ORDINANCE NO. HD-2034

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

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. On November 12, 2007, the Board adopted Ordinance No. HD-1997, which added Section 10 to Tariff No. 4, relating to the San Pedro Bay Ports Clean Air Action Plan drayage truck measures. On January 7, 2008, the Board adopted Ordinance No. HD-2005, which amended these drayage truck measures, and added a Clean Truck Fee to fund in part the cost of replacing older drayage trucks. These drayage truck measures were further amended on February 25, 2008 by Ordinance No. HD-2009, on March 17, 2008 by Ordinance No. HD-2011, on August 18, 2008 by Ordinance No. HD-2028 and on September 15, 2008 by Ordinance No. HD-2033.

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, 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. The Port has worked closely with licensed motor carriers, independent truck owner-operators, truck manufacturers and dealers, financing entities and maintenance facilities to ensure a smooth start to the Clean Truck Program on October 1, 2008. The Port remained flexible, balanced competing interests and policy objectives, and amended Section 10 repeatedly to reflect these lessons learned and mid-
course optimizations. See paragraph 2, above. The Board now wishes to adopt several additional amendments to Section 10. These include a change to the definition of "Program Funds" to allow trucks funded through the Technology Advancement Program to be exempted from the Clean Truck Fee; a modification to the October 1, 2008 ban to allow pre-1989 trucks to enter terminals for a limited time after October 1, as long as there are replacement trucks on order; a broader fee exemption for merchandise moving by 2007 drayage trucks obtained by binding purchase orders, sales agreements or leases executed before October 1, 2008; simplification of the fee as either $35 on containers of 20 feet or less and $70 on all other containers; an exemption from the fee for all Department of Defense cargo; clarification that each shipment of merchandise will pay the fee only once; and a change to conform the gate access requirements in the Tariff to the language used in the Port Fee Services agreement with PortCheck by means of which the fee will be collected.

13. The Director of Environmental Planning has determined that these amendments 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), Section 15301(d)(restoration or rehabilitation of mechanical equipment) 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:

President

C. J. Mike Walter

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 November 10, 2008 by the following vote:

Ayes: Commissioners:

Sranek, Cordero, Walter, Sranek

Noes: Commissioners:

Absent Commissioners:

Not Voting: Commissioners:

C. J. Mike Walter

Secretary
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### ITEM: 1000
**TERM:** Drayage Trucks - Definitions

For purposes of Section 10, the following definitions shall apply:

- "ARB" means the California Air Resources Board.

- "Alternative Drayage Truck" means a Drayage Truck with a heavy-duty engine that is designed to operate on liquefied or compressed natural gas, electricity or hybrid technology that meets or exceeds 2007 model year California or federal heavy-duty Diesel-Fueled On-Road emission standards.

- "Authorized Emergency Vehicle" is as defined in 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.

- "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.

- "Concession" means a written agreement between the Port of Long Beach and a Licensed Motor Carrier to allow Drayage Truck access on Port Property.

- "Day Pass" means a right of access granted by the Port of Long Beach to a Licensed Motor Carrier for a limited period to allow Drayage Truck access on Port Property on terms and conditions specified by the Port.

- "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.

- "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.

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

DPI (510) 635-7202 XXXX/XX
PORT OF LONG BEACH
TARIFF NO. 4
NAMING: Rates, Rules and Regulations
Governing the Port of Long Beach,
California

RULES AND REGULATIONS

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ITEM: 1000
TERM: Drayage Trucks - Definitions (Cont’d)

"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; Dispatching Licensed Motor Carrier(s) and Concession number(s) or Day Pass number(s); Drayage Truck and engine make, model, model year, and fuel source; Vehicle identification number (VIN), license number and state of issuance; VDES equipment.

"Early Replacement Drayage Trucks" means 2007 Drayage Trucks which are replacing older Drayage Trucks and are (i) funded by Program Funds under grant applications which are approved by the Ports of Los Angeles and Long Beach prior to October 1, 2008, or (ii) privately funded without Program Funds under binding purchase and sales agreements entered into prior to October 1, 2008.

"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.

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

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"Legacy LNG Trucks" means Kenworth Model T-800 trucks equipped with Cummins ISX-G engines with emissions certified to 0.96 grams per brake horsepower hour (g/bhp-hr) for oxides of nitrogen (NOx) and 0.02 g/bhp-hr for particulate matter (PM), retrofitted with the Westport High-Pressure Direct Injection Liquified Natural Gas (LNG) conversion kit, funded by the Ports of Los Angeles and Long Beach under Cost Sharing Agreement No. 2588 and Los Angeles contracts numbered 2589, 2590, 2595, 2597, 2598, 2600, 2683, 2684, and 2685, when operated on LNG.

"Lessee" has the same meaning as in Vehicle Code Section 371.

"Licensed Motor Carrier" means a motor carrier in good standing and in compliance with the requirements of a valid: (1) California Motor Carrier Permit issued by the California Department of Motor Vehicles under the California Vehicle Codes; (2) equivalent permit or license issued by another state; or (3) Federal Motor Carrier License (USDOT Number) and Operating Authority (MC or MX Number).

"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 equivalents 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.
### RULES AND REGULATIONS

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**Drayage Trucks - Definitions (Cont'd)**

"Program Funds" means monies disbursed by the Ports of Long Beach and Los Angeles through the Clean Truck Fund, including funds received for that purpose from South Coast Air Quality Management District and State Proposition 18 Bond funds.

"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.

"Terminal Operator" is the entity with contractual authority from the Port of Long Beach 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 DTR.

"Vehicle" is as defined in Vehicle Code Section 670.

"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.

"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.

"2007 Drayage Truck" is a Drayage Truck that is equipped with an engine that meets or exceeds 2007 model year California or federal heavy-duty Diesel-Fueled On-Road emission standards.

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

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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 appropriate means, approved by the Port, of accessing the Port's Drayage Truck Registry for the purposes of (i) obtaining relevant information to confirm Drayage Trucks' compliance with Terminal access requirements under this Section 10, and (ii) enabling Terminal Operators to collect and remit the Clean Truck Fee. Acceptable means include RFID or OCR readers at all truck processing gates or written consent from the Executive Director of the Port of Long Beach to use an alternative means of determining compliance with Section 10 of Tariff No. 4, before allowing Drayage Truck access to the Terminal.

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 1988 or older, unless it has been demonstrated to the satisfaction of the Executive Director of the Port of Long Beach that the model year 1988 or older Drayage Truck is equipped with a 1989 or newer model year engine certified to California or federal emission standards and that the newer engine was installed prior to October 1, 2008, 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.

Pre-1989 model year Drayage Trucks which are registered in the DTR as being replaced by Early Replacement Drayage Trucks shall be permitted an extended deadline of January 1, 2009, if being replaced by Diesel-Fueled 2007 Drayage Trucks, and of April 1, 2009, if being replaced by Alternative Drayage Trucks.
PORT OF LONG BEACH

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RULES AND REGULATIONS

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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 modal year engine certified to California or federal emission standards, and a level 3 VDEC which achieves a minimum 85% reduction in PM emissions and a minimum 35% reduction in NOx emissions; or (b) a 2004 or newer modal 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 a 2007 Drayage Truck or a Legacy LNG Truck, 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.

ITEM: 1025

TERM: Drayage Truck Registry

1. Drayage Trucks seeking entry upon Port Property on or after October 1, 2008, shall have been registered in the DTR prior to the time of entry. Registration in the DTR shall be in electronic format or on forms and with supporting documentation as may be required by the Port to provide required information in verifiable form.

2. In the event of a change in the information provided for registration in the DTR with respect to a Drayage Truck, the registration shall be amended within ten calendar days of the change in electronic format or on forms and with supporting documentation as may be required by the Port of Long Beach.

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

DPT (510) 635-7202 XXXX/XX
## PORT OF LONG BEACH

### TARIFF NO. 4

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**EFFECTIVE DATE**

#### RULE-34.j

**SECTION 10 - CLEAN AIR ACTION PLAN**

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1. **Beginning October 1, 2008 at 8:00 a.m., the following Clean Truck Fees shall be assessed:**
   - $35.00 on merchandise in containers with an outside length of 20 feet or less;
   - $70.00 on merchandise in containers with an outside length of more than 20 feet.

   The Clean Truck Fee shall be assessed once in these amounts on all containerized merchandise entering or leaving the Ports by Drayage Truck with the exception of merchandise qualifying for the exemptions set forth in paragraph 2 below or the reduced fee amount set forth in paragraph 3 below. The Clean Truck Fee shall be paid by the cargo owner, notwithstanding anything to the contrary in Items 701 or 708 of Tariff No. 4.

2. **The Clean Truck Fee will not be assessed on containerized merchandise that:**

   (a) enters or leaves the Ports by rail.
   (b) moves between two terminals within the Ports.
   (c) is shipped under contract to the United States Transportation Command, any branch of the United States military, or the Department of Defense.
   (d) enters or leaves the Ports by Alternative Drayage Truck purchased without Program Funds or a Legacy LNG Truck. If an Alternative Drayage Truck is purchased on or after October 1, 2008, this exception will only apply if the Alternative Drayage Truck replaced an existing Drayage Truck, the existing Drayage Truck was scrapped, satisfactory evidence of the scrappage was provided to the Executive Director of the Port of Long Beach and qualification for this exception was recorded in the DTR prior to the cargo movement.
   (e) enters or leaves the Ports by 2007 Drayage Truck which is obtained without Program Funds before October 1, 2008 by binding purchase order, sales order or lease if qualification for this exception is recorded in the DTR and the annual fee is paid for the Drayage Truck prior to October 1, 2009 and prior to the cargo movement.

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

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<td>3. The Clean Truck Fee shall be assessed in the following reduced amounts on containerized merchandise that enters or leaves the ports by 2007 Drayage Truck purchased without Program Funds on or after October 1, 2008:</td>
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<td>$17.50 on merchandise in containers with an outside length of 20 feet or less;</td>
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<td>$35.00 on merchandise in containers with an outside length of more than 20 feet.</td>
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<td>This fee reduction will only apply if the Drayage Truck replaced an existing Drayage Truck, the existing Drayage Truck was scrapped, satisfactory evidence of the scrappage was provided to the Executive Director of the Port of Long Beach and qualification for this exception was recorded in the DTR prior to the cargo movement.</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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<td>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 any Drayage Truck unless such Drayage Truck is registered in the DTR under a Concession or a Day Pass.</td>
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<td>The application fee for a Concession shall be $250, and the annual fee shall be $100 per Drayage Truck (collectively &quot;Concession Fees&quot;). The fee for a Day Pass shall be $100 per Day Pass (&quot;Day Pass Fee&quot;). Concession Fees and Day Pass Fees shall be paid by the Licensed Motor Carrier applying for or holding the Concession or Day Pass.</td>
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FOR EXPLANATION OF ABBREVIATIONS AND REFERENCE MARKS, SEE RULE NO. 34.15

DPI (510) 635-7202  

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