

**DATE: JUNE 1, 2022**

**FROM: CARGO MARKETING**

**SUBJECT: RESOLUTION NO. \_\_\_\_\_ - APPROVE THIRD TEMPORARY ORDER TO AMEND PORT OF LOS ANGELES TARIFF NO. 4, INCREASING RATES FOR PETROLEUM PRODUCTS, CHANGING A PROVISION OF THE MERCHANDISE NOS RATE, AND ADMINISTRATIVE UPDATES**

**SUMMARY:**

Staff requests approval of a third Temporary Order to amend Port of Los Angeles (Port) Tariff No. 4, (Tariff No. 4) approving (i) a rate increase of 9.4 and 11.8 percent applicable to the respective petroleum products; (ii) a note to the Merchandise Not Otherwise Specified (NOS) rate stating that any change in the Merchandise NOS rate shall be offset by any scheduled increase in the compensation section of a container terminal permit; (iii) a definition in Section 1 of Tariff No. 4 defining a “Scheduled Increase in Compensation”; and (iv) the deletion of rated tariff items which are no longer relevant, effective January 1, 2022.

At the November 4, 2021, Board of Harbor Commissioners (Board) meeting, the Board approved Temporary and Permanent Orders amending Port of Los Angeles Tariff No. 4, Items 550-600 through 550-625; and deleting Item 550-650, Items 550-902 through 550-975, Items 560-001 through 560-975, and Item 1220. Changes in the Tariff require City Council approval. A second Temporary Order was approved at the March 10, 2022 Board meeting to allow additional time for the Permanent Order to pass through the City Council approval process. The second Temporary Order will expire on June 29, 2022. The City Council has not calendared and approved the Permanent Order and Ordinance. Therefore, a third Temporary Order is proposed to allow additional time for the Permanent Order to pass through the City Council approval process. This third Temporary Order, if approved, will expire in 90 days after the day it is published or upon execution of the Permanent Order by the City Council, whichever occurs first.

**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;
2. Adopt Temporary Order No. \_\_\_\_\_ to amend Port of Los Angeles Tariff No. 4 adding a definition to Section One “Definitions”; increasing rates to Section Five “Wharfage”, Items 550-600 through 550-625; and deleting Item 550-650, Items 550-902

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through 550-975, Items 560-001 through 560-975, and Item 1220;

3. Authorize the Board Secretary to certify the adoption of a 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

4. Adopt Resolution No. \_\_\_\_\_.

**DISCUSSION:**

Background and Context – On November 4, 2021, the Board approved Temporary Order No. 21-7315 and Permanent Order No. 21-7316 amending Tariff Items 550-600 through 550-625; and deleting Item 550-650, Items 550-902 through 550-975, Items 560-001 through 560-975, and Item 1220. The Orders approved (i) a rate increase of 9.4 and 11.8 percent applicable to the respective petroleum products; (ii) a note to the Merchandise NOS rate stating that any change in the Merchandise NOS rate shall be offset by any scheduled increase in the compensation section of a container terminal permit; (iii) a definition in Section 1 of Tariff No. 4 defining a “Scheduled Increase in Compensation”; and (iv) the deletion of rated tariff items which are no longer relevant, effective January 1, 2022.

Item 550-001 covers wharfage on Merchandise NOS. The Merchandise NOS rate is used when a rate for a specific commodity does not exist in Tariff No. 4. In addition, the compensation schedule of certain container terminal permits is tied to the Merchandise NOS rate. Any percent increase in the Merchandise NOS rate would (depending on its effective date) apply to rates of five of the Port’s container terminals. The actual effective rate increase to each of the Port’s container terminals varies and depends on the individual permit conditions with the Port.

Additionally, tariff items listed below would be deleted.

- Item No. 550-650 – Liquid petroleum gas, in bulk. **No longer handled.**
- Item Nos. 550-902 through 550-975 – Alternate wharfage rates. **No longer used.**
- Item Nos. 560-001 through 975 – Wharfage section covering the Hawaii trade. **No longer needed.**
- Item No. 1220 – Reefer Rental Charges. **No longer needed.** The Port does not own or maintain Reefers.

These proposed tariff amendments precede the April 28, 2022 Board-approved Temporary and Permanent Orders increasing rated tariff items under the current second Temporary Order and Permanent Order by 7.1 percent, effective August 1, 2022, with exceptions.

Need for Amendment – The last increase to petroleum products was on January 1, 2013. The proposed third Temporary Order would keep petroleum product rates in line with the

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Port of Long Beach rates for these commodities. The note added to the Merchandise NOS rate would standardize the application of Merchandise NOS rate increases across various container terminal permits. Furthermore, in the event that compensation rates within a given container terminal permit have not kept pace with the overall market, this note would preserve the Harbor Department's ability to increase compensation rates via future Merchandise NOS rate adjustments.

Need for Approval – Pursuant to the Los Angeles City Charter, the Board has the authority to make changes to Tariff No. 4 for a period of 90 days by Temporary Order. The second Temporary Order will expire on June 29, 2022, before the Permanent Order can be fully executed. Council is unable to calendar and approve the Permanent Order and Ordinance before the expiration date, therefore, a third Temporary Order (Transmittal 1) is proposed to allow additional time for the Permanent Order to pass through the City Council approval process. The third Temporary Order, if approved, will expire 90 days after the day it is published or upon execution of the Permanent Order by the City Council, whichever occurs first.

**ENVIRONMENTAL ASSESSMENT:**

The proposed action is approval of a third 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:**

The proposed third Temporary Order would: (i) increase certain tariff rates on petroleum products by 9.4 and 11.8 percent effective January 1, 2022; (ii) delete certain tariff items that are either no longer used or no longer relevant; and (iii) enable compensation increases negotiated within individual container terminal permits to offset future increases in the Merchandise NOS rate.

Increasing certain tariff rates on petroleum products is expected to generate incremental wharfage revenues of \$326,292 over a six-month period from January 1 – June 30, 2022 and approximately \$650,000 of incremental wharfage over a full year. The deletion of certain tariff items that are no longer used or no longer relevant is not anticipated to have a financial impact on revenues given that these tariff items are rarely, if ever, used to prepare compensation invoices.

Lastly, the action to enable tenant-based specific compensation increases to offset future increases in the Merchandise NOS rate will limit annual compensation increases at five container terminals to the greater of the annual Merchandise NOS rate increase or the annual increase stated within each of the five applicable terminal operator's specific permit.

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**CITY ATTORNEY:**

The City Attorney's Office has prepared and approved the subject Temporary Order as to form and legality.

**TRANSMITTALS:**

1. Temporary Order
2. Tariff No. 4



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Director of Cargo Marketing

FIS Approval: MB  
CA Approval: SO

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