ORDINANCE NO. HD- 2020

AN ORDINANCE OF THE BOARD OF HARBOR
COMMISSIONERS OF THE CITY OF LONG BEACH
AMENDING ORDINANCE NO. HD-1357, DESIGNATED
TARIFF NO. 4, BY AMENDING SECTION 10
ESTABLISHING THE VESSEL MAIN ENGINE FUEL
INCENTIVE PROGRAM

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 and related 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
amending Section 10 to add Items 1050 and 1055 relating to Ocean Going Vessel (OGV)
Fuel.

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
4. Tens of thousands of individuals work in Port-related jobs, as employees of the Port and businesses involved in moving, handling and shipping maritime cargo, spending many hours every day on the roads and rail lines in the port vicinity. As an employer and as a landlord, the Port has an interest in adopting reasonable measures to assure an efficient, 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 modern, environmentally-friendly and sustainable port services, the Port has an interest in adopting reasonable measures to upgrade the infrastructure and 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 and traffic impacts of 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 in the region. Implementation of infrastructure projects, in conjunction with the other components of the CAAP, would contribute to the reduction in premature deaths and health costs in the region.

8. The South Coast Air Basin has the highest 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.

9. 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.

10. Independently, the failure of the Port to adequately address air
pollution impacts and infrastructure capacity 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.

11. 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 local infrastructure and the environment,
promoting employment and living as good neighbors with its surrounding communities.
Reasonable environmental measures are simply good business practices.

12. OGV emissions represent 59% of diesel particulate material, 39% of
oxides of nitrogen and 98% of oxides of sulfur from port operations in San Pedro Bay.
The goal of this program is to meet or exceed the CAAP Main Engine Fuel measure
(OGV4) that requires ≤ 0.2% sulfur fuel (distillate fuel) to be used during arrivals and
departures from the Ports. The adopted CAAP reduction goals were based on an
aggressive lease renewal schedule which would enable the Port to negotiate reductions
in OGV emissions on a terminal-by-terminal basis. Lease renewals have not occurred as
rapidly as anticipated. This incentive program is expressly designed to achieve the
CAAP emission reductions not currently obtained through leases. This program will also advance the achievement of compliance with the South Coast Air Quality Management Plan.

13. The incentive program will provide accelerated, expanded and immediate emission reductions at distances of up to 40 nautical miles (nm) from Point Fermin, in advance of anticipated lease renewal mandates. By requiring compliance with the Ports’ Vessel Speed Reduction (VSR) Program as a condition to receiving the incentive, this program may also improve the rate of compliance with the VSR program.

14. Under the incentive program, operators will use distillate fuel in main engines in participating vessels between 20 nautical miles (nm) or 40 nm from Point Fermin and berth in the Port of Long Beach. For an OGV to qualify for the incentive, the vessel must pre-register with the Ports and comply with both the Port’s vessel speed reduction program and use distillate fuel in auxiliary engines while at berth. Incentive payments will apply to main engine consumption only and will approximate 100% of the cost differential between heavy fuel oil and marine gas oil based upon an average cost per published rates; payment will be provided quarterly. Quarterly status reports will be presented to the Board on program performance, emission reductions, and costs. The marine fuel incentive has been extensively reviewed and discussed with industry stakeholders.

15. The estimated cost of the program will be $5.9 - $9.9 million dollars per year. This equates to a cost per ton of pollutants reduced of approximately $2,400, which compares favorably with SCAQMD guidelines for pollutant reduction cost-effectiveness.

16. The Director of Environmental Planning has determined that these amendment are exempt from CEQA under California Public Resource Code Section 21084, Title 14 of the California Code of Regulations, 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:

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.

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 March 31, 2008 by the following vote:

Ayes: Commissioners: Hankla, Topsy-Elvord, Walter, Cordero

Noes: Commissioners: ____________________________

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Absent Commissioners: Sramek
Not Voting: Commissioners:
Item 1050 - Ocean Going Vessel Fuel – Definitions

For purposes of Items 1050 through 1055 the following definitions shall apply:

"Auxiliary Engine" is any internal combustion, compression-ignition engine on
an Ocean Going Vessel designed primarily to provide power for uses other than
propulsion.

"Heavy Fuel Oil" means IFO-380 grade fuel.

"Marine Gas Oil" means light cycle gas oil fuel with a sulfur content of no more
than 0.2 percent by weight.

"Main Engine" is any internal combustion, compression-ignition engine that is
configured to supply propulsion power for an Ocean Going Vessel, regardless of
whether the propulsion system is direct-drive, geared drive or diesel electric.

"Ocean Going Vessel" means any merchant vessel meeting either or both of
the following criteria:

1. length overall (LOA) of 400 feet or more, as defined in 50 CFR § 679.2; or
2. gross tonnage (GT ITC) of 10,000 tons or more pursuant to the convention
measurement (international system), as defined in 46 CFR §§ 69.51 through 69.61;

"Vessel Operator" has the same meaning as Vessel Operator in Item 262
(Vessel Speed Reduction).

"Vessel Trip" is any one-way voyage into or out of the Port of Long Beach to the
arc of a circle having its center at Point Fermin Light with a radius of 20 nautical miles
(nm) or 40 nm.

Item 1055 - Ocean Going Vessel Fuel Use

Beginning July 1, 2008, the Port shall provide incentive grants to offset the cost
of using Marine Gas Oil in Main Engines between berth and 20 nm or 40 nm from Point
Fermin pursuant to the following:

(1) To be eligible receive to receive grants, Vessel Operators must enroll by
submitting an application to the Executive Director listing all Ocean Going Vessels that
will participate in the program.

(2) A Vessel Operator shall be eligible to receive a grant to offset the fuel cost
differential between Marine Gas Oil and Heavy Fuel Oil for a Vessel Trip if the Vessel
Operator (i) produces evidence satisfactory to the Executive Director that it utilized
Marine Gas Oil in Main Engines for that Vessel Trip and in Auxiliary Engines at all times
while at berth immediately before or after that Vessel Trip, and (ii) is in compliance with
Item 262 of Tariff No. 4, the Vessel Speed Reduction Program, for that Vessel Trip.
(3) The grant amounts for a particular Vessel Operator's vessels will be determined by the Executive Director after enrollment. The grant for a Vessel Trip shall be based on the average fuel consumption for that class of Ocean Going Vessel and 100% of the average fuel cost differential between Marine Gas Oil and Heavy Fuel Oil for each calendar quarter, based on BunkerWorld data for Los Angeles.

(4) To receive grants after enrollment, Vessel Operators shall submit fuel records quarterly demonstrating compliance for each reimbursable Vessel Trip. Such records shall demonstrate whether Marine Gas Oil was used over 40 nm or 20 nm, and the grants shall be calculated accordingly. Grant payments will be made on a quarterly basis for Vessel Trips in the previous calendar quarter.

(5) Vessel Operators may add, substitute or delete vessels from the list of vessels included in the program on a quarterly basis.

(6) The Port reserves the right at any time to close the program to new applicants.

(7) Items 1050 and 1055 will expire on June 30, 2009, and may be suspended or terminated by the Port if any international, federal or state fuel standards require a lower sulfur content for Main Engines or Auxiliary Engines than Marine Gas Oil.