



**DATE: SEPTEMBER 28, 2022**

**FROM: EXECUTIVE OFFICE**

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

**SUMMARY:**

Staff requests approval of a fourth Temporary Order to amend Port of Los Angeles (Port) Tariff No. 4, (Tariff No. 4) amending Section Twenty-Five, "Container Excess Dwell Fee". A Container Excess Dwell Fee will 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 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 have the authority 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 is 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. The first and second Temporary Orders expired on April 29, 2022 and July 28, 2022, respectively, and the third Temporary Order is set to expire on October 26, 2022; therefore, a fourth Temporary Order is required to continue consideration of the dwell fee.

**RECOMMENDATION:**

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It is recommended that the Board of Harbor Commissioners (Board):

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 Section Twenty-Five, "Container Excess Dwell Fee";
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 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 eight days and intermodal import loaded containers dwelling longer than five 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 to pre-COVID19 levels. For example, on March 7, 2022, the rail dwell on loaded import intermodal containers was four days compared to a peak of 13.4 days. On January 13, 2022, the Board approved Temporary Order No. 22-7322, effective January 30, 2022, in which all loaded import local and intermodal containers on a Port terminal for more than eight days at the commencement date of the fee are deemed to be at nine days for the purposes of fee charges. The Beneficial Cargo Owner (BCO) community had been reluctant to switch their loaded import container business back to using on-dock rail because the excess dwell fee on intermodal import containers was applicable to containers dwelling on terminals six days and more following vessel discharge.

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

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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, when assessed, 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.

Need for Amendment – With the excess dwell fee remaining in effect, OCCs will continue to focus on 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 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 first and second Temporary Orders expired on April 29, 2022 and July 28, 2022, respectively, and the third Temporary Order is set to expire on October 26, 2022; therefore, a fourth Temporary Order (Transmittal 1) is required to continue consideration of the dwell fee. The fourth Temporary Order, if approved, will expire 90 days after the day it is published.

**ENVIRONMENTAL ASSESSMENT:**

The proposed action is approval of a fourth Temporary Order to amend Port of Los Angeles Tariff No. 4 to increase rated tariff items, 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 fourth 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.

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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.

**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

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APPROVED:

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