



Legislation Text

File #: 2020-0358, **Version:** 1

DATE: November 10, 2020

SUBJECT:

**AMENDMENT OF SAN DIEGO UNIFIED PORT DISTRICT TARIFF NO. 1-G, RATES AND CHARGES, AND
UPDATED FORMAT AND LANGUAGE**

- A. RESOLUTION FINDING THE AMENDMENT TO THE SAN DIEGO UNIFIED PORT DISTRICT
TARIFF NO. 1-G, RATES AND CHARGES, TO INCREASE RATES, ADD NEW RATES, AND
UPDATE TARIFF FORMAT AND LANGUAGE EXEMPT FROM THE CALIFORNIA
ENVIRONMENTAL QUALITY ACT (CEQA) AS SPECIFIED UNDER SECTION 15273 OF THE CEQA
GUIDELINES**
- B. CONDUCT A PUBLIC HEARING AND ADOPT AN ORDINANCE AMENDING THE SAN DIEGO
UNIFIED PORT DISTRICT TARIFF NO. 1-G, RATES AND CHARGES, ADD NEW RATES, AND
UPDATE TARIFF FORMAT AND LANGUAGE**

EXECUTIVE SUMMARY:

District staff conducts an annual review of the San Diego Unified Port District, Port of San Diego (Port) Tariff No. 1-G (Tariff), which governs the rates, charges, rules, and regulations applicable for all maritime-related commercial activity within the Port's jurisdiction.

Staff recommends that the Board adopt an amendment to the Port's Tariff, as follows:

1. Implement a two percent (2%) General Rate Increase in General items, Dockage items, Wharfage items, Demurrage, Storage & Space Occupancy items, and Miscellaneous items, with an exception to Commercial Fishing Vessels, Dockage for Transient Vessels, Passenger Fees for Cruise Ships, and Pilotage Rates and Charges, effective January 1, 2021.
2. Implement a one-dollar (\$1.00) rate increase in General item for Credit Rule (Minimum Delinquent Charge)-Item No. 0535, effective January 1, 2021.
3. Implement a fifty percent (50%) rate increase in Wharfage item for Merchandise N.O.S. (Not Otherwise Specified)-Item No. 0600 and Project Cargo Rates-Item No. 0631, effective January 1, 2021.
4. Implement a one-dollar and twenty-five cent (\$1.25) rate increase in Wharfage item for Vehicles (Import/Inbound) (Rail | Truck Transfer Fee)-Item No. 0660 and Commercial Vehicles (Light & Medium Weight) (Rail | Truck Transfer Fee)-Item No. 0663, effective January 1, 2021.

5. Perform an amendment of Tariff language and add a new Definition for Anchorage-Item No. 0441 and corresponding rate in Rates for Full Dockage-Item No. 0575, effective January 1, 2021.
6. Perform an amendment of Tariff language and add a new Definition for Photography & Videography on the Terminal-Item No. 0541 effective January 1, 2021.
7. Perform an amendment to modify Tariff language for Item No. 0685-Free Time Allowed and add Free Time by commodity type for Vehicles, Hawaiian Trade, effective January 1, 2021.
8. Perform an amendment of Tariff language and other minor language modifications, effective January 1, 2020.

Several factors are considered during staff's Tariff analysis, including relevant economic indicators such as the Bureau of Labor Statistics (BLS) Consumer Price Index for the West Region, All Urban Consumers (CPI-U), rate recommendations made by California Association of Port Authorities' (CAPA) as well as actual rate increases by other CAPA member ports, and the regional market conditions.

This year's proposed two percent (2%) General Rate Increase (GRI) takes into account only the last nine (9) months of the West Region Consumer Price Index for All Urban Consumers (CPI-U) in Calendar Year 2020, and not the annual CPI-U as has been past practice to more accurately reflect the economic situation since the COVID-19 pandemic. Additionally, recommended rate increases have been delayed six months this fiscal year. Instead of a July 1, 2020 effective date as had been done in the past to coincide with the District's fiscal year, staff recommends the modest increases this year to be effective January 1, 2021 in consideration of the impacts of the COVID-19 pandemic to our customers' businesses.

Annualized projected positive revenue impact is approximately \$454,000. Since the rate changes are effective January 1, 2021, fiscal impact for FY 20/21 is \$227,000.

RECOMMENDATION:

- A. Adopt a resolution finding the amendment to the San Diego Unified Port District, Port of San Diego Tariff No. 1-G, Rates and Charges, to increase rates, add new rates and update Tariff format, and language exempt from the California Environmental Quality Act as specified under Section 15273 of the CEQA Guidelines.**
- B. Conduct a public hearing and adopt an ordinance amending the San Diego Unified Port District, Port of San Diego Tariff No. 1-G, to increase rates and charges, add new rates and update language as follows:**
 1. Implement a two percent (2%) General Rate Increase in General items, Dockage items, Wharfage items, Demurrage, Storage & Space Occupancy items, and Miscellaneous items, with an exception to Commercial Fishing Vessels, Dockage for Transient Vessels, Passenger Fees for Cruise Ships, and Pilotage Rates and Charges, effective January 1, 2021.
 2. Implement a one-dollar (\$1.00) rate increase in General item for Credit Rule (Minimum

Delinquent Charge)-Item No. 0535, effective January 1, 2021.

3. Implement a fifty percent (50%) rate increase in Wharfage item for Merchandise N.O.S. (Not Otherwise Specified)-Item No. 0600 and Project Cargo Rates-Item No. 0631, effective January 1, 2021.
4. Implement a one-dollar and twenty-five cent (\$1.25) rate increase in Wharfage item for Vehicles (Import/Inbound) (Rail | Truck Transfer Fee)-Item No. 0660 and Commercial Vehicles (Light & Medium Weight) (Rail | Truck Transfer Fee)-Item No. 0663, effective January 1, 2021.
5. Perform an amendment of Tariff language and add a new Definition for Anchorage-Item No. 0441 and corresponding rate in Rates for Full Dockage-Item No. 0575, effective January 1, 2021.
6. Perform an amendment of Tariff language and add a new Definition for Photography and Videography on the Terminal-Item No. 0541, effective January 1, 2021.
7. Perform an amendment to modify Tariff language for Item No. 0685-Free Time Allowed and add Free Time by commodity type for Vehicles, Hawaiian Trade, effective January 1, 2021.
8. Perform an amendment of Tariff language and other minor language modifications, effective January 1, 2021.

FISCAL IMPACT:

The proposed Tariff rate increase for Fiscal Year 2021 has an annual projected positive revenue impact of approximately \$454,000. Since the rate changes are effective January 1, 2021, fiscal impact for FY 20/21 is \$227,000.

COMPASS STRATEGIC GOALS:

This agenda item supports the following Strategic Goal(s).

- A thriving and modern maritime seaport.
- A financially sustainable Port that drives job creation and regional economic vitality.

DISCUSSION:

The San Diego Unified Port District (District), Port of San Diego (Port) Tariff No. 1-G (Tariff) governs the rates, charges, rules and regulation applicable for all maritime-related commerce under the Port's jurisdiction. The Tariff is reviewed annually to ensure that the Port's rates are competitive and the rules current. In addition, the rates and charges are reviewed to reflect prevailing market conditions and economic climate.

This year's proposed two percent (2%) General Rate Increase (GRI) takes into account only the last nine (9) months of the West Region Consumer Price Index for All Urban Consumers (CPI-U) average in Calendar Year 2020, and not the annual CPI-U as has been past practice to more accurately reflect the economic situation since the COVID-19 pandemic.

Other factors considered during staff's Tariff analysis, included the California Association of Port Authorities' (CAPA) recommended two-point-eight percent (2.8%) for the twelve (12)-month period ending in December 2019 for ports considering general rate increases. That said, several CAPA ports have or will be instituting a GRI, including the Ports of Hueneme, Richmond, and Stockton for an average GRI of two percent (2%).

Staff recommends a fifty percent (50%) rate increase applicable to Project Cargo Rates due to the rising costs of operating heavy-lift equipment. In addition, a fifty percent (50%) rate increase applicable to Merchandise N.O.S. (Not Otherwise Specified). A survey of other California ports suggests these proposed rates are competitive. Furthermore, a similarly situated port in the Bay Area has a higher wharfage rate for such cargo. This increase allows the District to remain competitive, while simultaneously getting closer to comparable market rates.

Staff recommends a one-dollar and twenty-five cent (\$1.25) rate increase applicable to Vehicles (Import/Inbound) and Commercial Vehicles (Light and Medium Weight) RTTF (Rail | Truck Transfer Fee) to assist the District in moving this rate incrementally and over time, to align to the traditional Wharfage rate which is currently in the twenty-nine to thirty dollar (\$29.00-\$30.00) range, indicated in Item Nos. 0660 and 0663-Vehicles (Import/Inbound) and Commercial Vehicles (Light and Medium Weight), respectively. As a marine terminal facility, the primary cargos of interest are marine cargo. However, due to several external market factors in the automotive industry such as local sourcing, there is an increase in the number of vehicle cargos coming through the facility from non-waterborne transport. A review along the West Coast demonstrated a vast array of methods addressing these modes of transportation. While the majority of California Ports did not include a Rail | Truck Transfer Fees within their respective tariffs, based on discussions with Terminal Operators and Port authorities, a few leases and contracts do provide for a rail and truck rate component. These range in rates from six dollars and fifty cents (\$6.50) to over thirty dollars (\$30.00), with most other ports relying on the traditional wharfage rate regardless of mode of transportation. It is recommended to slowly increase the RTTF rate to better align to the traditional wharfage rate, without negatively impacting the automotive industry in San Diego.

Staff recommends including new language to add 'Anchorage' fees for non-commercial vessels anchoring in the designated areas in lieu of utilizing a District or tenant dock where dockage was previously collected. This new language will incentivize docking at berth or anchoring at a cost, versus free anchorage as is typically designated for commercial vessels awaiting a berth.

Staff recommends including new language memorializing the District's policy regarding Photography and Videography on the Terminals. Signs prohibiting photography on the terminal without written consent of the District are posted at the gate of each Terminal facility. This new language memorializes that policy for all those interested and describes the method by which permission may be granted.

Staff recommends amending the Free Time Allowed for Hawaiian Trade Vehicles to increase District revenues and encourage Terminal efficiency. This new language will replace an existing Letter of

Agreement between the District and the District's Terminal Operator, Pasha Automotive Services that previously provided free storage for all Hawaiian Trade Vehicles regardless of length of stay. The recommended Free Time will encourage efficiencies on behalf of the cargo owners to remove their cargo in an expedited manner, while allowing the District to receive revenues if such cargo is not removed prior to the end of the authorized Free Time.

Finally, staff recommends amending other minor language modifications to accurately reflect administrative changes and clarifying language.

Based on the above factors, staff recommends that the Board conduct a public hearing and adopt the following changes to the Port's Tariff No.1-G, effective January 1, 2021:

- Implement a two percent (2%) increase in General Items for Minimum Charge-Item No. 0510; Petroleum Products-Item No. 0650; Temporary Area Assignments-Item No. 0737; Fresh Water Service Rates-Item No. 0740; Electrical Service Rates-Item No. 0745; Electrical Service for Shore Power-Item No. 0748. (Attachments A, I, R, U, V)
- Implement a two percent (2%) increase in Permit Fees for Cargo Handling Permit Fee-Item No. 0515 and Vessel Repair Permit Fee-Item No. 0520.
(Attachment A)
- Implement a two percent (2%) increase for Dockage in Rates for Full Dockage-Item No. 0575.
(Attachment C)
- Implement a two percent (2%) increase Wharfage Rates for all Commodities for Item Nos. 0600 through 0674. (Attachments D-M)
- Implement a two percent (2%) increase in Demurrage, Storage & Space Occupancy items for Demurrage Rates-Item No. 0705; Wharfage Storage Rates-Item No. 0720; Per Container Wharf Storage Rates-Item No. 0725; Space Occupancy Rates-Item No. 0735; and Temporary Office Occupancy-Item No. 0736; Temporary Area Assignments-Item No. 0737. (Attachments N, P, Q, R)
- Implement a two percent (2%) increase in Miscellaneous items for Mobile Harbor Crane-Item No. 0738; Electrical Service for Refrigerated Containers-Item No. 0747; Redelivery of Merchandise-Item No. 0750; Environmental Surcharge for Dry Bulk-Item No. 0758. (Attachments S, U, W)
- Implement a one-dollar (\$1.00) Rate Increase (RI) Credit Rule-Item No. 0535

CREDIT RULE

- (c) All charges that remain due and unpaid for a period of forty-five (45) days after the date of invoice they are incurred shall be subject to a delinquency payment, for violation of this Item and for damages, the delinquent balance due will be subject to a charge of two percent (2%) for each month or portion thereof, that said, invoice or payment remains unpaid, or the maximum rate permitted by law, whichever is less. However, the minimum delinquent charge shall be **twelve dollars (\$12.00)**. Said delinquency payment is in addition to all other remedies that the Port may have that are provided by this Tariff or otherwise by law to enforce payment of charges that have been incurred and have not been paid. \$12.00

(Attachment B)

- Implement a fifty percent (50%) Rate Increase in Merchandise N.O.S. (Not Otherwise Specified)-Item No. 0600

Merchandise N.O.S. (Not Otherwise Specified): \$11.22

(Attachment D)

- Implement a fifty percent (50%) Rate Increase in Project Cargo Rates-Item No. 0631

Project Cargo Rates:

Applicable to shipments in connection with removal, construction, reconstruction of major capital projects or facilities. (Subject to Notes 1, 2 & 3): \$9.54

(Attachment G)

- Implement a three-dollar (\$1.25) Rate Increase in Vehicles (Import/Inbound)-Item No. 0660

RTTF (Rail | Truck Transfer Fee) \$14.25

(Attachment I)

- Implement a three-dollar (\$1.25) Rate Increase in Commercial Vehicles (Light and Medium Weight)-Item No. 0663

RTTF (Rail | Truck Transfer Fee) \$14.25

(Attachment J)

- Anchorage-Item No. 0441 and add new item, definition, and reference rate as follows:

ANCHORAGE

"B" Street Cruise Terminal Merchant Vessel Anchorage "Anchorage" is reserved for the use of merchant vessels calling at the Port of San Diego while awaiting a berth. The administration of this Anchorage is exercised by the Executive Director, San Diego Unified Port District. Vessels anchoring in San Diego Harbor shall leave a free passage for the other craft and shall not obstruct the approaches to the wharves in the harbor.

The waters bounded by a line connecting the following points:

Latitude	Longitude
32°43'00.8" N	117°10'36.3" W
32°43'00.8" N	117°11'23.0" W
32°43'05.0" N	117°11'30.5" W
32°43'27.2" N	117°11'14.0" W
32°43'20.2" N	117°10'53.0" W

and thence due east to the shoreline, and thence along the shoreline and pier to the point of beginning. When space is available, the Executive Director at his or her own discretion may authorize the use of the anchorage for non-commercial vessels upon receipt of an anchorage application.

'Anchorage' charges for non-commercial vessels will be assessed at fifty percent (50%) of full dockage rates as per Item No. 0575—Rates for Full Dockage.

(Attachments DD, C)

- Photography and Videography on the Terminal-Item No. 0541 as follows:

PHOTOGRAPHY AND VIDEOGRAPHY ON THE TERMINAL

The Port of San Diego owns and operates the Tenth Avenue Marine Terminal, National City Marine Terminal, "B" Street Cruise Ship Terminal and Broadway Pier Cruise Ship Terminal under the San Diego Unified Port District Act. All photography or videography activity on the Port's Marine Terminals requires permission and preapproval from the Maritime Division. An approved Photography and Videography Permit ("Permit") is required for any activities within the Port District facilities, prior to filming. Companies or individuals can acquire the Permit application from the Maritime Operations Office at (619) 686-6345 or via e-mail to TAMT@portofsandiego.org.

(Attachment GG)

- Free Time Allowed-Item No. 0685 and add new language as follows:

(b)	Hawaiian Trade Vehicles	
	Inbound Trade	15 Days
	Outbound Trade	90 Days

(Attachment II)

- Perform an amendment of Tariff language and other minor language modifications. (Attachments X-Z, AA-II)

This year's proposed two percent (2%) General Rate Increase (GRI) takes into account only the last nine (9) months of the West Region Consumer Price Index for All Urban Consumers (CPI-U) in Calendar Year 2020, and not the annual CPI-U as has been past practice to more accurately reflect the economic situation since the COVID-19 pandemic. Additionally, recommended rate increases have been delayed six months this fiscal year. Instead of a July 1, 2020 effective date as had been done in the past to coincide with the District's fiscal year, staff recommends the modest increases this year to be effective January 1, 2021 in consideration of the impacts of the COVID-19 pandemic to our customers' businesses.

The proposed rate increases would aid in balancing the rising costs of maintenance and infrastructure associated with maritime operations while maintaining a rate structure that is comparable to competitor ports.

Stakeholder Outreach

On October 7, 2020, staff distributed a notification letter via U.S. mail and e-mail to all customers and stakeholders affected by the proposed Tariff changes. During the weeks of October 5 through October 16 staff held several Tariff Update phone meetings with direct Tariff customers to further discuss the proposed changes, address and respond to any clarifying questions or concerns. Additionally, to ensure that that our customers and key stakeholder are aware of the upcoming proposed Tariff changes, staff conducted follow-up phone calls and e-mails. On October 15, 2020, an updated notification letter with incorporated changes based on stakeholder discussions was distributed via U.S. mail and e-mail to all Tariff customers and stakeholders affected by the proposed Tariff changes.

In accordance with Government Code Section 54954.6(a) (1) (2), a notice of public hearing has been published. Written notification of the proposed Tariff amendment was given to shipping lines, ships agents, stevedores, terminal operators, facilities users, maritime tenants, and San Diego Port Tenants Association.

General Counsel's Comments:

The General Counsel's Office has reviewed and approved this agenda, and the proposed Resolution and Ordinance, as presented, as to form and legality.

Environmental Review:

The Board action to amend San Diego Unified Port District Tariff No. 1-G to increase rates, add new rates, and also to update format and language, is Statutorily Exempt pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15273 (Rates, Tolls, Fares and Charges) and/or Categorically Exempt pursuant to CEQA Guidelines Section 15301 (Class 1 - Existing Facilities) and Sections 2.h and/or 3.a of the District's Guidelines for compliance with CEQA. The existing facilities exemption is proper because the activity in question will only involve an operational change and will involve no expansion of use beyond that previously existing. As part of this action, and based upon the facts and analysis set forth in this agenda sheet and during the public hearing of this matter at the November 10, 2020 Board meeting, staff recommends that the Board adopt specific findings pursuant to CEQA Guidelines Section 15273, subsection (c), as follows:

1. The proposed Board action, generally consists of an amendment to Port of San Diego Tariff No. 1-G to:
 - a. Increase rates and charges to items including: General, Permits, Dockage, Wharfage, Demurrage, Storage & Space Occupancy, Temporary Office Occupancy, Temporary Area Assignments, Mobile Harbor Crane, Electrical Service Rates for Refrigerated Containers, Redelivery of Merchandise, and Environmental Surcharge for Dry Bulk Cargo, with exceptions to Commercial Fishing Vessels, Dockage Charge for Transient Vessels, Credit Rule, Passenger Fees for Cruise Ships, Merchandise N.O.S., Project Cargo Rates, Vehicle (Import/Inbound) RTTF, Commercial Vehicles (Light and Medium Weight) RTTF, and Pilotage;
 - b. Update format and language based on relevant economic indicators such as the Bureau of Labor Statistics (BLS) Consumer Price Index for West Region, All Urban Consumers (CPI-U), rate recommendations made by California Association of Port Authorities (CAPA) as well as actual rate increases by other CAPA member ports, and regional market conditions;
 - c. Include two (2) new tariff items for Anchorage and Photography on the Terminal; and
 - d. Other minor language modifications.
2. The proposed Board action is projected to increase Fiscal Year 2021 revenues to the District by approximately \$454,000. Since the rate changes are effective January 1, 2021, fiscal impact for FY 20/21 is \$227,000.
3. The proposed Board action will maintain a rate structure that is competitive with other ports.
4. The proposed Board action is to meet operational expenses, financial reserve needs, and requirements of the District.
5. The proposed Board action is not to obtain funds for capital projects for the expansion of systems and will involve no expansion of use beyond that previously existing however, some of the fees may be used for maintenance activities.

In addition, the proposed Board action complies with Sections 36 of the Port Act which specifically gives the Board the authority to "by ordinance fix the rate of wharfage charges and other charges

which are appropriate for the use of any of the facilities owned and constructed or services furnished or provided by the District” and therefore, it is within the District’s authority to set tariff rates on tidelands.

Finally, the proposed Board action is considered an “excluded development” pursuant to Section 8.a (Existing Facilities) of the District’s Coastal Development Permit Regulations; therefore, issuance of a Coastal Development Permit is not required.

Equal Opportunity Program:

Not Applicable.

PREPARED BY:

Josefina Khalidy
Principal, Maritime Business Retention

Attachment(s):
Attachments A-II: San Diego Unified Port District | Port of San Diego | Tariff No. 1-G