

PORT ORDINANCE NO. 4469

**ORDINANCE AMENDING PORT ORDINANCE NO. 2833
AMENDING TARIFF NO. 2-A.**

WHEREAS, the Board of Port Commissioners of the City of Oakland ("Board") has reviewed and evaluated the Agenda Report for Agenda Item 6.1, dated March 8, 2018 (the "Agenda Report") and related agenda materials, has received the expert testimony of Port of Oakland ("Port") staff, and has provided opportunities for and taken public comment; now, therefore

BE IT ORDAINED by the Board of Port Commissioners of the City of Oakland as follows:

SECTION 1. References in this ordinance to an Item No., or to a Tariff Section number, mean the Item No. or the Tariff Section number, respectively, in Port of Oakland Tariff No. 2-A, adopted by Port Ordinance No. 2833, as amended. Underlined words and phrases indicate modified language to the portions of the Item Nos. referenced in this ordinance.

SECTION 2. The following pages, items and sections shall be amended as set forth herein:

- A. The 31st Revised Page 1 is hereby revised and replaced with the 32nd Revised Page 1 providing the updated names and titles of Port Board members and staff;
- B. The 25th Revised Page 2 is hereby revised and replaced with the 26th Revised Page 2 providing the updated names and titles of the Port Maritime Division personnel;
- C. The following Item Numbers and Sections are hereby revised and replaced to increase every rate that appears in those items and sections by six percent (6%) effective May 1, 2018:
 - a. Section IV (Dockage), Item 4130;
 - b. Section V-A (Wharfage Rules and Regulations), Item 5105, p 62;
 - c. Section VI (Wharfage, Containerized Cargo), Item 6200, pp 75-80;
 - d. Section VI (Wharfage, Containerized Cargo), Item 6400, p 81;
 - e. Section VI (Wharfage, Containerized Cargo), Item 6900-6903, pp 94;
 - f. Section VII (Wharfage, Non-Containerized Cargo), Item 7010-7997.3, pp 95-100;
 - g. Section VIII-A (Wharf Demurrage Rules and Rates), Item 8140-8150, pp 104-105;

- h. Section VIII-B (Wharf Storage Rules and Rates), Item 8170-8350, pp 109-115; and
- i. Section IX (Container Crane Assignment and Rental Rates), Item 9130-9165, pp 123-134;

D. Item No. 02405 Port Registry is hereby amended to add Phases 5 and 6 to the Port Registry, as set forth below:
Phase 5 - Effective July 1, 2018

Marine Terminals

- No Marine Terminal Operator shall permit a Drayage Truck that is not STEP-registered to enter a Marine Terminal. Proof of STEP registration will be by visual inspection of an affixed STEP registration label, inspection of a STEP registration certificate for the Drayage Truck or other evidence that, in the judgement of the Marine Terminal Operator, adequately demonstrates STEP registration.
- Drayage Trucks that are not able to demonstrate STEP registration to enter a Marine Terminal may be turned away and/or directed to the Port's Customer Service Center by the Marine Terminal Operator. At the Port's Customer Service Center, the Port may issue a date and time-stamped Temporary STEP Pass to enable the truck to enter the Marine Terminal. Marine Terminal Operators shall permit a Drayage Truck with a Temporary STEP Pass to enter the Marine Terminal only on the date of issue of the Temporary STEP Pass. No more than five (5) Temporary STEP Passes for any one driver and/or truck will be issued from the effective date of Phase 5 to the effective date of Phase 6.
- Drayage Trucks that are not able to demonstrate STEP registration to enter a Marine Terminal outside of the operating hours of the Customer Service Center (e.g., weekends or nights), may be granted entry into a Marine Terminal, in which case the Marine Terminal Operator must record the Drayage Truck and Drayage Truck driver information in the Non-STEP-Registered Drayage Truck Log, and report this information to the Port's Chief Wharfinger and Port Facilities Security Officer on a quarterly basis, specifically within seven (7) business days of the end of the month of March, June, September, and December. No more than five (5) such "off hours" entries for any one driver and/or truck will be allowed from the effective date of Phase 5.

Other (Non-Marine Terminal) Seaport Facilities

- All other Seaport Facility Operators may either turn away or grant entry to non-STEP registered Drayage Trucks. If a Drayage Truck is granted entry, the Seaport Facility Operator must record and report information in the Non-STEP-Registered Drayage Truck Log and report this information to the Port's Chief Wharfinger and Port Facilities Security Officer on a quarterly basis, specifically within seven (7) business days of the end of the month of March, June, September, and December. All Drayage Trucks that are turned away may be directed to the Port's Customer Service Center.

Phase 6 - Effective January 1, 2019

Marine Terminals

- No Marine Terminal Operator shall permit a Drayage Truck that is not STEP-registered to enter a Marine Terminal. Proof of STEP registration will be by a Radio Frequency Identification "RFID" tag for each Drayage Truck that is linked to the Port Registry.
- In the event a Drayage Truck RFID tag is unable to be read by the Marine Terminal Operator upon attempted entry, or the Drayage Truck is not equipped with an RFID tag at the time of desired entry, the Marine Terminal Operator may validate STEP compliance by visual inspection of an affixed STEP registration label, inspection of a STEP registration certificate for the Drayage Truck or other evidence that, in the judgement of the Marine Terminal Operator, adequately demonstrates STEP registration.

Other (Non-Marine Terminal) Seaport Facilities

- No other Seaport Facility Operator shall permit a Drayage Truck that is not STEP-registered to enter a Seaport Facility. The Seaport Facility Operator can verify STEP compliance by visual inspection of an affixed STEP registration label, inspection of a STEP registration certificate for the Drayage Truck or other evidence that, in the judgement of the Seaport Facility Operator, adequately demonstrates STEP registration.

All Seaport Facilities

- Drayage Trucks that are not able to demonstrate STEP registration may be turned away and/or directed to the Port's Customer Service Center by the Seaport Facility Operator. At the Port's Customer Service Center, the Port may issue a date and time-stamped Temporary STEP Pass to enable the truck to enter the Seaport Facility. Seaport Facility Operators shall permit a Drayage Truck with a Temporary STEP Pass to enter the Seaport Facility only on the date of issue of the Temporary STEP Pass. No more than five (5) Temporary STEP Passes for any one driver and/or truck will be issued from the effective date of Phase 6.

- Drayage Trucks that are not able to demonstrate STEP registration outside of the operating hours of the Customer Service Center (e.g., weekends or nights), may be granted entry into a Seaport Facility, in which case the Seaport Facility Operator must record the Drayage Truck and Drayage Truck driver information in the Non-STEP-Registered Drayage Truck Log, and report this information to the Port's Chief Wharfinger and Port Facilities Security Officer on a quarterly basis, specifically within seven (7) business days of the end of the month of March, June, September, and December. No more than five (5) such entries for any one driver and/or truck will be allowed from the effective date of Phase 6.;

E. Item No. 02410 is hereby amended to add the following modifications to the Comprehensive Truck Management Program as previously adopted by the Board and as set forth below:

January 1, 2012 Drayage Truck Deadline

Consistent with and in support of the CARB regulation, beginning January 1, 2012, at 12:01 a.m., Seaport Facility operators shall permit access into Seaport Facilities in the Port of Oakland only to a Drayage Truck that is compliant with the CARB regulation, as follows, unless the Drayage Truck has been exempted, or issued a waiver or extension by CARB, or issued a Port Temporary Non-Compliance Pass:

- (i) a 1994 - 2004 model year engine certified to California or federal emission standards, and a level 3 Verified Diesel Emission Control Strategy (VDECS) for PM emissions; or
- (ii) a 2005 or newer model year engine certified to California or federal emission standards; or
- (iii) a 1994 or newer model year engine that meets or exceeds 2007 model year California or federal emissions standards.

January 1, 2013 Drayage Truck Deadline

Consistent with and in support of the CARB regulation, beginning January 1, 2013, at 12:01 a.m., Seaport Facility operators shall permit access into Seaport Facilities in the Port of Oakland only to a Drayage Truck that is compliant with the CARB regulation, as follows, unless the Drayage Truck has been exempted, or issued a waiver or extension by CARB, or issued a Port Temporary Non-Compliance Pass:

- (i) a 1994 - 2006 model year engine certified to California or federal emission standards, and a level 3 Verified Diesel Emission Control Strategy (VDECS) for PM emissions; or
- (ii) a 2007 or newer model year engine certified to California or federal emission standards; or
- (iii) a 1994 or new model year engine that meets or exceeds 2007 model year California or federal emissions standards.

January 1, 2014 Drayage Truck Deadline

Consistent with and in support of the CARB regulation, beginning January 1, 2014, at 12:01 a.m., Seaport Facility operators shall permit access into Seaport Facilities in the Port of Oakland only to a Drayage Truck that is compliant with the CARB regulation, as follows, unless the Drayage Truck has been exempted, or issued a waiver or extension by CARB, or issued a Port Temporary Non-Compliance Pass:

- (i) a 2007 or newer model year engine certified to California or federal emission standards; or
- (ii) a 1994 or newer model year engine that meets or exceeds 2007 model year California or federal emissions standards.;

F. Item No. 02415 Implementation of Drayage Truck Ban, Permissible Entry of Drayage Trucks on Seaport Facilities is hereby revised and replaced by amending the first paragraph and inserting a second paragraph to read as follows:

Amended First Paragraph: Any Drayage Truck turned away from a Seaport Facility pursuant to this subsection may be directed to the Port's Customer Service Center for assistance during normal business hours. After submission of required information by the Drayage Truck owner, the Port may issue a Temporary Non-Compliance Pass so that this Drayage Truck may enter the Seaport Facility. No more than

one (1) Temporary Non-Compliance Pass for any one truck will be issued.;

New Second Paragraph: Drayage Trucks that are not able to demonstrate compliance with the CARB Regulation to enter a Marine Terminal **outside of the operating hours of the Customer Service Center** (e.g., weekends or nights), may be granted entry into a Marine Terminal, in which case the Marine Terminal Operator must record the information required by the CARB Regulation, and report this information to the Port's Chief Wharfinger on a quarterly basis, specifically within seven (7) business days of the end of the month of March, June, September, and December. No more than five (5) such "off hours" entries for any one driver and/or truck will be allowed from the effective date of Phase 5.

- G. The first paragraph of Item No. 02415 Implementation of Drayage Truck Ban, Adjustment of CARB Regulatory Deadline is hereby amended to read as follows:

Adjustment of CARB Regulatory Deadline: The Seaport Facility Operator may accommodate deliveries by Drayage Trucks until the effective date of the applicable extended CARB deadline if CARB delays implementation of the regulatory deadlines set forth in Section (d) above and the Port notifies the Seaport Facility Operator prior to the applicable deadline.

- H. Item Nos. 02525 through 02535 Shore Power System are hereby revised and replaced to: (1) eliminate the maintenance charge and instead reference the Port Electric Utility Ordinance; (2) update IEC, ISO, and IEEE standards; and (3) update the tenant's and Port's respective shore power maintenance obligations, as further set forth in the Agenda Report and Exhibit E thereto; and
- I. Item Nos. 10130-10160 Space Assignment Rates are hereby revised and replaced to increase wharf and space assignments rates by three percent (3%) effective July 1, 2018 and modifying the dredge material re-handling rates, as further set forth in the Agenda Report and Exhibit B thereto.

SECTION 3. The Board of Port Commissioners hereby finds and determines that:

(a) This Ordinance is adopted pursuant to the authority under Article 7 of the Charter of the City of Oakland, including but not limited to Section 706(10) of the Charter, and the rates, dockage, rentals, tolls, wharfage, and charges are reasonable for the use of Port

properties, appliances and facilities or to recovers costs of services rendered;

(b) The proposed amendments to Port Tariff No. 2-A were reviewed in accordance with the requirements of the California Environmental Quality Act (CEQA), and the Port CEQA Guidelines. The proposed amendments are exempt from CEQA under Section 15301, Class I, which does not apply to the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination; and

(c) In addition, the proposed Space Assignment rate amendments in Tariff No. 2-A are statutorily exempt from CEQA under Section 15273(a) of the CEQA Guidelines because CEQA does not apply to the modification or approval of rates and other charges by public agencies that the public agency finds are for the purpose of meeting operating expenses or for funding capital projects necessary to maintain service within existing service areas. The proposed rate increase is for those funding purposes, so therefore meets the criteria for this exemption.

The Board of Port Commissioners, Oakland, California, March 8, 2018. Passed to print for one day by the following vote: Ayes: Commissioners Butner, Cluver, Hamlin, Martinez, Yee and President Story - 6. Excused: Commissioner Colbruno - 1. Noes: 0.

Daria Edgerly
Secretary of the Board