



**THE PORT
OF LOS ANGELES**

Executive Director's
Report to the
Board of Harbor Commissioners

DATE: DECEMBER 11, 2012

FROM: BUSINESS & TRADE DEVELOPMENT

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

SUMMARY:

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. When containers are moved from the Port of Long Beach (POLB) to the Port of Los Angeles (POLA) and loaded to the on-dock rail, the container cargo full wharfage rate is assessed. On June 16, 2011, the Board of Harbor Commissioners (Board) approved an amendment to the POLA Tariff No. 4, Items 520 and 550-033, exempting the assessment of wharfage on Transferred Merchandise for one year through June 30, 2012. Since the wharfage exemption expired, full wharfage rates are now charged, as outlined by POLA Tariff No. 4, at \$193.20, \$388.50 and \$499.80 per 20', 40' and 45' container respectively, unless the container cargo weight and measurement is provided. However, there are various leases at the POLA which have a TEU sliding scale rate that differs from this rate. Based on Fiscal Year (FY) 2011-2012 revenue data, container terminal customers at the POLA that operate under a permit paid an average wharfage rate of \$68.00 per container.

Staff is recommending the Board approve an amendment to POLA Tariff No. 4, Items 520 and 550-033, setting the Transferred Merchandise rate at a level comparable to the average wharfage rate of \$68.00 per container, effective retroactively to July 1, 2012 for a maximum of 500 containers per week, per terminal. If the Board does not approve this amendment, the full wharfage rate as per POLA Tariff No. 4 would remain in effect.

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;

SUBJECT: TRANSFERRED MERCHANDISE – WHARFAGE

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);
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/Context – 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 operating joint container services with other shipping lines. Shipping lines operating joint container services occasionally off-load containers at the POLB wharves and transport such containers via truck to on-dock rail facilities at the POLA to be further transported by rail.

Shipping lines achieve many benefits when handling containers at on-dock rail facilities. Specifically, their ability to fully utilize rail cars, eliminate unnecessary drayage of containers to the near and off-dock rail yards and allow for better utilization of the container terminal labor force. By moving containers from the POLB to the POLA on-dock rail facilities, and provided Transferred Merchandise wharfage is not assessed, shipping lines can achieve between an estimated \$4.00 to \$94.00 per container in savings in transportation and handling costs.

The Grand Alliance, a shipping line joint services alliance, originally requested the POLA to reduce the Transferred Merchandise rate. On August 19, 2000, the Board approved the first Temporary Order amending POLA Tariff No. 4, Item 550-033 reducing wharfage on Transferred Merchandise to \$40.00 per container. Subsequent Board approvals resulted in a Transferred Merchandise rate of \$65.00 per container. The POLA Tariff No. 4 general rate increases of five percent per year implemented in Calendar Years 2004 and 2005 resulted in a Transferred Merchandise rate of \$68.25 and \$71.66 per container respectively.

SUBJECT: TRANSFERRED MERCHANDISE – WHARFAGE

In 2008, subsequent to the POLA reducing the Transferred Merchandise rate, the POLB also adopted an amendment to their Transferred Merchandise rate. Instead of reducing their Transferred Merchandise rate, the POLB opted not to assess wharfage on cargo that discharged or loaded at the POLA and departed or arrived via rail using a POLB on-dock rail facility. The POLB's action prompted numerous shipping lines to request the POLA to replicate the POLB's action to 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. Each POLA Tariff amendment was valid for only one year allowing the POLA to evaluate the volume of Transferred Merchandise container cargo moving between the POLA and the POLB. To date no Transferred Merchandise container cargo has been reported as having moved from the POLA to a POLB on-dock rail facility.

On June 30, 2012 the Transferred Merchandise wharfage exemption expired. Any Transferred Merchandise reported to the POLA will be billed the full wharfage rate per POLA Tariff No. 4 of \$193.20, \$388.50 and \$499.80 per 20', 40' and 45' container respectively, unless the container cargo weight and measurement is provided or the container terminal customer has a permit with the POLA. The POLB's wharfage exemption on Transferred Merchandise does not have an expiration date.

Staff feels the appropriate approach to the issue of Transferred Merchandise is for the POLA and the POLB to agree to split wharfage on these moves, regardless of where the cargo container crosses the wharf. However, the POLB has advised the POLA that they are pleased with their current tariff language and will not seek to amend it.

Need for Amendment – The POLA's goals are to collect wharfage on Transferred Merchandise at a level comparable to other container cargo that moves across the POLA terminal facilities, receive appropriate compensation for infrastructure investment, maintain a fee that is slightly less than draying the containers to an off-dock rail facility, and to encourage shipping lines to route their vessels to the POLA. The POLA's superior on-dock rail capability is a major competitive advantage.

Need for Approval – Staff is recommending the Board approve an amendment to POLA Tariff No. 4, Items 520 and 550-033, setting the Transferred Merchandise rate to \$68.00 per container effective retroactively to July 1, 2012 (Transmittal 1), for a maximum of 500 containers per week, per terminal. This rate is comparable to the average wharfage rate paid to the POLA by container terminal customers. Staff is unaware of any entity in the supply chain providing its assets for free and although this assessment is not favored by our customers, staff believes the collection of Transferred Merchandise at a reduced wharfage level for the use of valuable POLA assets is appropriate and meets our goals outlined above.

SUBJECT: TRANSFERRED MERCHANDISE – WHARFAGE

The proposed amendment would still provide a benefit to shipping lines discharging container cargo off a vessel at the POLB and trucked to a POLA container terminal to be transported by rail to an inland destination.

During Calendar Year 2011, during which period no Transferred Merchandise wharfage was assessed, two POLA terminal operators, Yusen Terminals Inc. and APM Terminals reported a combined volume of 9,038 containers of Transferred Merchandise.

This POLA Tariff No. 4 amendment would directly apply to Yusen Terminals Inc., Permit No. 692, as wharfage is derived through the POLA Tariff. Where Transferred Merchandise is dealt with in container 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.

If the Board does not approve this amendment, Transferred Merchandise reported to the POLA since July 1, 2012 will continue to be charged the full wharfage rate as per POLA Tariff No. 4 of \$193.20, \$388.50 and \$499.80 per 20', 40' and 45' container respectively, unless the cargo's weight and measurement was provided to the POLA or the container terminal customer has a permit with the POLA.

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 date it is published or upon execution of the Permanent Order and Ordinance (Transmittal 4) by the City Council, whichever occurs first.

ENVIRONMENTAL ASSESSMENT:

The proposed action is an amendment to POLA Tariff No. 4 Items 520 and 550-033 setting the Transferred Merchandise rate at \$68.00 per container effective retroactively to July 1, 2012. 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.

SUBJECT: TRANSFERRED MERCHANDISE – WHARFAGE

FINANCIAL IMPACT:

If approved, the proposed POLA Tariff No. 4, Section Five, "Transferred Merchandise-Wharfage", establishes a wharfage rate of \$68.00 per container effective retroactively to July 1, 2012. Based on CY 2011 performance, the expected Transferred Merchandise revenue will total \$614,584. The adopted Fiscal Year 2012/2013 revenue budget includes the anticipated additional Transferred Merchandise revenue.

CITY ATTORNEY:

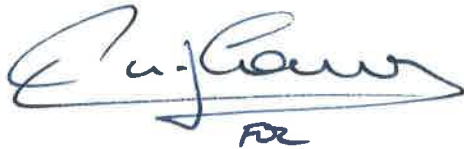
The Office of the City Attorney has approved the proposed Tariff, the proposed Temporary Order, the proposed Permanent Order, and the proposed Ordinance as to form and legality.

TRANSMITTALS:

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

FIS Approval: WR (initials)

CA Approval: gmc (initials)



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APPROVED:



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