

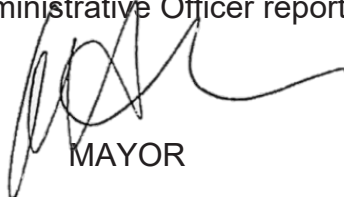
0150-03656-0100

TRANSMITTAL

TO Eugene D. Seroka, Executive Director Harbor Department	DATE 04/20/2022	COUNCIL FILE NO. 12-1316-S4
FROM The Mayor	COUNCIL DISTRICT 15	

**PROPOSED PERMANENT ORDER AMENDING PORT OF LOS ANGELES TARIFF NO. 4,
SECTION 20, CLEAN AIR ACTION PLAN, TO ESTABLISH A CLEAN TRUCK FUND AND
RATES TO INCENTIVIZE ZERO EMISSION DRAYAGE TRUCK USE AT THE PORT**

Transmitted for further processing and Council consideration.
See the City Administrative Officer report attached.



MAYOR

(Andre Herndon for)

MWS:JCY:10220073t

OFFICE OF THE CITY ADMINISTRATIVE OFFICER

Date: April 14, 2022

CAO File No. 0150-03656-0100

Council File No. 12-1316-S4

Council District: 15

To: The Mayor

From: Matthew W. Szabo, City Administrative Officer

Reference: Correspondence from the Harbor Department dated November 24, 2021; referred by the Mayor for report December 7, 2021

Subject: **PROPOSED PERMANENT ORDER AMENDING PORT OF LOS ANGELES
TARIFF NO. 4, SECTION 20, CLEAN AIR ACTION PLAN, TO ESTABLISH A
CLEAN TRUCK FUND AND RATES TO INCENTIVE ZERO EMISSION DRAYAGE
TRUCK USE AT THE PORT**

RECOMMENDATIONS

Approve Harbor Department (Port) Resolution No. 21-9921 authorizing the adoption of Permanent Order No. 21-7316 and a corresponding Ordinance to amend Port of Los Angeles Tariff No. 4, Section 20, Clean Air Action Plan, by adding Item Nos. 2030 and 2035 to establish terms and rates for the Clean Truck Fund and modifying and updating related items; and, return the Resolution documents to the Port for further processing, including Council consideration.

SUMMARY

The Harbor Department (Port) Board of Harbor Commissioners (Board) requests approval of Resolution No. 21-9921 authorizing the adoption of Permanent Order No. 21-7316 and a corresponding Ordinance to amend Port of Los Angeles (POLA) Tariff No. 4 Port Fee, Rules and Regulations (Tariff), Section 20, Clean Air Action Plan, by adding Item Nos. 2030 and 2035, effective April 1, 2022. The proposed Tariff Amendment modifies the Clean Truck Program (CTP) subsection in order to facilitate the 2017 Clean Air Action Plan (CAAP) update's Year 2035 100 percent zero-emission (ZE) truck fleet target. The 2017 CAAP update includes establishing a Clean Truck Fund (CTF) and CTF Rate of \$10 per twenty-foot equivalent container unit (TEU) processed at the first point of entry or departure from POLA. Loaded containers longer than 20 feet are charged \$20. The CTF Rate exempts containers carried by ZE drayage trucks and provides a limited exemption to low-emission (Low NOx) trucks. The CTF receipts will be used to fund CTF Rate collection operational costs and programs to transition the fleet of drayage trucks servicing POLA to ZE and Low NOx, including charging and fueling infrastructure. The CTF Rate is scheduled to end on December 31, 2034, subject to annual Board review, modification, or extension. The Port is developing incentive and financing programs to use the CTF revenue and will report to the Board separately. The proposed Tariff Amendment also includes update of miscellaneous CTP and drayage truck definitions and items in Tariff Item Nos. 2000 "Definitions," 2010 "Drayage Truck Access," and 2041 "Drayage Truck Compliance."

BACKGROUND

The Clean Truck Program (CTP) was established in 2008 and is a key component of the San Pedro Bay Clean Air Action Plan (CAAP). The CAAP is a collaboration of the POLA and Port of Long Beach (POLB) to establish a comprehensive strategy for reducing port-related air pollution and related health risks, while allowing port development, job creation, and economic activity associated with that development to continue. The Ports jointly created and approved the CAAP in 2006, and approved a comprehensive update most recently in 2017.

The purpose of the CTP is to incentivize the early transition of an aging fleet of drayage trucks into environmentally beneficial, safe, and secure vehicles as required by California state law. The California Air Resources Board (CARB) set a State Drayage Truck Rule (State DTR) deadline of January 1, 2014 for all drayage trucks serving ports within the state to meet federal Environmental Protection Agency (EPA) 2007 model year standards. This State DTR informed the Ports' original 2008 CTP, which funded incentives from 2009-2011 Clean Truck Fees for voluntary early state law compliance. The 2008 CTP charged beneficial cargo owners (BCOs) \$35 per TEU. The 2008 CTP resulted in 100 percent of drayage trucks servicing the Ports transitioning to 2007 EPA standards by early 2011, nearly two years ahead of the CAAP deadline and four years ahead of the state CARB deadline. Additionally, as a result of the 2008 CTP and other CTP efforts, the Port reports that air emissions from trucks operating at POLA have been reduced by 98 percent for diesel particulate matter (DPM), 83 percent for nitrogen oxides (NOx), 92 percent for sulfur oxides (SOx), and 16 percent for greenhouse gases (GHGs) compared to 2005.

The CARB State DTR also set a January 1, 2023 deadline for replacement of 2007 model year drayage trucks with 2010 model year or newer engines. CARB has also developed new proposed rules, known as Advanced Clean Fleets (ACF) regulation, which may require only ZE trucks be added to drayage service starting in 2024 and a transition to 100 percent ZE drayage truck fleets by 2035. The 2017 CAAP update modified the CTP in an effort to meet these new targets and further air emission reductions at the Ports. Phase One of the updated CTP required new registrations in the Port Drayage Truck Registry (PDTR) after October 1, 2018 to be 2014 model year or newer trucks. The Port reports that, currently, 70 percent of the approximately 18,000 engines in the POLA's drayage fleet meet or exceed the 2010 EPA standard, meaning that 30 percent or approximately 5,400 trucks require new engines or replacements by year-end.

The Port also reports that the 2017 CAAP update aligns GHG emission reduction targets to meet state legislation requirements of at least a 40 percent reduction in GHG emissions below 1990 levels by 2030 and an 80 percent reduction by 2050. The Ports commissioned a San Pedro Bay Ports 1990 Greenhouse Gas Emissions Baseline Report, issued in March 2019, which establishes the Ports' 1990 GHG levels for trucks at 619,116 tons. The Port reports in its 2020 Emissions Inventory that trucks at POLA emitted 780,118 tons of GHGs, which is 26 percent above 1990 levels for the combined Ports. The Port has separately reported that heavy-duty trucks remain the Ports' largest source of GHGs and second highest source of NOx.

PROPOSED TARIFF AMENDMENT

The proposed Tariff Amendment to create the CTF and implement the CTF Rate executes Phase Two of the updated CTP. The Phase Two strategy incentivizes and helps finance the transition to a ZE drayage fleet and includes two main components:

1. Establishment of a CTF Rate:

Tariff Item No. 2030 establishes a CTF Rate of \$10 per loaded container up to 20 feet (one TEU) and \$20 for loaded containers over 20 feet at the first point of entry or departure from the POLA by drayage truck. The CTF Rate is charged to cargo owners and not drayage truck operators. The CTF Rate exempts charges on containers carried by ZE trucks and exempts, through December 31, 2027, containers carried by Low NOx trucks that are registered in the PDTR and placed into service by December 31, 2022. Additional exemptions, including for inter-terminal container movement and movement via on-dock rail also apply.

The CTF Rate item includes a provision prohibiting transfer of containers to or from an exempt truck to a non-exempt truck on or adjacent to Port property, actions that would effectively negate the air quality benefits of using a ZE or Low NOx truck at POLA or in surrounding communities.

The Port anticipates approximately 500 Low NOx trucks will qualify for the exemption under the proposed Tariff Amendment. The Port's CTF Rate exemption for Low NOx drayage trucks differs from the POLB's exemption. The POLB provides a wider exemption for Low NOx trucks, including a later exemption sunset date of December 31, 2031 for trucks purchased and registered in the PDTR by December 31, 2022.

The Ports conducted extensive study and outreach, including Board adoption of a CTF Rate Development Roadmap on June 17, 2021 (Resolution No. 21-9846) to reach the proposed Tariff Amendment's terms. While the Board directed Port staff to coordinate with the POLB to achieve, as much as possible, a uniform implementation of the updated CTP, the Board also directed that achievement of zero emissions must be the overall goal, with incentives for acceleration of ZE truck deployment. The Ports conducted outreach to cargo stakeholders, including BCOs, drivers, and surrounding port communities in a series of outreach workshops and a truck driver survey. The Board had particular concern with the potential impact of the CTF Rate on drayage truck operators. The Port reports that the Board has directed staff to monitor potential impacts to drivers and to report regularly.

2. Establishment of a CTF:

Tariff Item No. 2035 establishes the CTF and states that terminal operators will collect and remit CTF Rate fees to the CTF, which may be administered by a third party. Collected funds shall only be used for programs to replace the Ports' drayage truck fleets with ZE and Low NOx trucks and related charging and fueling infrastructure.

In anticipation of the need for CTF Rate collection, the Ports issued a joint request for proposals (RFP) and selected PortCheck, LLC (PortCheck) from five responsive proposals. The Ports

selected PortCheck in part due to its experience collecting fees for the 2008 CTF. The Board approved a three-year contract with PortCheck for CTF Rate collection operations and infrastructure development at its meeting on May 20, 2021 (Resolution No. 21-9826). PortCheck will collect the fees from terminal operators and remit the funds to the CTF after subtracting its operational costs.

The Board, at its meeting on March 24, 2022, considered and adopted two items to begin the process of developing programs and using the CTF receipts. The Board adopted a three-year POLA CTF Spending Plan to implement five programs to support ZE truck purchases, charging or fueling infrastructure, and ZE technology development and demonstration projects. The Board also approved an agreement for administration of the first program, the ZE Truck Voucher Incentive Program. Under the CTF Spending Plan, the Port will develop each program individually and present to the Board for approval.

The proposed Tariff Amendment also includes update of miscellaneous CTP and drayage truck definitions and items in Tariff Item Nos. 2000 "Definitions," 2010 "Drayage Truck Access," and 2041 "Drayage Truck Compliance." The main changes in these items revise references to terminology and state laws to reflect updated information.

The Port reported in 2021 that approximately 850 alternative fuel drayage trucks currently service the POLA. The Port reports that transition to a 100 percent ZE drayage truck fleet requires \$10 billion or more in investment and acknowledges that the updated CTP and proposed Tariff Amendment address only a small portion of the challenge faced in meeting required ZE and GHG reduction targets. Under the Board's direction, the Port will explore ways to leverage CTF receipts to acquire existing and future regional, state, federal, and other sources of funding.

Financial Impact

The Port estimates that approval of the proposed Tariff Amendment will initially generate up to \$90 million annually between both ports, with approximately \$45 million to the Port. The annual receipts will decrease as more trucks are replaced and meet the ZE exemption. The agreement with PortCheck (Resolution No. 21-9826) sets aside \$437,500 in the Harbor Revenue Fund for development of the CTF Rate collection system. PortCheck operational fees for the three-year agreement, up to \$4,562,500, will be paid from the CTF Rate receipts. Further expenditure of the CTF Rate receipts is subject to separate Board approval.

CITY AND ENVIRONMENTAL COMPLIANCE

A Temporary Order, authorized by the Board and effective April 1, 2022, authorizes the same provisions as the proposed Tariff Amendment, but is only effective for 90 days pending Council approval of the Permanent Order and corresponding Ordinance, pursuant to Charter Sections 653(a) and (b). The Port is a member of the California Association of Port Authorities (CAPA). Adoption of the proposed Tariff Amendment is also subject to CAPA review and approval.

The City Attorney has approved the proposed Amendment, Order and ordinance as to form and

legality. In accordance with Charter Section 653, the Council must approve the ordinance to amend Tariff No. 4 before it can become effective permanently. The Port states that the approval of the proposed Order and ordinance and proposed actions are: activities involving the establishment of a rate by a public agency which the public agency finds is for the purpose of purchasing equipment; a planning study for possible future action which the Board has not approved, adopted or funded and does not require the preparation of an EIR or Negative Declaration but does require consideration of environmental factors; and, an activity where it can be seen with certainty that there is no possibility that the approval may have a significant effect on the environment. Therefore, the Port Director of Environmental Management has determined that the proposed actions are statutorily and generally exempt from the requirements of the California Environmental Quality Act (CEQA) in accordance with Section 15273, 15262, and 15061(b)(3) of the State CEQA Guidelines, and Article II, Sections 1, 2(o), and 2(d) of the Los Angeles City CEQA Guidelines.

FISCAL IMPACT STATEMENT

The proposed Harbor Department (Port) Resolution No. 21-9921 authorizing the adoption of Permanent Order No. 21-7316 and a corresponding Ordinance to amend Port of Los Angeles (POLA) Tariff No. 4 Port Fees, Rules and Regulations, Section 20, Clean Air Action Plan, by adding Item Nos. 2030 and 2035 to establish terms and rates for the Clean Truck Fund and modifying and updating related items is anticipated to result in up to \$45 million annually to the Port to fund the purchase of zero emission drayage trucks and supporting infrastructure. Expenditures from the Clean Truck Fund are subject to Port Board of Harbor Commissioners approval and are the responsibility of the Port and the Harbor Revenue Fund. There is no impact on the City General Fund.

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