



Legislation Text

File #: 2021-0337, **Version:** 1

DATE: November 09, 2021

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:

At the Board's meeting on May 11, 2021, staff presented amendments to the District's Tariff No. 1-G (Tariff). The Tariff governs the rates, charges, rules, and regulations applicable for all maritime-related commercial activity within the Port's jurisdiction. Staff indicated that given the current economic climate, staff would consider bringing forward additional amendments to the Tariff, if deemed appropriate. Staff has observed industry trends and performed a supplementary Tariff analysis to confirm if the market could bear further adjustments.

After careful consideration, staff recommends adjustments of selective rates as well as modifying language based on current District policies and practices.

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

1. Implement a three-dollar and eighty cent (\$3.80) rate decrease to Merchandise N.O.S.-Item No. 0600, effective January 1, 2022.
2. Implement a three-dollars and one cent (\$3.01) rate increase to Item No. 0647-Passenger Fees for (a) Cruise Ships Rate, effective July 1, 2022.
3. Perform an amendment to modify Tariff language to Item No. 0705-Wharf Demurrage Rates for Six (6) Day and Beyond, Per Day and add corresponding rate structure, effective January 1, 2022.

4. Perform an amendment of Tariff language and add a new Item for Hazardous Surcharge-Item No. 0759, effective January 1, 2022.
5. Perform an amendment of Tariff language and other minor language modifications, effective January 1, 2022.

The proposed Tariff rate amendments will result in a positive revenue impact of approximately \$767,000 annually.

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 (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, Port of San Diego Tariff No. 1-G, to increase rates and charges, add new rates and update language as follows:**
 1. Implement a three-dollar and eighty cent (\$3.80) rate decrease to Merchandise N.O.S.-Item No. 0600, effective January 1, 2022.
 2. Implement a three-dollars and one cent (\$3.01) rate increase to Item No. 0647-Passenger Fees for (a) Cruise Ships Rate, effective July 1, 2022.
 3. Perform an amendment to modify Tariff language to Item No. 0705-Wharf Demurrage Rates for Six (6) Day and Beyond, Per Day and add corresponding rate structure, effective January 1, 2022.
 4. Perform an amendment of Tariff language and add a new Item for Hazardous Surcharge-Item No. 0759, effective January 1, 2022.
 5. Perform an amendment of Tariff language and other minor language modifications, effective January 1, 2022.

FISCAL IMPACT:

The proposed Tariff rate amendments will result in a positive revenue impact of approximately \$767,000 annually.

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 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 as well as align with District policies and practices.

At the Board's meeting on May 11, 2021, staff presented amendments to the District's Tariff No. 1-G (Tariff). Staff indicated that given the current economic climate, staff would consider bringing forward additional amendments to the Tariff, if deemed appropriate.

Staff conducted a supplementary Tariff analysis, which included the California Association of Port Authorities' (CAPA) recommended one-point-seven percent (1.7%) annual increase for the year 2020 and expanded the analysis to include the U.S. Bureau of Labor Statistics' Consumer Price Index (CPI) results for the first and second quarter of 2021, which rose to a three-point two percentage point (3.2%). While there is a notable uptick in the indices, staff has observed that the maritime supply chain continues to fluctuate as they react to changes in trade patterns and adapt to the continued impacts of COVID-19.

After careful consideration, staff findings suggest that a General Rate Increase (GRI) across all Tariff Items would not be appropriate at this time and will consider a GRI during the next traditional annual Tariff review.

At this time, staff recommends micro adjustments and updating selective rates, adding new language, and updating language based off current market trends as follows:

Amending Merchandise N.O.S. (Not Otherwise Specified) by reducing the rate to adapt to the flux in the industry trend. This will also allow Maritime staff to better quote commodities that may otherwise be diverted to other ports. In addition, this will aid in retaining our existing customer base and encouraging new business opportunities as well as increase cargo volume.

Increasing Passenger Fees for Cruise Ships allows the Port of San Diego to keep pace with competitor port rates and financially support operating costs due to the ongoing impacts of COVID-19 to the industry. A benchmarking review of other Cruise ports show the District's current rate is below market. This adjustment will bring the District closer to market. The effective date of July 1, 2022 allows Cruise Lines to better prepare for the upcoming season, while ensuring competitiveness for the District.

Modifying language to Wharf Demurrage Rates and adding a corresponding rate structure. This is intended to adjust the activity on the terminals and to encourage customers to remove cargo timely to avoid incurring costly penalties. In light of the notable congestion issues in the ports of Los Angeles and Long Beach, the District must protect the facility by implementing demurrage charges in an effort to incentivize cargo to move off terminal quickly and efficiently.

Adding a new item for Hazardous Surcharge to interpret and determine applicable charges to be incurred for the handling of hazardous material(s) or cargo(es). Due to the delicate nature of handling hazardous materials or cargo, a surcharge compensates the District for the operational manpower and expertise required to facilitate such operations. Other ports have also recently instituted surcharges similar to what is proposed by this Tariff amendment.

Lastly, 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, 2022:

- Implement a three-dollar and eighty cent (\$3.80) decrease for Merchandise N.O.S.-Item No. 0600, as follows:

Merchandise, N.O.S. (Not Otherwise Specified)	\$7.42
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(Attachments A)

- Implement a three-dollars and one cent (\$3.01) increase to Item No. 0647-Passenger Fees for (a) Cruise Ships Rate

CRUISE SHIPS:		
(a) Passengers, embarking or disembarking on passenger vessels, through Port of San Diego on passenger vessels at Port of	Effective Date	Fee Per Passenger
	01/01/2021	\$6.99
	07/01/2022	\$10.00

(Attachments B)

- Perform an amendment to modify Tariff language to Item No. 0705-Wharf Demurrage Rates for Six (6) Day and Beyond, Per Day and corresponding rate structure

COMMODITY	<i>First (1) thru Fifth (5) Day, Per Day</i>	<i>Sixth (6) Day and Beyond, Per Day</i>
All Commodities, W/M, as freighted. Lumber and Forest Products excepted:	\$0.93	\$1.86
Lumber and Forest Products, per 1,000 ft. Board measure or fraction thereof:	\$0.93	\$1.86
Vehicles, Motor, on Wheels as defined in Item No. 0660, per vehicle:	\$1.04	\$2.08
Containers, Per Container		
Overall Length in Meters:		
0 7 Meters	\$7.47	\$14.94

Over 7 Meters	\$14.94	\$29.88
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(Attachments C)

- Perform an amendment of Tariff language for Dockage Charge for Transient Vessels-Item No. 0572

Dockage Charge for Transient Vessels-Item No. 0572 (1) Dock space is available for periods of no more than **twelve (12) days** within a **calendar month and no more than twelve (12) consecutive days** on a first-come, first-served basis. **Minimum leave time: five (5) consecutive days.** (2) Vessel **owner/operator** must provide current evidence of **vessel registration and owner/operator identification** prior to obtaining dock space.

(Attachments G)

- Perform an amendment of Tariff language and add a new Item for Hazardous Surcharge-Item No. 0759

In the event that the District receives incidental hazardous material(s) or cargo(es), a surcharge of an additional fifty-percent (50%) will be assessed over the normal applicable Tariff rate(s)

(Attachments H)

- Perform an amendment of Tariff language and other minor language modifications.

(Attachments D-G)

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 1, 2021, staff distributed a notification letter via electronic-mail to all customers and stakeholders affected by the proposed Tariff changes. During the weeks of October 4 through 15 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 our customers and key stakeholder are aware of the upcoming proposed Tariff changes, staff conducted follow-up phone calls and e-mails.

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 9, 2021 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. Decrease rates and charges to items including: Merchandise N.O.S.;
 - b. Increases rate for Passenger Fees for (a) Cruise Ships Rate;
 - c. Modify Tariff language to Wharf Demurrage Rates for Six (6) Day and Beyond, Per Day and add corresponding rate structure;
 - d. Amendment to Tariff language and add a new Item for Hazardous Surcharge; and
 - e. Other minor language modifications.
2. The proposed Board action is projected to increase revenues annually to the District by approximately \$767,000
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.

Diversity, Equity, and Inclusion Program:

No direct DEI impact.

PREPARED BY:

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Attachment(s):

Attachments A-H: San Diego Unified Port District | Port of San Diego | Tariff No. 1-G