount of such charge or fee, and in addition, the sum of \$100.00, except as may be otherwise specifically provided in this Tariff.</p>		215
PENALTIES FOR VIOLATION		
<p>* (a) It shall be unlawful for any person to utilize or make use of any wharf, landing, watercraft, facility, utility, structure, improvement or appliance under the jurisdiction of the Board, or to make use of the navigable waters of Los Angeles Harbor, without paying to said Board the proper toll, charge or fee therefor as may be fixed and specified in this Tariff and every person, firm or corporation violating any of the provisions of these Tariffs, respecting the payment of any such toll, charge or fee, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punishable by a fine of not more than One Thousand Dollars (\$1,000.00), or by imprisonment in the County Jail for a period of not more than six months, or by both such fine and imprisonment, consistent with the Los Angeles City Municipal Code.</p>		
<p>* (b) No person, firm or corporation shall fail, refuse or neglect to comply with any of the provisions of the rules and regulations prescribed by this Tariff, and any person, firm or corporation violating any of the provisions of these rules and regulations except for Section 20 (which has remedies set forth in Item 2090) shall be guilty of a misdemeanor and upon conviction thereof shall be punishable by a fine of not more than Five Hundred Dollars, or by imprisonment in the County Jail for a period of not more than six months, or by both such fine and imprisonment.</p>		[C] + 220
<p>+ Every violation of this Tariff that is established as a misdemeanor, or is charged as a misdemeanor, unless provision is otherwise made, shall be punishable by a fine of not more than One Thousand Dollars (\$1,000.00) or by imprisonment in the County Jail for a period of not more than six (6) months, or by both a fine and imprisonment.</p>		
<p>+ Every violation of this Tariff that is established as an infraction, or is charged as an Infraction, is punishable by a fine as set forth in this Tariff section, or as otherwise provided in this Tariff, not to exceed Two Hundred Fifty Dollars (\$250.00) for each violation.</p>		
<p>+ Each person shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of this Tariff is committed, continued or permitted by that person, and shall be punishable accordingly.</p>		
See Item 10 for explanation of abbreviations and symbols.		
Correction No.	Order No. Ordinance No.	Adopted Adopted EFFECTIVE:

EXHIBIT A

SECTION TWENTY CLEAN AIR ACTION PLAN – GENERAL RULES AND REGULATIONS - Continued		Item No.				
<p><b>CLEAN TRUCK FUND</b></p> <p>The first Terminal Operator to handle any containerized merchandise subject to the Clean Truck Fee shall collect and remit the Clean Truck Fee to the Port of Los Angeles, and the monies shall be used by the Board of Harbor Commissioners exclusively for programs for the replacement, repower and retrofit of Drayage Trucks and the rapid transition to 2007 Drayage Trucks serving the Ports of Los Angeles and Long Beach.</p>		2035				
<p style="text-align: center;">*CONCESSIONS AND TEMPORARY ACCESS PERMITS</p> <p>* 1. Beginning October 1, 2008, at 8:00 a.m., no Terminal Operator shall permit access into any Terminal in the Port of Los Angeles to any Drayage Truck unless such Drayage Truck is registered under a Concession or a Temporary Access Permit from the Port of Los Angeles in the Drayage Truck Registry.</p> <p>* 2. The terms and conditions (including all remedies) for the Concession are set forth in the Port of Los Angeles Concession Agreement between the Port of Los Angeles and the Licensed Motor Carrier. Copies of the Port of Los Angeles Concession Agreement, Concession Application and Temporary Access Permit Terms and Conditions are posted on the <a href="http://www.portoflosangeles.org">www.portoflosangeles.org</a> website. Licensed Motor Carriers seeking to apply for a Concession or Temporary Access Permit may also obtain information and an application for Concession or Temporary Access Permit from the Port of Los Angeles, Attention: Concession Administrator, 425 South Palos Verdes Street, San Pedro, CA 90731. The Concession Fee shall be \$2,500 and the annual fee shall be \$100 per Drayage Truck operating under the Concession (collectively the “Concession Fees”). The Temporary Access Permit Fee shall be \$30 per Temporary Access Permit trip, plus the cost of the RFID or other required alternative identification. Concession Fees and Temporary Access Permit Fees shall be paid by the Licensed Motor Carrier applying for or holding the Concession or Temporary Access Permit.</p>		[C]+ 2040				
<p style="text-align: center;">*TARIFF AND ARB DRAYAGE TRUCK RULE COMPLIANCE</p> <p>+ 1. While on any Port Property or public streets in or immediately adjacent to Port Property, Licensed Motor Carriers, Drayage Truck Owners and Drayage Truck Operators shall (i) operate only Drayage Trucks that comply with Terminal access requirements of Items 2010, 2015 and 2020 and (ii) shall not transfer, switch or cause cargo originating from or destined for Port Property to be moved to Drayage Trucks that do not comply with Terminal access requirements of Items 2010, 2015 and 2020.</p> <p>* 2. Terminal Operators, Licensed Motor Carriers, Drayage Trucks, Drayage Truck Owners and Drayage Truck Operators shall comply with the requirements of the CARB Drayage Truck Rule, including without limitation, registry, dispatch, and operation of compliant Drayage Trucks and timely reporting of information to ARB or to the Port of Los Angeles as the reporting port authority in accordance with Schedule A of Section 2027(d)(6) of the CARB Drayage Truck Rule.</p> <p>* 3. Drayage Trucks seeking entry upon Port Property after December 31, 2009 shall comply with the requirements of the CARB Drayage Truck Rule and the CARB Truck and Bus Rule in accordance with the transition schedule required by CARB, including without limitation, registration in the State DTR and compliance with Drayage Truck emissions requirements. See <a href="http://www.arb.ca.gov/msprog/onroad/porttruck/porttruck.htm">http://www.arb.ca.gov/msprog/onroad/porttruck/porttruck.htm</a> for a copy of the CARB Drayage Truck Rule and the transition to the CARB Truck and Bus Rule.</p>		[C]+ 2041				
See Item 10 for explanation of abbreviations and symbols.						
	<table border="0"> <tr> <td style="padding-right: 20px;">Order No.</td> <td>Adopted</td> </tr> <tr> <td>Ordinance No.</td> <td>Adopted</td> </tr> </table>	Order No.	Adopted	Ordinance No.	Adopted	EFFECTIVE:
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EXHIBIT A

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SECTION TWENTY CLEAN AIR ACTION PLAN – GENERAL RULES AND REGULATIONS - Continued	Item No.					
<p style="text-align: center;">REMEDIES FOR VIOLATION OF CLEAN AIR ACTION PLAN PROVISIONS</p> <p>No person, firm or corporation shall fail, refuse or neglect to comply with any of the provisions of the rules and regulations prescribed by Section 20 of this Tariff. A Drayage Truck, Drayage Truck Owner or Drayage Truck Operator that is non-compliant with Section 20 while on Port Property shall have any non-compliant Drayage Trucks denied access to Port Terminals. Remedies against Terminal Operators failing to comply with Section 20 are set forth in their permits, leases or contractual agreements with the City. Remedies against Licensed Motor Carriers failing to comply with Section 20 are set forth in their Concession Agreements or contractual agreements with the City. In no event shall criminal penalties apply to violations of Section 20 of this Tariff.</p>	<p>+ 2090</p>					
<p style="text-align: center;">SEVERABILITY</p> <p>If any provision of Port of Los Angeles Tariff No. 4 shall be determined by court or agency of competent jurisdiction to be unenforceable, unlawful or subject to an order of temporary or permanent injunction from enforcement, such determination shall only apply to the specific provision and the remainder of the provisions of this Tariff No. 4 shall continue in full force and effect.</p>	<p>2095</p>					
<p>See Item 10 for explanation of abbreviations and symbols.</p>						
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