

ORDINANCE NO. _____

An ordinance approving Order No. 12-_____ of the Board of Harbor Commissioners of the City of Los Angeles, amending the Port of Los Angeles Tariff No. 4.

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

Sec. 1. That Order No.12-_____, passed and adopted by the Board of Harbor Commissioners of the City of Los Angeles on the 3rd day of May, 2012, 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. 12-_____

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

FINDINGS

BACKGROUND

1. On July 12, 1989, the Board of Harbor Commissioners of the City of Los Angeles adopted Order No. 5837, which Order was approved by the City Council of the City of Los Angeles by Ordinance No. 165789, adopted on April 10, 1990. Said Order and Ordinance designated Port of Los Angeles Tariff No. 4, which sets forth rates at which, and terms under which, the Port of Los Angeles, California is willing to provide marine terminal services. Tariff No. 4 has been amended from time to time since 1989. The current version of Tariff No. 4 is made available to the public on the Port of Los Angeles website at www.portoflosangeles.org.
2. On November 1, 2007, the Board adopted Order No. 6935, which Order was approved by the City Council of the City of Los Angeles by Ordinance No. 179707, adopted on February 27, 2008, to add Section 20 to Tariff No. 4, relating to the San Pedro Bay Ports Clean Air Action Plan.
3. The San Pedro Bay Ports Clean Air Action Plan (CAAP) was adopted by the Boards of Harbor Commissioners of Los Angeles and Long Beach on November 20, 2006. The Ports of Los Angeles and Long Beach are located side-by-side in San Pedro Bay. In the CAAP, the two ports recognized that their ability to accommodate projected growth in international trade will depend on their ability to address adverse environmental impacts, and in particular, air quality impacts, that result from such trade. The CAAP was designed, in collaboration with the Federal Environmental Protection Agency (U.S. EPA), the California Air Resources Board (CARB) and the South Coast

Air Quality Management District (SCAQMD), “to develop mitigation measures and incentive programs necessary to reduce air emissions and health risks while allowing port development to continue.” CAAP, p. 2. As part of the overall implementation of the CAAP, the Ports of Los Angeles and Long Beach have considered numerous proposals to address air pollution from a variety of sources operating within the ports, including ocean going vessels.

4. The Board now wishes to amend the adopted Port of Los Angeles Tariff No. 4 Section 20, to add new Item 2060, to establish a new Voluntary Environmental Ship Index (ESI) Incentive Program. The objective of the ESI Incentive Program is to accelerate ocean-going vessel emission reductions under the CAAP. ESI is an international clean ship indexing program developed through the International Association of Ports and Harbors (IAPH) World Ports Climate Initiative. The ESI program is completely voluntary for operators and ports. The IAPH ESI Administrator assigns clean ship ratings to ocean going vessels and ports can provide incentives to reward top performers with high ESI scores.
5. The Port’s proposed ESI Incentive Program shall award incentive grants to enrolled vessel operators who deploy clean ships visiting the Port of Los Angeles as evidenced by: (1) the achievement of ESI score of 25 or higher; or (2) deployment of IMO Tier II and Tier III main engines in such vessels; or (3) participation in an Ocean Going Vessel NOx reduction technology demonstration project under the Clean Air Action Plan Technology Advancement Program.

NOW, THEREFORE, THE BOARD OF HARBOR COMMISSIONERS OF THE CITY OF LOS ANGELES DOES HEREBY ORDER AS FOLLOWS:

Section 1. The Board of Harbor Commissioners of the City of Los Angeles hereby adopts the findings set forth above.

Section 2. 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 as set forth in Exhibit “A,” attached hereto and incorporated herein by reference.

Section 3. The Director of Environmental Management has determined that these amendments to the Tariff are exempt from the California Environmental Quality Act (CEQA) as provided by Article II, Section 2(f) of the Los Angeles City CEQA Guidelines.

Section 4. The Board Secretary shall certify to the adoption of this Order by the Board of Harbor Commissioners and shall cause the same to be published once in a daily newspaper printed and published in the City of Los Angeles.

Section 5. The Board Secretary shall cause this Order to be presented to the City Council for consideration of its adoption by Ordinance.

Section 6. Pursuant to Charter Section 653(a), this amendment to the Tariff shall become effective when this Order is approved by the City Council by Ordinance; provided, however, pursuant to Charter Section 653(b), this Order shall be effective prior to adoption by Ordinance for a period not to exceed 90 days from the date of its adoption.

Section 7. The Board Secretary shall transmit the Order and Ordinance to the Chief Wharfinger for implementation of the tariff change and posting of 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

KORLA TONDREAU
Acting Board Secretary
”

Sec. 2. Any person, firm or corporation who violates or knowingly aids or abets a violation of any of the provisions of this Order respecting the rules, regulations, rates or charges shall be deemed guilty of a misdemeanor, and, upon conviction shall be punishable by a fine in a sum not exceeding \$1,000.00, or by imprisonment in the County jail for not more than six months, or by both fine and imprisonment.

Sec. 3. That, 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. 4. 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

CARMEN E. TRUTANICH, City Attorney
Thomas A. Russell, General Counsel

By _____
JOY CROSE
Assistant General Counsel

Date _____

File No. _____

EXHIBIT A

PORT OF LOS ANGELES – TARIFF NO. 4

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First Revised Page

SECTION TWENTY CLEAN AIR ACTION PLAN – GENERAL RULES AND REGULATIONS - Continued		Item No.
<p align="center">+ VOLUNTARY ENVIRONMENTAL SHIP INDEX (ESI) INCENTIVE PROGRAM</p> <p>The objective of the Voluntary Environmental Ship Index (ESI) Incentive Program is to accelerate the reduction of emissions from Ocean Going Vessels calling at the Port by providing incentives to Vessel Operators for (1) the achievement of ESI ratings of 25 points or greater under the international ESI standards administered by the International Association of Ports and Harbors (IAPH) World Ports Climate Initiative (WPCI); (2) deployment of IMO Tier II and Tier III Ocean Going Vessels, and. (3) participation in a nitrogen oxides (NOx) reduction technology demonstration project under the Clean Air Action Plan Technology Advancement Program.</p> <p>This Program shall commence on July 1, 2012. The Port shall award incentive grants to enrolled Vessel Operators whose Ocean Going Vessels calling at the Port that have met the qualifying requirements of the Port’s ESI Incentive Program, under the terms and conditions of this Tariff item 2060 and the detailed ESI Incentive Program rules issued by the Port.</p> <p align="center"><u>DEFINITIONS</u></p> <p>For purposes of the ESI Incentive Program under this Item 2060 the following definitions shall apply:</p> <p>“Environmental Ship Index” or “ESI” means a voluntary rating system established by the IAPH/WPCI and administered by the ESI Administrator, that issues ratings based upon the extent to which ships’ emissions perform better than IMO emissions standards, ranging from 0 for a ship that meets IMO standards to 100 for a ship that has zero air emissions.</p> <p>“ESI Administrator” means the ESI Bureau of the IAPH/WPCI.</p> <p>“ESI Score” means the ESI rating issued by the ESA Administrator and published on the ESI website at http://www.wpci-esi.org.</p> <p>“IAPH” means the International Association of Ports and Harbors.</p> <p>“IMO” means the International Maritime Organization.</p> <p>“IMO Tier II or Tier III” means the IMO’s adopted marine diesel engine standards under Revised MARPOL Annex VI, an international ship regulation limiting the main air pollutants contained in ship emissions. The Tier II emission standard is required for marine diesel engines installed on or after 1 January 2011 and Tier III emission standard is required for marine diesel engines installed on or after 1 January 2016 that are used on ships operating in IMO Emission Control Areas (ECA) designated for controlling NOX emissions, which includes the North American ECA covering the Port that will take effect from August 1, 2012.</p>		<p>+ 2060</p>
<p align="center">See Item 10 for explanation of abbreviations and symbols.</p>		
	<p>Order No. Adopted Ordinance No. Adopted</p>	<p>EFFECTIVE:</p>

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PORT OF LOS ANGELES – TARIFF NO. 4

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SECTION TWENTY
CLEAN AIR ACTION PLAN – GENERAL RULES AND REGULATIONS - Continued

Item No.

VOLUNTARY ENVIRONMENTAL SHIP INDEX (ESI) INCENTIVE PROGRAM

“**Main Engine**” means any internal combustion, compression-ignition engine that is configured to supply propulsion power for an Ocean Going Vessel, regardless of whether the propulsion system is direct-drive, geared drive or diesel electric.

“**Marine Exchange**” means Marine Exchange of Southern California, which publishes records of ocean going vessel arrivals and departures.

“**Ocean Going Vessel**” or “**OGV**” has the same meaning as Ocean Going Vessel in Item 2045 (Voluntary Vessel Speed Reduction Program).

“**Vessel Operator**” has the same meaning as Vessel Operator in Item 2045 (Voluntary Vessel Speed Reduction Program).

“**Vessel Visit**” has the same meaning as Vessel Visit in Item 2045 (Voluntary Vessel Speed Reduction Program).

“**WPCI**” means the World Ports Climate Initiative.

INCENTIVE PROGRAM RULES

(1) Vessel Operators interested in participating in any of the three incentives under this ESI Incentive Program must be a registered participant in the IAPH/WPCI ESI program, and should request an ESI Score for their Ocean Going Vessels by registering on the IAPH/WPCI ESI website, at www.wpci-esi.org. Under the auspices of the IAPH/WPCI, the ESI Administrator will calculate the ESI score of Ocean Going Vessels on the basis of input provided by the Vessel Operator, with certain verification processes built into the ESI system.

(2) To be eligible to receive ESI Incentive Program grants, Vessel Operators must enroll with the Port by submitting an enrollment application to the Executive Director. The enrollment application is available at www.portoflosangeles.org/environment/ogv.asp. After initial program enrollment, Vessel Operators may update their OGVs on the IAPH/WPCI ESI website (<http://www.wpci-esi.org>). The Port will pay incentives to Vessel Operators for Vessel Visits only from and after the date they have both registered for ESI with IAPH/WPCI and enrolled with the Port; however on a one-time basis only for the first quarter of the Program, the Port will pay qualifying incentives for Vessel Visits from July 1, 2012 to September 30, 2012 provided the Vessel Operator is both registered for ESI with IAPH/WPCI and enrolled with the Port by September 30, 2012.

+
2060
(Contd.)

See Item 10 for explanation of abbreviations and symbols.

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<p align="center">SECTION TWENTY CLEAN AIR ACTION PLAN – GENERAL RULES AND REGULATIONS - Continued</p>	Item No.					
<p align="center">VOLUNTARY ENVIRONMENTAL SHIP INDEX (ESI) INCENTIVE PROGRAM PROGRAM RULES – continued</p> <p>(3) A Vessel Operator may apply for three different types of incentive grants (described under subsections a, b and c immediately below) for enrolled OGVs making Vessel Visits at the Port of Los Angeles:</p> <p>a. <u>ESI Score</u>. Each OGV that has the following ESI Scores is eligible for an incentive grant per Vessel Visit as follows:</p> <ol style="list-style-type: none"> 1. ESI Score of 25-29 points is eligible for \$250 per Vessel Visit made between July 1, 2012 – December 31, 2012; or 2. ESI Score of 30-34 points is eligible for \$750 per Vessel Visit; or 3. ESI Score of 35-39 points is eligible for \$1,000 per Vessel Visit; or 4. ESI Score of 40 points or more is eligible for \$1,250 per Vessel Visit. <p>Vessel Operators shall be eligible for only one ESI incentive for any single OGV on a Vessel Trip.</p> <p>b. <u>OGV5 - IMO Tier II or Tier III Standards</u>. Each OGV that has a verified IMO Tier II or Tier III Main Engine is eligible for an incentive grant as follows:</p> <ul style="list-style-type: none"> o Each OGV with a Main Engine that meets IMO Tier II standard for NOx is eligible for an incentive grant of \$750 per Vessel Visit; or o Each OGV with a Main Engine that meets IMO Tier III standard for NOx is eligible for an incentive grant of \$3,250 per Vessel Visit. <p>Vessel Operators shall be eligible for only one OGV5 incentive for meeting either the Tier II standard or Tier III standard, but not both, for any single OGV on a Vessel Trip.</p> <p>c. <u>OGV6 – TAP Demonstration</u>. The ESI Incentive program would provide an incentive for OGVs that are demonstrating an emission technology reducing NOx and/or Diesel Particulate Matter under the San Pedro Bay Ports Technology Advancement Program (TAP) (CAAP OGV6 Measure), under the terms and conditions of a TAP technology demonstration agreement approved by the Los Angeles Board of Harbor Commissioners.</p>	<p align="center">+ 2060 (Contd.)</p>					
See Item 10 for explanation of abbreviations and symbols.						
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<p align="center">VOLUNTARY ENVIRONMENTAL SHIP INDEX (ESI) INCENTIVE PROGRAM PROGRAM RULES – continued</p> <p>(4) Vessel Operators may participate in any or all of the three types of incentive grants in combination, set forth in section (3) above, for any Vessel Visit. There shall be no minimum level of OGV fleet participation required.</p> <p>(5) The grant amounts for all Vessel Operators will be determined by the Executive Director after enrollment, subject to verification of (i) OGV’s Vessel Visit data from the Marine Exchange of Southern California, (ii) OGV’s ESI Scores published by the ESI Administrator and (iii) IMO Tier II or Tier III main engine classification of the OGV based upon build date from Lloyd’s registry and/or Tier status from IAPH/WPCI ESI registry, and (iv) valid OGV6 TAP Demonstration Agreement in good standing, as applicable. Ocean Going Vessels may be subject to inspection and verification of eligibility criteria by the Port.</p> <p>(6) IMO Tier II and Tier III main engine classifications are based upon OGV ship build date. Further information is available at the IMO website at: http://www.imo.org</p> <p>(7) On a quarterly basis, the Executive Director or his/her designee shall send Vessel Operators written notice of incentive grants qualified for during the prior quarter, including an itemized calculation of incentive grants based upon verified Vessel Visits of qualifying OGVs, their ESI Scores, IMO Tier II/Tier III status and/or OGV6 TAP Demonstration Agreement participation.</p> <p>(8) Vessel Operators shall confirm their agreement with the qualifying grants by submitting written Invoices quarterly to the Port requesting payment of incentive grants, attaching the Port’s verified incentive grant calculations. Incentive payments shall be paid to Vessel Operators quarterly by the Port upon receipt of the Invoice.</p> <p>(9) Vessel Operators may add, substitute or delete Ocean Going Vessels from the list of participating vessels in the program on the IAPH/WPCI ESI website (http://www.wpci-esi.org).</p>		+ 2060 (Contd.)
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<p align="center">VOLUNTARY ENVIRONMENTAL SHIP INDEX (ESI) INCENTIVE PROGRAM PROGRAM RULES – continued</p> <p>(10) The Port will rely on the ESI Scores issued by the ESI Administrator, and may adjust the incentives in the event of any adjustment to ESI Scores. The Port is not responsible for any modifications, delays or errors in the ESI Scores or information provided by the ESI Administrator.</p> <p>(11) To be paid an incentive grant, all Vessel Operators must have filed with the Port a Los Angeles Business Tax Registration Certificate and federal tax form W-9 or form W-8BEN.</p> <p>(12) The Port reserves the right in its sole discretion at any time to close the ESI Incentive Program to new applicants. The ESI Incentive Program and this Item 2060 may be modified, suspended or terminated by the Port in its sole discretion upon 30 calendar days’ notice in writing to program participants.</p> <p>(13) Additional information on the ESI Incentive Program is available at www.portoflosangeles.org/environment/ogv.asp or the Los Angeles Harbor Department—Environmental Management Division, Attention: ESI Incentive Program, P.O. Box 191, San Pedro, California 90733-191.</p>		+ 2060 (Contd.)
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