

ORDINANCE NO. _____

An ordinance approving Order No. 21-7316 of the Board of Harbor Commissioners of the City of Los Angeles, amending Port of Los Angeles Tariff No. 4.

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

Section 1. That Order No. 21-7316 passed and adopted by the Board of Harbor Commissioners of the City of Los Angeles on the 4th day of November, 2021, amending Port of Los Angeles Tariff No. 4, be, and the same is hereby ratified, confirmed and approved, which Order is in words and figures as follows:

"ORDER NO. 21-7316

An Order of the Board of Harbor Commissioners of the City of Los Angeles amending 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. 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 2. The Director of Environmental Management has determined that the proposed action is exempt from the requirements of the California Environmental Quality Act (CEQA) under Article III, Class 1(31) of the Los Angeles City CEQA Guidelines.

Section 3. 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, as well as posted electronically on the Port of Los Angeles website.

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

Section 5. The Board Secretary shall execute the proposed Board Order and Ordinance amending Tariff No. 4, and upon its publication, transmit the 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 November 4, 2021


for AMBER M. KLESGES
Board Secretary"

Sec. 2. 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 the aforesaid Order of the Board of Harbor Commissioners for periods not exceeding ninety (90) days, and shall have power to place in effect for a like period of time any temporary rule or regulation, rate, toll or charge for the Harbor District.

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

Item No.

Section Twenty is organized as follows:
 Items 2000-2041 – Clean Truck Program
 Items 2045-2060 – Ocean Going Vessels
 Items 2061-2089 – RESERVED
 Items 2090-2099 – General Provisions

DEFINITIONS CLEAN TRUCK PROGRAM

For purposes of Section 20 the following definitions shall apply:

+ **“2014 Drayage Truck”** means a Drayage Truck that is Model Year 2014 or newer.

* **“ARB”** or **“CARB”** means the California Air Resources Board.

+**“Agent”** means an entity acting on cargo owner’s behalf under contract for arrangement of all or part of the movement of cargo between a Terminal and points of origin and destination. An “Agent” can be a shipping line, a rail carrier, a Licensed Motor Carrier or other agents and intermediaries, but in no event shall include or result in any Drayage Truck Operator being responsible for payment of the Clean Truck Rate.

“Authorized Emergency Vehicle” is as defined in California Vehicle Code Section 165.

“CARB Diesel Fuel” is Diesel Fuel certified by ARB as meeting the fuel specification standards set forth at Title 13, California Code of Regulations (CCR) Section 2280 et seq.

* **“CARB Drayage Truck Rule”** is the regulation published by ARB for In-Use On-Road Diesel-Fueled Heavy-Duty Drayage Trucks at Ports and Intermodal Rail Yard Facilities in California Code of Regulations (CCR) Section 2027.

<https://www.arb.ca.gov/msprog/onroad/porttruck/2027regfinal.pdf>

* **“CARB Truck and Bus Rule”** is the regulation published by ARB entitled “Regulation to Reduce Emissions of Diesel Particulate Matter, Oxides of Nitrogen and Other Criteria Pollutants from In-Use Heavy-Duty Diesel-Fueled Vehicles” in California Code of Regulations (CCR) Section 2025. <https://ww2.arb.ca.gov/our-work/programs/truck-bus-regulation/truck-and-bus-regulation-regulation-advisories>

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See Item 10 for explanation of abbreviations and symbols.

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| Correction No. | Order No. Ordinance No. | Adopted June 21, 2018 Adopted August 8, 2018 | EFFECTIVE: |
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SECTION TWENTY - Continued
 CLEAN AIR ACTION PLAN – GENERAL RULES AND REGULATIONS -- Continued

Item No.

DEFINITIONS CLEAN TRUCK PROGRAM–Continued

“**Dedicated Use Vehicles**” are uni-body On-Road Vehicles that do not have separate tractors and trailers, including but not limited to dedicated auto transports, dedicated fuel delivery vehicles, concrete mixers, mobile cranes and construction equipment.

“**Diesel Fuel**” means any fuel that is commonly or commercially known, sold, or represented by the supplier as diesel fuel, including any mixture of primarily liquid hydrocarbons – organic compounds consisting exclusively of the elements carbon and hydrogen – that is sold or represented by the supplier as suitable for use in an internal combustion, compression – ignition engine.

* “**Diesel-Fueled**” means a compression-ignition engine fueled by Diesel Fuel, CARB Diesel Fuel, or alternative diesel fuel, in whole or part.

“**Diesel Particulate Matter**” or “**DPM**” means the particles emitted in the exhaust of Diesel- Fueled compression - ignition engines.

* “**Drayage Truck**” means any in-use On-Road Vehicle with a Gross Vehicle Weight Rating greater than 14,000 pounds that pulls a trailer or chassis used for transporting cargo (such as containerized, bulk, or break-bulk goods), operating on or transiting through Port Property for the purpose of loading, unloading or transporting cargo, empty containers or chassis that originated from or is destined for Port Property. Drayage Truck does not include Dedicated Use Vehicles, Authorized Emergency Vehicles, Military Tactical Support Vehicles, or Yard Trucks.

“**Drayage Truck Owner**” means the person registered as the owner of a Drayage Truck as shown by the Department of Motor Vehicles, or its equivalent in another state, province, country, or the International Registration Plan, or the lessee of a Drayage Truck indicated on the truck’s registration pursuant to California Vehicle Code Section 4453.5.

“**Drayage Truck Operator**” means the driver of the vehicle or any person, party, or entity that controls the operation of a Drayage Truck.

“**Gross Vehicle Weight Rating**” is defined in California Vehicle Code Section 350.

“**Heavy-Duty**” is a manufacturer’s Gross Vehicle Weight Rating of greater than 14,000 pounds.

“**International Registration Plan**” is a registration reciprocity agreement among states of the United States and provinces of Canada providing for payment of license fees on the basis of total distance operated in all jurisdictions.

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See Item 10 for explanation of abbreviations and symbols.

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| Correction No. | Order No. Ordinance No. | Adopted Adopted | EFFECTIVE: |
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SECTION TWENTY - Continued
 CLEAN AIR ACTION PLAN – GENERAL RULES AND REGULATIONS -- Continued

Item No.

DEFINITIONS CLEAN TRUCK PROGRAM–Continued

“**Lessee**” has the same meaning as in California Vehicle Code Section 371.

“**Licensed Motor Carrier**” means a licensed motor carrier in good standing and in compliance with the requirements of a valid license/permit under either (1) a California Motor Carrier Permit issued by the California Department of Motor Vehicles under the California Vehicle Code, or (2) a state motor carrier permit issued by any U.S. State, or (3) a Federal Motor Carrier License (USDOT Number) and Operating Authority (MC or MX Number) that contracts for and dispatches for pick-up and delivery of goods destined for or originated from Port Property.

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+“**Low NOx Truck**” means a truck that that meets or exceeds the manufacturing standard of Low NOx trucks under the Low NOx Omnibus Regulation adopted by CARB. <https://ww2.arb.ca.gov/rulemaking/2020/hdomnibuslownox>

+ “**Marine Cargo Support Yard**” means a facility used for secondary staging of cargo containers, chassis storage, or other marine cargo activities supporting the Terminals.

“**Military Tactical Support Vehicles**” is as defined in Title 13, CCR, Section 1905.

“**On-Road**” means a vehicle that is designed to be driven on public highways and roadways and that is registered or is capable of being registered by the California Department of Motor Vehicles (DMV) under Vehicle Code sections 4000 et seq., or DMV’s equivalent in another state, province, or country, or the International Registration Plan. A vehicle covered under ARB’s In-Use Off-Road Regulation, title 13, CCR, section 2449 is not an on-road vehicle.

“**Oxides of nitrogen**” or “**NOx**” means compounds of nitrogen and oxygen, including nitric oxide and nitrogen dioxide.

See Item 10 for explanation of abbreviations and symbols

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

Item No.

DEFINITIONS CLEAN TRUCK PROGRAM –Continued

“**State Drayage Truck Registry**” or “**State DTR**” is a CARB database that contains information on trucks that conduct business at California ports and intermodal rail yards, as required under the CARB Drayage Truck Rule.

“**Temporary Access Permit**” means a temporary right of access from the Port of Los Angeles to a Licensed Motor Carrier to allow Drayage Truck access to a Port of Los Angeles Terminal for drayage services under the terms and conditions issued by the Port.

* “**Terminal**” is any facility on Port Property used for the movement of waterborne cargo, including container terminals, break bulk terminals, dry bulk terminals and Marine Cargo Support Yards.

“**Terminal Operator**” is the entity with contractual authority from the Port of Los Angeles to operate a Terminal.

“**Radio Frequency Identification Device**” or “**RFID**” is an electronic device with a unique identification number, installed on a Drayage Truck which will enable the Terminal Operator to access the Drayage Truck’s records in the PDTR.

“**Vehicle**” is as defined in Vehicle Code Section 670.

“**Yard Truck**” means an off-road mobile utility vehicle used to carry cargo containers with or without chassis; also known as utility tractor rig (UTR), yard tractor, yard goat, yard hostler, or prime mover.

+“**Zero Emission Truck**” means a Drayage Truck that meets the definition of “Zero Emission Vehicle” in the CARB Advanced Clean Truck Regulation: “an on-road vehicle with a drivetrain that produces zero exhaust emission of any criteria pollutant (or precursor pollutant) or greenhouse gas under any possible operational modes or conditions.” <https://ww3.arb.ca.gov/regact/2019/act2019/fro2.pdf>

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See Item 10 for explanation of abbreviations and symbols.

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| Correction No. | Order No. Ordinance No. | Adopted Adopted | EFFECTIVE: |
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| SECTION TWENTY - Continued CLEAN AIR ACTION PLAN – GENERAL RULES AND REGULATIONS -- | | Item No. |
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| <p style="text-align: center;">GATE ACCESS CONTROLS</p> <p>* All Terminal Operators shall have installed appropriate means, approved by the Port, of accessing the Port’s Drayage Truck Registry for the purposes of obtaining relevant information to confirm Drayage Trucks’ compliance with Terminal access requirements under this Tariff. Acceptable means include RFID readers at all truck processing gates; alternative plan using PDTR Compliance Labels may be used with Executive Director approval.</p> | | [C] 2005 |
| <p style="text-align: center;">DRAYAGE TRUCK ACCESS</p> <p>* No Terminal Operator shall permit access into any Terminal in the Port of Los Angeles to:</p> <p>(1) Any Drayage Truck that does not comply with State emissions law requirements for Drayage Trucks under the CARB Drayage Truck Rule and/or the CARB Truck and Bus Rule, as applicable (https://ww2.arb.ca.gov/our-work/programs/drayage-trucks-seaports-railyards/drayage-truck-regulatory-documents) and/or the CARB Advanced Clean Fleet Regulation following adoption (https://ww2.arb.ca.gov/our-work/programs/advanced-clean-fleets).</p> <p>(2) Any Drayage Truck that cannot be verified as compliant with Items 2010, 2025 and 2040 by reference to the Drayage Truck’s records in the PDTR.</p> | | [C] 2010 |
| <p>This item has expired.</p> | | [D] 2015 |

See Item 10 for explanation of abbreviations and symbols.

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| Correction No. | Order No. Ordinance No. | Adopted Adopted | EFFECTIVE: |
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SECTION TWENTY - Continued
 CLEAN AIR ACTION PLAN – GENERAL RULES AND REGULATIONS -- Continued

Item No.

CLEAN TRUCK FUND RATE

1. Beginning April 1, 2022, at 8:00 a.m., the following Clean Truck Fund (CTF) Rates shall be assessed in accordance with this Item 2030:
 - a. \$10.00 on containers with an outside length of 20 feet or less;
 - b. \$20.00 on containers with an outside length of more than 20 feet.

The CTF Rate shall be assessed once per visit, on containerized merchandise at the first point of entry to or departure from the Port of Los Angeles by Drayage Truck, with the exception of merchandise qualifying for the fee exemptions set forth in this Item 2030, paragraph 2.

The CTF Rate shall be paid by the cargo owner, or its authorized Agent, which shall not include Drayage Truck Operators.

The CTF Rate shall sunset on December 31, 2034.

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2. **Exemptions:** The Clean Truck Rate shall not be assessed on containerized merchandise that:
 - a. Full lifetime exemption: enters or leaves the Ports by **Zero Emission Truck** servicing the Ports and registered in the PDTR by December 31, 2034;
 - b. Exemption until December 31, 2027: enters or leaves the Ports by **Low NOx Truck** servicing the Ports and registered in the PDTR by December 31, 2022;
 - c. prototype or advanced technology demonstration Drayage Trucks under a Port contract, permit or license
 - d. enters or leaves the Ports by use of port on-dock rail facilities without use of a Drayage Truck;
 - e. moves between two Terminals within the Ports;
 - f. is shipped under contract to the United States Transportation Command, United States Military or Department of Defense

3. Licensed Motor Carriers, Drayage Truck Owners and Drayage Truck Operators that operate a Drayage Truck that received Clean Truck Rate exemption under this Item 2030 shall not transfer, switch or cause cargo from a fee-exempt Drayage Truck to be moved to a Drayage Truck that is non-exempt from the Clean Truck Rate while on Port Property or on public streets immediately adjacent to Port Property. In the event that containerized merchandise (i) is not assessed a Clean Truck Rate at the Port Terminal because it is moved by a fee-exempt Drayage Truck (such as a qualifying Zero Emissions or Low NOx Truck), and (ii) such containerized merchandise is subsequently transferred to a Drayage Truck that is non-exempt from the Clean Truck Fee on Port Property or on public streets within or immediately adjacent to Port Property, then the cargo owner shall be notified and the Clean Truck Rate shall be assessed.

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| Correction No. | Order No. | Adopted | EFFECTIVE: |
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SECTION TWENTY - Continued
 CLEAN AIR ACTION PLAN – GENERAL RULES AND REGULATIONS -- Continued

Item No.

CLEAN TRUCK FUND

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, which may be administered by a third-party administrator. The monies shall be used as set forth in a Resolution by the Board of Harbor Commissioners exclusively for programs for the replacement of Drayage Trucks with Zero-Emission and/or Low-NOx Drayage Trucks serving the Ports of Los Angeles and Long Beach, including fueling infrastructure.

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*CONCESSIONS AND TEMPORARY ACCESS PERMITS

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 PDTR.

* 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 www.portoflosangeles.org 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.

* 3. 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.

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DRAYAGE TRUCK COMPLIANCE

* 1. While on any Port Property or public streets in the Harbor District, Licensed Motor Carriers, Drayage Truck Owners and Drayage Truck Operators shall (i) operate only Drayage Trucks that comply with Terminal access requirements of Item 2010 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 Item 2010.

* 2. Terminal Operators, Licensed Motor Carriers, Drayage Trucks, Drayage Truck Owners and Drayage Truck Operators shall comply with the State law requirements of the CARB Drayage Truck Rule and/or the CARB Truck and Bus Rule, and/or the CARB Advanced Clean Fleet Regulation following adoption (<https://ww2.arb.ca.gov/our-work/programs/advanced-clean-fleets>), as appropriate, 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 the CARB Drayage Truck Rule. See <https://ww2.arb.ca.gov/our-work/programs/truck-bus-regulation/truck-and-bus-regulation-regulation-advisories>

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See Item 10 for explanation of abbreviations and symbols.

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| Correction No. | Order No. Ordinance No. | Adopted Adopted | EFFECTIVE: |
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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.

Approved as to Form and Legality

MICHAEL N. FEUER, City Attorney

By 
JOY M. CROSE
Deputy City Attorney

Date 4/18/22

File No. _____

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The Clerk of the City of Los Angeles hereby certifies that the foregoing ordinance was passed by the Council of the City of Los Angeles.

CITY CLERK

MAYOR

Ordinance Passed _____

Approved _____