

LONG BEACH HARBOR DEPT. RESOLUTION NO. _____
LOS ANGELES HARBOR DEPT. RESOLUTION NO. _____

A JOINT RESOLUTION OF THE BOARD OF HARBOR
COMMISSIONERS OF THE CITY OF LOS ANGELES AND THE
BOARD OF HARBOR COMMISSIONERS OF THE CITY OF LONG
BEACH ADOPTING THE 2020 CLEAN TRUCKS PROGRAM RATE

FINDINGS

The Board of Harbor Commissioners of the City of Los Angeles (“LA Board”) and the Board of Harbor Commissioners of the City of Long Beach (“LB Board”) (each a “Board” and collectively “Boards”) find as follows:

Clean Air Action Plan and the Clean Trucks Program

1. At the Joint Special Meeting held on November 20, 2006, the respective Boards of Harbor Commissioners on behalf of the Port of Los Angeles and the Port of Long Beach (each a “Port” and collectively the “Ports”) adopted the San Pedro Bay Ports Clean Air Action Plan (“CAAP”). The original CAAP planned measures the Ports would take to reduce emissions from Port-related operations, specifically from ocean-going vessels, trains, trucks, cargo handling equipment and harbor craft. The Ports also adopted a 2010 CAAP Update that included additional strategies and updated measures.

2. One of the most successful strategies contained in the CAAP was the Clean Truck Program (“CTP”), which led the trucking industry to replace the existing fleet of trucks that provided drayage services at the Ports with cleaner trucks. Starting in 2008, the Ports helped the industry transition towards the State Drayage Truck Rule requirement that required statewide port trucks to use 2007 United States Environmental Protection Agency (“EPA”) compliant trucks by 2014, by advancing phased early adoption at the Ports by 2012. The Ports also provided incentives to trucking companies to replace their older trucks with clean trucks, funded in part by a clean truck fee charged on loaded cargo carried by any drayage truck that did not meet the 2007 EPA compliance standard.

3. Notably, as a result of the successful CTP efforts over the years, as of 2018, air emissions have been reduced by 97% for Diesel Particulate Matter (“DPM”), 78% for Nitrogen Oxides (“NOx”), and 92% for Sulfur Oxides (“SOx”) compared to 2005. However, even with these tremendous improvements, heavy-duty trucks remain the Ports’ largest source of greenhouse gas emissions (“GHGs”) and second highest source of NOx.

Clean Air Action Plan 2017 Update and the Clean Truck Fund Rate

4. The Final 2017 CAAP Update (“CAAP Update”) was adopted by the Boards on November 2, 2017. The updated strategies in the CAAP Update support the Ports’ aggressive effort to clean the air for the community, move toward utilization of zero emission (“ZE”) freight moving equipment, plan for ZE infrastructure, encourage freight efficiency, and address energy resources. As part of the CAAP Update, the Ports committed to new measures for the landmark CTP that continue to serve as models for more sustainable goods movement by transitioning to the cleanest trucks for cargo movement to and from marine terminals. In order to reduce NOx and GHGs, the goal of the CTP in the CAAP Update is to transition to near-zero trucks in the near term, while transforming the fleet to zero-emission trucks by 2035.

5. A critical element in the CAAP Update’s CTP is the establishment of a Clean Truck Fund Rate (“CTF Rate” or “Rate”). The CAAP Update provides that beginning in 2020, a rate will be charged to the beneficial cargo owners (“BCOs”) on loaded containers hauled by heavy-duty trucks that enter or exit the Ports’ terminals, with exemptions for trucks that have engines certified to the California Air Resources Board (“CARB”) ZE standard and low NOx emissions manufacturing standard or better. CARB has adopted ZE testing and certification standards for heavy-duty powertrains that will be effective April 1, 2020.¹ CARB is now in coordination with US EPA to develop the low NOx manufacturing standard as its “Heavy-Duty Low NOx engine standard”.²

6. As further stated in the CAAP Update, implementation of this CTF Rate

¹ <https://ww2.arb.ca.gov/rulemaking/2019/zepcert2019>

² <https://ww2.arb.ca.gov/our-work/programs/heavy-duty-low-nox/about>

would be contingent upon the following factors:

- a. Completion of a truck feasibility assessment to understand the current status of low NOx and ZE heavy-duty truck technology development, including evaluation of availability of heavy-duty trucks meeting the lower emissions standards;
- b. Completion of an economic study of the CTF Rate to understand the potential effect of the Rate on cargo diversion and the local drayage truck industry;
- c. Establishment of a CTF Rate collection mechanism; and
- d. Regulatory agency adoption of a heavy-duty low NOx engine manufacturing standard.

7. The Ports are bifurcating the efforts with the CTF Rate into the following two actions:

- a. Current Rate Resolution: Boards' adoption of a Resolution to approve the amount of the CTF Rate with certain exemptions for use of low NOx and zero emissions trucks. The Boards are taking this initial action for planning purposes to assist stakeholders' planning for Rate implementation. This action has no immediate effect on stakeholders as the Rate will not be collected until the following action occurs.
- b. Future Tariff Action: Boards' adoption of a Tariff Amendment to collect the CTF Rate. This action will give the Ports the authority to begin collecting the Rate from the BCOs as of a specified date and apply all conditions such as CTF Rate exemptions. The timing of this action is contingent upon the contingencies listed in the CAAP Update, summarized in section 6 a through d above.

8. As required in the CAAP Update, the Ports completed an economic study in January 2020 ("Economic Study"), which is posted on the CAAP website at <https://cleanairactionplan.org/documents/draft-economic-study-for-the-clean-truck-fund-rate.pdf/>. The Economic study incorporates multiple sources of information:

- a. Previous evaluations of diversionary impacts of increased costs;
- b. Econometric analysis by a consultant (Davies Transportation) to evaluate

- how a range of potential rates could affect potential diversion, impact the drayage industry and generate revenue from the collection of the Rate;
- c. Additional evaluation of the current port industry competitive environment; and
 - d. Input from stakeholders in meetings and workshops.
9. The major conclusions that can be drawn from the Economic Study include:
- a. A CTF Rate in the range studied (\$5-\$70/TEU) is not sufficient by itself to change the makeup of the drayage truck fleet.
 - b. Low NOx and ZE trucks can be made competitive with the incumbent diesel fleet through subsidies.
 - c. Based on the relationship between transit cost and travel time in 2012-2017, rates of up to \$70/TEU would result in 1.4% diversion.
 - d. Recent changes in market conditions may have made cargo even more sensitive to additional cost increases.
 - e. Given that higher CTF Rates increase diversion without increasing low NOx and ZE drayage truck adoption, a lower CTF Rate should be selected.
 - f. Historical analysis shows that POLA and POLB have experienced losses in their market share of containerized imports from Asia to ports on the East and Gulf Coasts. The POLA/POLB market share has declined steadily since 2003, falling from 55.7 percent in 2003 to 44.3 percent in 2018.³
 - g. In 2006, total Inland Point Intermodal (IPI) (inbound and outbound) containers through POLA/POLB peaked at 43 percent of total volume. By 2018, the share of IPI traffic had declined to just 31 percent.
 - In absolute terms, although total POLA/POLB volumes have increased from 15.8 million TEU to 17.5 million TEU between 2006 and 2018, IPI volumes have actually decreased by 1.6 million TEU.
 - This annual IPI loss from 2006 to 2018 equates to a loss of \$969 million (2019) in revenue to POLA/POLB (this does not include lost Alameda Corridor revenue).⁴

³ Economic Study, p. 9.

⁴ Economic Study p. 10.

- h. Container diversion will occur for any of the rates being considered.
 - i. None of the considered Rates will cause the drayage trucking industry to divest of their current trucks to purchase the low-NOx or ZE trucks because of the high cost differential to purchase low NOx and ZE technologies.
 - j. The best way to get the drayage trucking industry to divest of their current trucks and purchase the low-NOx or ZE trucks is to provide incentive money toward the purchase of those trucks.
10. The 2018 Drayage Truck Feasibility Study reporting on the status of drayage truck technology was completed by the Ports in 2019 and is posted on the CAAP website at <http://www.cleanairactionplan.org/documents/final-drayage-truck-feasibility-assessment.pdf/>
11. A Clean Truck Fund Rate Staff Evaluation and Recommendation (“CTF Rate Recommendation”) has been prepared by staff at both Ports to address key findings and the Ports’ policy recommendations based upon the Ports’ business concerns, apart from the Economic Study. The numerous factors that have been considered when developing the proposal for the CTF Rate and exemptions are included in the CTF Rate Recommendation. Key conclusions include:
- The CTF Rate of \$10 per loaded TEU, would initially generate approximately \$90 million per year, based on recent cargo volumes and anticipated rebates.
 - This Rate amount is being recommended to provide a balanced approach to achieving the Ports’ objectives of reducing emissions for reducing impacts to community health and to meet our criteria pollutant and greenhouse gas reduction goals, while minimizing unintended consequences related to economic impacts and disruption to the industry.
 - The exemptions are being recommended to encourage early investment in low-NOx trucks, while maintaining a long-term focus on the transition to ZE trucks.
 - The amount of funding that is being proposed is significant. Having a dedicated and recurring funding program on the order of magnitude of what is being proposed, dedicated specifically to the Port drayage truck industry, will be transformational. For example, if incentives are offered at \$100,000 per truck, consistent with recent low NOx truck incentive programs, up to 900 trucks per

year could be replaced.

- The uncertainties and considerations raised in the CTF Rate Recommendation lead us to recommend moving forward cautiously as the most prudent and sustainable approach in initiating the CTF Rate amount.
- The Ports' Economic Study raised concerns about competitiveness and potential cargo diversion both from the cost that would be added, in addition to other factors.
- Both Ports have already experienced a steady reduction in market share for more than a decade. A high added cost may have the potential to accelerate that trend. Feedback received from cargo owners have indicated that the industry is likely to have a negative reaction to a higher rate amount that isn't predictable by solely analyzing the specific additional cost of the CTF Rate.
- Further, as identified in the Ports' truck feasibility assessment and the Ports' ongoing evaluation of the development of the low NOx and zero emission technologies, there is currently limited availability of low NOx and ZE heavy-duty trucks. This limit on availability will affect how many trucks can be purchased and deployed using incentive funds.
- The Boards always have the ability to use their discretion to make adjustments to the CTF Rate amount over time based on continued evaluation of progress of the Clean Trucks Programs in relation to other market conditions.

12. In accordance with the CAAP Update, the Ports implemented a CAAP Implementation Advisory Group which has (i) participated in quarterly meetings 2017 through 2019 to advise the Ports' Executive Directors and staff regarding the specific details of CAAP Update implementation, and (ii) oversee regular CAAP Update implementation status reports that were shared publicly at www.cleanairactionplan.org and with the Mayors of Long Beach and Los Angeles.

13. Throughout the two year development of the CAAP Update, significant emphasis was placed on the CTP and numerous meetings and discussions were held with the regulatory agencies, trucking industry, broader port industry, technology providers, community members, and environmental groups to receive input on the intended approach. Since the CAAP Update was approved, the Ports have continued to

discuss the next steps in implementation of the CTP through CAAP Quarterly Stakeholder Meetings, seven of which have been held to date, and focused smaller group meetings with industry, agencies, and environmental groups.

14. Specifically related to the CTF Rate development, the Ports hosted public workshops on August 1, 2019 and December 18, 2019 to receive initial comments on the objectives and approach for the CTF Rate. CAAP Stakeholder Meeting was held on January 15, 2020 to present and receive public input on the proposed CTF Rate. The Ports will continue to work with stakeholders following each Board's action on this Resolution, to receive input on the details of the incentive programs and the implementation tariffs, which would be brought to the Boards for consideration later in 2020 following satisfaction of the contingent conditions.

15. It is desirable to set the Rate amount as a first step, as a planning activity to allow the shipping industry to plan for the future CTF Rate collection, although the actual action will not make the Rate effective or collected until after the Tariff action is adopted.

16. Based on the various studies, stakeholder input received throughout this process, the Ports have modified, refined, and finalized a recommendation for the CTF Rate amount to be set at this time for planning purposes, to be eventually adopted in a Tariff planned for Board and, for Los Angeles, City Council, consideration later in 2020.

RESOLUTION

NOW, THEREFORE, based on the above findings, the Board of Harbor Commissioners of the City of Los Angeles and the Board of Harbor Commissioners of the City of Long Beach resolve as follows:

Section 1. [CEQA] The 2020 CTP Rate Resolution is the first step in a rate setting activity for the purpose of purchasing equipment, and as such, is exempt from the California Environmental Quality Act under State CEQA Guidelines § 15273.

Section 2. [CEQA] The 2020 CTP Rate Resolution is a planning study for possible future action, and as such, is exempt from the California Environmental Quality Act under State CEQA Guidelines § 15262.

Section 3. [CEQA] It can be seen with certainty that there is no possibility

that the approval of the 2020 CTF Rate Resolution may have a significant adverse effect on the environment, as such, the Resolution is therefore exempt under the common sense exemption of State CEQA Guidelines § 15061(b)(3).

Section 4. [CEQA] The Harbor Department Director of Environmental Management for the Port of Los Angeles and the Harbor Department Director of Environmental Planning for the Port of Long Beach shall each file notices of exemption with the County Clerk of the County of Los Angeles and with the State Office of Planning and Research.

Section 5. The CTF Rate is set prior to implementation through a Tariff Amendment for planning purposes to allow the Ports' stakeholders to plan for future implementation. The CTF Rate shall have no financial effect unless and until CTF Rate collection commences pursuant to a future Tariff Amendment adopted by the Board and, in the City of Los Angeles, the City Council, forecast to occur later in 2020 after satisfaction of various conditions precedent set forth in the CAAP Update and in Section 6 of Findings above.

Section 6. Approve, for planning purposes, the 2020 Clean Truck Fund (CTF) Rate amount at \$10 per Twenty-Foot Equivalent Unit (TEU) for loaded containers hauled by Heavy-Duty trucks that enter or exit Port terminals, and request a report back from Staff regarding exemptions up to 2031 prior to implementation of the rate later this year.

- This section shall not apply to zero emissions trucks, which shall be exempt for the duration of the program.

Section 7. Affirm that both Boards of Harbor Commissioners will meet annually to review the level of the CTF rate to ensure it continues to support long term CAAP goals.

Section 8. Continue to work with the South Coast Air Quality Management District, the California Air Resources Board, Equipment Manufacturers, and other partners as appropriate, to develop a comprehensive long term strategy, including market development, technology development, and product deployment, aimed at supporting achievement of the goals established in the 2017 CAAP update. Provide regular updates on the strategy to the Boards of Harbor Commissioners with the first

update within 4 months.

Section 9. Work to convene additional Port authorities to encourage similar Clean Truck Programs at ports in the United States and around the world.

Section 10. This Resolution shall take effect upon the effective date of its adoption by both the LA Board and the LB Board.

Section 11. This Resolution shall take effect as to the Los Angeles Harbor Department in accordance with the provisions of the Los Angeles City Charter Section 245.

////

ACTION BY LOS ANGELES BOARD OF HARBOR COMMISSIONERS

I hereby certify that the foregoing resolution was adopted by the Board of Harbor Commissioners of the City of Los Angeles at its meeting of _____, 2020 by the following vote:

Ayes: Commissioners: _____

Noes: Commissioners: _____

Absent: Commissioners: _____

Not Voting: Commissioners: _____

Amber Klesges, Board Secretary

APPROVAL AS TO FORM
CITY OF LOS ANGELES
MICHAEL N. FEUER, LOS ANGELES CITY ATTORNEY
JANNA B. SIDLEY, General Counsel

By: _____, 2020
Justin Houterman,
Deputy City Attorney

ACTION BY LONG BEACH BOARD OF HARBOR COMMISSIONERS

I hereby certify that the foregoing resolution was adopted by the Board of Harbor Commissioners of the City of Long Beach at its meeting of _____, 2020 by the following vote:

Ayes: Commissioners: _____

Noes: Commissioners: _____

Absent: Commissioners: _____

Not Voting: Commissioners: _____

Richard Jordan, Chief of Staff to the Board

APPROVAL AS TO FORM
CITY OF LONG BEACH
CHARLES PARKIN, LONG BEACH CITY ATTORNEY

By: _____, 2020
Dawn McIntosh,
Deputy City Attorney