ORDINANCE NO. HD-2005

AN ORDINANCE OF THE BOARD OF HARBOR
COMMISSIONERS OF THE CITY OF LONG BEACH
AMENDING ORDINANCE NO. HD-1357, DESIGNATED
TARIFF NO. 4, BY ADDING TO AND AMENDING
SECTION 10 RELATING TO CLEAN AIR ACTION PLAN
DRAYAGE TRUCK MEASURES

1. On December 27, 1983, the Board of Harbor Commissioners of the
   City of Long Beach adopted Ordinance No. HD-1357, designated Tariff No. 4, which sets
   forth rates at which, and terms under which, the Port of Long Beach, California is willing
   to provide marine terminal services. Tariff No. 4 has been amended from time to time
   since 1983. The current version of Tariff No. 4 is made available to the public on the Port
   of Long Beach website at polb.com.

2. The Board now wishes to further amend Ordinance No. HD-1357 by
   adding to and amending Section 10, Items 1000 through 1045, relating to San Pedro Bay
   Ports Clean Air Action Plan drayage truck measures.

3. The San Pedro Bay Ports Clean Air Action Plan (CAAP) was
   adopted by the Boards of Harbor Commissioners of Long Beach and Los Angeles 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.

FINDINGS

1. As part of the overall implementation of the CAAP, the Long Beach Harbor Department ("Port of Long Beach" or "Port"), in conjunction with the Port of Los Angeles, has considered numerous proposals to address air pollution from a variety of sources operating within the Harbor District of the City of Long Beach. This process has included public meetings, contacts with private and governmental parties at the local, state and federal level, and review of written submissions and suggestions. This Ordinance reflects close consideration of all of these views.

2. The Port holds legal title to and manages the lands on which it is located as a trustee for the benefit of the People of California. The Port manages the land and tidal water resources associated with the trust under the Long Beach Tidelands Trust (California Constitution Article X; California Public Resources Code Sec. 6306; Long Beach City Charter, Article XII, and Chapter 676, Statutes of 1911, as amended) and the California Coastal Act (California Public Resources Code Div. 20, Sec. 30700 et. seq.), which identify the lands, waters and facilities as a primary economic and coastal resource of the State of California and an essential element of the national maritime industry for promotion of commerce, navigation, fisheries and harbor operations. As trustee, the Port also has a duty to mitigate the environmental impacts of activities on Port property and to preserve the ecology, including the water, land and surrounding air.

3. The Port is one of the largest providers of marine terminal facilities in the United States. The Port is proprietor of facilities that handle over 20% of the nation's containerized goods: cargo valued at more than $100 billion per annum. Together with the Port of Los Angeles, the San Pedro Bay ports handle over 40% of the nation's containerized goods worth more than $200 billion per annum. Failure to take prompt, reasonable, and effective measures to reduce harmful air emissions generated by Port-related activities will prevent the efficient expansion and development of port facilities necessary to meet the increasing demands of the nation's international maritime
commerce.

4. Tens of thousands of individuals work in Port-related jobs, as employees of the Port and employees of businesses involved in moving, handling and shipping maritime cargo. As an employer and as a landlord, the Port has an interest in adopting reasonable measures to assure that the Port is a safe and healthy workplace.

5. The Port is in competition with other West Coast, North American and global ports for international maritime commerce business. Just as business customers and users of the Port's facilities who are leaders in corporate social responsibility and sustainable practices seek environmentally-friendly and sustainable port services, the Port has an interest in adopting reasonable measures to reduce harmful air emissions from Port-related goods movement operations.

6. As neighbor to millions of Californians, the Port has an interest in adopting reasonable measures to assure that Port operations do not injure the health and property of nearby residents. In addition, because the Port requires the support of residents in nearby communities for needed improvements in Port infrastructure, failure to significantly reduce the health impacts on Port operations on these communities will impede the Port's ability to handle increased volumes of goods in future.

7. Studies by SCAQMD and CARB have concluded that the more than two million people who live near the Ports of Los Angeles and Long Beach face greater health risks than those who live elsewhere. According to SCAQMD, implementation of a clean truck program in the ports of San Pedro Bay would prevent the premature deaths of up to 1,450 people through 2025. SCAQMD also concludes that failure to control truck emissions from Port activities in the South Coast Air Basin, in which the ports of Long Beach and Los Angeles are located, will result in externalized costs for premature deaths, health costs and missed work days of up to $10.1 billion through 2025.

8. Port truck emissions account for a very substantial portion of the adverse health impact from Port operations. For example, CARB's staff has estimated that living near an area, such as the Ports, with constant truck operations, may increase
the risk of developing cancer by as much as 750 cases per million. Those who work at
the Port experience more intense exposures than even these nearby residents.

9. The South Coast Air Basin has the worst concentrations of
atmospheric ozone and certain criteria pollutants in the entire United States. In the
CAAP, the Ports of Los Angeles and Long Beach have committed to reduce pollutant
emissions to the levels that will assure that port-related sources make their fair share of
regional emission reductions to enable the South Coast Air Basin to attain state and
federal ambient air quality standards. CAAP, p. 24.

10. If the South Coast Air Basin fails to comply with ambient air quality
standards by federal Clean Air Act deadlines, the Port and other regional entities may be
unable to obtain federal funding for future growth. If the Basin remains out of compliance
beyond these deadlines, billions of dollars of federal funding for regional infrastructure
improvements could be lost under federal conformity policies.

11. Independently, the failure of the Port to adequately address air
pollution impacts, including diesel truck emissions, would threaten future Port growth both
because of legal constraints under the California Environmental Quality Act (CEQA) and
the National Environmental Policy Act and the opposition of surrounding residents and
communities to further expansion without an actual improvement in environmental
conditions surrounding the ports. For example, CEQA requires implementation of all
feasible mitigation measures before any project with significant environmental impacts is
approved.

12. Although the Port has unique trust responsibilities, the Port is not
unique among large property owners or employers in recognizing the benefits of reducing
pollution from its facilities, in enhancing the environment, promoting employment and
living as good neighbors with its surrounding communities. Reasonable environmental
measures are simply good business practices.

13. Truck operations at the Port are a critical element in the efficient
operation of the Port. Because of increased concerns over safety, port security, and the
environment, the economic demands on providers of trucking services in the Port are changing rapidly. The Port is aware of these factors affecting truck services and is cognizant that environmental measures affecting truck and drayage operations in the Port must be chosen with awareness of impacts on the supply and cost of trucking services. As environmental measures are implemented over time the Port will closely monitor supply and cost issues to ensure that environmental goals are met consistent with the efficient operation of the Port.

14. It is the Board's intention to achieve its environmental goals in part through reduction of air pollutant emissions from truck operations associated with the Port. In implementing these reductions in truck emissions, the Board further intends to avoid unnecessary impacts on the movement of cargo through the Port. It also intends that any measures that the Port implements to reduce truck emissions will be administratively efficient: that is, they will be effective and not unduly costly to administer.

15. The Port therefore seeks to focus on trucks that are responsible for higher emissions per unit of transportation. A disproportionate share of such emissions is from trucks equipped with older engines because emissions standards have grown increasingly strict with successive model years. For example, newly-manufactured heavy duty truck engines model year 1988 were allowed by U.S. EPA to emit 6 times more particulate matter than newly-manufactured 1994 engines. U.S. EPA, “Emission Standards Reference Guide for Heavy-Duty and Non-Road Engines,” p. 3 (Sept. 1997).

16. At the same time, according to CARB, the emissions performance of a truck engine tends to worsen over time, so that engines that have been in service longer will tend to generate higher levels of air emissions. Moreover, CARB-approved emissions control equipment generally is not available for the oldest engines, those manufactured to model year 1988 and older standards. If the Port were to allow continued use of these trucks with older engines, it would forego the opportunity to obtain the greatest possible reduction in truck emissions for the lowest possible cost.

17. The Clean Truck Fee will raise money for retrofit and replacement of
drayage trucks. It is designed to provide an adequate number of clean trucks so that trade through the San Pedro Bay Ports is not adversely affected. It will be assessed against cargo which utilizes and benefits from local drayage services. The Board intends to repeal the fee when the truck emission reduction objectives of the CAAP are achieved or when the market fully funds truck retrofit and replacement, whichever occurs earlier.

18. The fee is imposed on loaded containers because it is the view of the Board that the ultimate consumers of the cargo should absorb the true cost of transporting that cargo without imposing health costs and other externalities on communities surrounding trade corridors. Accordingly, the fee will be paid by beneficial cargo owners.

19. The fee is imposed on loaded containers only because empty container moves are ancillary to loaded container moves: repositioning containers for the next load. In addition, it is extremely difficult to attribute empty container moves to cargo owners and consumers, the ultimate beneficiaries of cargo movement. The fee will thus be collected against the cargo in an amount appropriate for all primary and ancillary truck moves. The fee will not be collected against cargo entering or leaving the port by rail.

20. The Director of Environmental Planning has determined, in a review of the applicability of the CEQA to this proposed amendment to Tariff No. 4, that it is exempt from CEQA under California Public Resource Code Section 21084, Title 14 of the California Code of Regulations, Section 15301(d)(restoration or rehabilitation of mechanical equipment), Section 15273 (rates, tolls, fares, and charges) and Section 15061(b)(3)(no possibility of significant adverse effect on the environment).

NOW, THEREFORE, the Board of Harbor Commissioners ordains as follows:

Section 1. The Board of Harbor Commissioners of the City of Long Beach hereby adopts the findings set forth above and finds and determines that the following additions to Ordinance No. HD-1357 are exempt from CEQA.

Sec. 2. Based on the findings set forth above, Ordinance No. HD-1357,
adopted by the Board of Harbor Commissioners of the City of Long Beach on
December 27, 1983, is further amended as set forth in Exhibit “A” attached hereto and by
this reference made a part hereof. The amended items shall be effective as of the
effective date of this ordinance.

Sec. 3. This ordinance shall be signed by the President or Vice President
of the Board of Harbor Commissioners and attested to by the Secretary. The Secretary
shall certify to the passage of this ordinance by the Board of Harbor Commissioners of
the City of Long Beach, shall cause the same to be posted in three (3) conspicuous
places in the City of Long Beach, and shall cause a certified copy of this ordinance to be
filed forthwith with the City Clerk of the City of Long Beach. This ordinance shall take
effect on the 31st day after its final passage.

President

ATTEST:

Doris Topsy-Elvord
Secretary

I hereby certify that the foregoing ordinance was adopted by the Board of
Harbor Commissioners of the City of Long Beach at its meeting of January 7, 2008.

by the following vote:

Ayes: Commissioners:

Hankla, Topsy-Elvord, Walter, Cordero

Noes: Commissioners:

Absent Commissioners:

Sramek

Not Voting: Commissioners:

Doris Topsy-Elvord
Secretary
### RULE = 34.10

#### SECTION 10 - CLEAN AIR ACTION PLAN

**TABLE:**

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<td>TERM:</td>
<td>Drayage Trucks - Definitions</td>
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For purposes of Items 1000 through 1035, the following definitions shall apply:

- "ARB" means the California Air Resources Board.
- "Authorized Emergency Vehicle" is as defined in Vehicle Code Section 165.
- "Beneficial Cargo Owner" means (i) any person, company or other entity that is named as shipper or consignee on an ocean common carrier bill of lading issued for merchandise subject to the Clean Truck Fee specified in Item 1030, or any person owning or entitled to the possession of the merchandise, or having a past or future interest in the merchandise; (ii) in the case of negotiable bills of lading, any other person, company or other entity that is a bona fide holder of the bill of lading or who is entitled to receive delivery of the merchandise; and (iii) any other bailor of the merchandise. The term "Beneficial Cargo Owner" does not include ocean transportation intermediaries or forwarders who may appear on the ocean common carrier bill of lading as shipper or consignee, but who are acting as carriers in relation to the underlying "Beneficial Cargo Owner".

- "ARB 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 228C et seq.

- "Compliance Label" is a tag issued by ARB under the Drayage Truck Registry for Drayage Trucks operated at the ports and intermodal rail yards that meet ARB requirements and compliance schedules.

- "Dedicated Use Vehicles" are On-Road Vehicles that do not have separate tractors and trailers, including auto transports, fuel delivery vehicles, concrete mixers, mobile cranes and construction equipment.

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For explanation of abbreviations and reference marks, see Rule No. 34.15

DPI (510) 635-7202

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EXHIBIT "A"
**EXHIBIT "A"**

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<th>PORT OF LONG BEACH</th>
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<td>TARIFF NO. 4</td>
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**NAMING:** Rates, Rules and Regulations Governing the Port of Long Beach, California

**RULES AND REGULATIONS**

<table>
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<th>RULE: 34.j</th>
<th>SECTION: 10 - CLEAN AIR ACTION PLAN</th>
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**TERM:** Drayage Trucks - Definitions (Cont’d)

"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 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 jet fuel, in whole or part, including liquid natural gas engines using diesel-fuel for pilot ignition.

"Diesel Particulate Matter" or "PM" 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 of 33,000 pounds or greater operating on property owned by the Port of Long Beach for the purpose of loading, unloading or transporting cargo, including containerized, bulk, break-bulk and neo-bulk goods. Drayage Truck does not include Dedicated Use Vehicles, Authorized Emergency Vehicles, Military Tactical Support Vehicles or Yard Trucks.

"Drayage Truck Registry" or "DTR" is a database that contains information on trucks that conduct business on Port Property at the Ports of Los Angeles and Long Beach, including:

Owner’s name, address, phone numbers, email address, and fax number;
Drayage Truck and engine make, model, and model year;
Vehicle identification number (VIN), license number and state of issuance;
VDECS equipment

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**FOR EXPLANATION OF ABBREVIATIONS AND REFERENCE MARKS, SEE RULE NO. 34.15**

DPI (510) 635-7202
PORT OF LONG BEACH
TARIFF NO. 4
F.M.C. NO. 004

NAME: Rates, Rules and Regulations
Governing the Port of Long Beach,
California

RULES AND REGULATIONS

RULE 34.1
SECTION 10 - CLEAN AIR ACTION PLAN
TABLE: EFFECTIVE DATE: 1/01/08 EXPIRATION DATE:
AMENDMENT: C SPECIAL CASE:

ITEM: 1000
TERM: Drayage Trucks - Definitions (Cont'd)
"Gross Vehicle Weight Rating" is defined in Vehicle Code
Section 350.
"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.
"Lessee" has the same meaning as in Vehicle Code Section
371.
"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 4600 et
seq., or DMV's equivalent in another state, province, or
country, or the International Registration Plan.
"Optical Character Recognition" or "OCR" is a system
designed to read and digitize existing On-Road vehicle
 identifiers, such as state license plates, which will enable
the Terminal Operator to access the Drayage Truck's records
in the DTR.
"Oxides of nitrogen" or "NOx" means compounds of nitrogen
and oxygen, including nitric oxide and nitrogen dioxide.
"Ports" means all waterfront property owned by the Ports of
Los Angeles and Long Beach and the Terminal Island Container
Transfer Facility.
"Port Property" means all property owned by the Port of Long
Beach within the Harbor District of Long Beach.
"Terminal" is any facility on Port Property used for the
transfer of cargo from one mode to another, including
container terminals, break-bulk terminals, dry bulk
 terminals and railyards.

FOR EXPLANATION OF ABBREVIATIONS AND REFERENCE MARKS, SEE RULE NO. 34.15

DPI (510) 635-7202 XXXX/XX
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<td>TERM</td>
<td>Drayage Trucks - Definitions (Cont’d)</td>
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<td>“Terminal Operator” is the entity with contractual authority from the Port of Long Beach to operate a Terminal.</td>
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<td>“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 DTR.</td>
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<td>“Vehicle” is as defined in Vehicle Code Section 670.</td>
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<td>“Verified Diesel Emission Control Strategy” or “VDECS” is an emission control strategy that has been verified pursuant to the “Verification Procedure, Warranty and In-Use Compliance Requirements for In-Use Strategies to Control Emissions from Diesel Engines” in Title 13, California Code of Regulations, commencing with Section 2700, and incorporated by this reference.</td>
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<td>“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.</td>
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**ITEM: 1005**

**TERM:** August 1, 2008 Gate Access Deadline

By August 1, 2008, at 8:00 a.m., all Terminal Operators shall have installed RFID or OCR readers at all truck processing gates or have obtained written consent from the Port of Long Beach to use an alternative means of accessing Drayage Truck records in the DTR before allowing Drayage Truck access to the Terminal. A Compliance Label, issued by ARB is an acceptable alternative means of controlling truck access to any Terminal.
PORT OF LONG BEACH
TARIFF NO. 4
F.M.C. NO. 004

NAMING: Rates, Rules and Regulations
Governing the Port of Long Beach,
California

RULES AND REGULATIONS

RULE-34.j
SECTION 1.0 - CLEAN AIR ACTION PLAN

TABLE:
EFFECTIVE DATE: 1/01/08 EXPIRATION DATE:
AMENDMENT: C
SPECIAL CASE:

ITEM: 1010
TERM: October 1, 2008 Drayage Truck Deadline

Beginning October 1, 2008, at 8:00 a.m., no Terminal Operator shall permit access into any Terminal in the Port of Long Beach to (1) any Drayage Truck of model year 2008 or older, or (2) any Drayage Truck that cannot be verified as compliant with this Item 1010 deadline by reference to the Drayage Truck’s records in the DTR, as set forth in Item 1005.

ITEM: 1015
TERM: January 1, 2010 Drayage Truck Deadline

Beginning January 1, 2010, at 8:00 a.m., no Terminal Operator shall permit access into any Terminal in the Port of Long Beach to (1) any Drayage Truck that is not equipped with: (a) a 1994 - 2003 model year engine certified to California or federal emission standards, and a level 3 VDBCS which achieves a minimum 85% reduction in PM emissions and a minimum 25% reduction in NOx emissions; or (b) a 2004 or newer model year engine certified to California or federal emission standards, or (2) any Drayage Truck that cannot be verified as compliant with this Item 1015 deadline by reference to the Drayage Truck’s records in the DTR, as set forth in Item 1005.

ITEM: 1020
TERM: January 1, 2012 Drayage Truck Deadline

Beginning January 1, 2012, at 8:00 a.m., no Terminal Operator shall permit access into any Terminal in the Port of Long Beach to (1) any Drayage Truck that is not equipped with an engine that meets or exceeds 2007 model year California or federal heavy-duty Diesel-Fueled On-Road emission standards, or (2) any Drayage Truck that cannot be verified as compliant with this Item 1020 deadline by reference to the Drayage Truck’s records in the DTR, as set forth in Item 1005.

FOR EXPLANATION OF ABBREVIATIONS AND REFERENCE MARKS, SEE RULE NO. 34.15

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<tr>
<td>TERM:</td>
<td>June 30, 2008 Drayage Truck Registry</td>
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<td>1.</td>
<td>Drayage Trucks seeking entry upon Port Property on or after October 1, 2008 shall have been registered on the DTR database by June 30, 2008 or ninety-one days prior to the date of entry, whichever is later. Registration on the DTR database shall be on forms and with supporting documentation as may be required by the Port to provide required information in verifiable form.</td>
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<td>2.</td>
<td>In the event of a change in the information provided for registration on the DTR database with respect to a Drayage Truck, the registration shall be amended within ten calendar days of the change on forms and with supporting documentation as may be required by the Port.</td>
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<td>TERM:</td>
<td>Clean Truck Fee</td>
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<td>Beginning June 1, 2008 at 8:00 a.m., a Clean Truck Fee of $15.00 per twenty foot equivalent unit shall be assessed on containerized merchandise entering or leaving the Ports by Drayage Truck. The Clean Truck Fee shall not be assessed on any containerized merchandise entering or leaving the Ports by rail or on any containerized merchandise moved between two terminals within the Ports. The Clean Truck Fee shall be paid by the Beneficial Cargo Owner.</td>
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<td>The first Terminal Operator to handle containerized merchandise subject to the Clean Truck Fee shall collect and remit the Clean Truck Fee to the Port of Long Beach, and the monies shall be used by the Board of Harbor Commissioners exclusively for replacement and retrofit of Drayage Trucks serving the Ports of Los Angeles and Long Beach.</td>
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FOR EXPLANATION OF ABBREVIATIONS AND REFERENCE MARKS, SEE RULE NO. 34.16

DPI (510) 635-7202

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