



March 22, 2024

Industry Advisory Rail Yards and “Containers”

Recently, the Office of the BC Container Trucking Commissioner (“OBCCTC”) has issued a number of decisions relating to the movement of containers by untagged trucks owned and/or operated by licensees, including container movements to and from rail yards.

Container movements by licensees to or from rail yards

Since issuing these decisions, the OBCCTC has received correspondence from some in the industry asserting that licensees are entitled to move containers to and from a rail yard with untagged trucks and are not required to pay the regulated rates when doing so. This is not so.

Since the introduction of the *Container Trucking Act* in 2014 the OBCCTC has made clear that rail yards in the Lower Mainland are “facilities” under the *Container Trucking Regulation* and that container movements by licensees between rail yards and other facilities in the Lower Mainland are off-dock trips that must be paid at the regulated rates. ¹ [Simard Westlink Inc. \(CTC Decision No. 04/2024\) \(Reconsideration\)](#) is the most recent decision to this effect.

Containers

Some licensees have argued that they do not need to pay the regulated rate when they deem the container a “domestic container” even if the container clearly fits the *Regulation’s* definition.

In [Simard Westlink Inc. \(CTC Decision No. 04/2024\) \(Reconsideration\)](#), I provided the following warning to the drayage sector at paragraph 89:

With this decision, the drayage sector should be fully aware that terminology like “domestic moves” or “domestic repositioning” or “domestic container” or “53-foot containers” or “railway owned containers” are not trump cards that absolve licensees from paying the regulated rates....

The *Regulation* defines a container as “a metal box furnished or approved by an ocean carrier for the marine transportation of goods.” If a container is capable of being used for the marine transportation of goods, then it will most likely be captured under the regulatory definition and the licensee will be required to pay the

¹ See OBCCTC Bulletins including: “Off-Dock Rate Payments & Use of Tagged Trucks,” March 6, 2018; “Off-Dock Regulation and Tag Management Policy Review,” May 7, 2019; “Off-Dock Rates and Truck Tag Requirements,” April 17, 2020; “Off-Dock Drayage Insights Report Published,” September 16, 2020; “Unlicensed, Untagged Off-Dock Drayage Activity,” November 29, 2021; “CTS Licence Truck Tag Management Policy: Additional Truck Tag Applications Being Accepted,” July 4, 2022. See also Industry Advisory “Licence and Truck Tag Requirements,” February 28, 2022 and Commissioner’s Decisions including *Forfar Enterprises Ltd.* (CTC Decision No. 20/2016); *Gulzar Transport Inc.* (CTC Decision No. 18, 2019); *Ferndale Transport Ltd.* (CTC Decision No 07/2023).

regulated rate. Some of the indicators of a container may include:

- markings consistent with International Organization for Standardization (ISO).
- a four-letter prefix followed by a six-or seven-digit identifier (e.g. TXCU123456).
- A valid CSC Plate issued in accordance with the International Convention for Safe Containers as adopted by the International Maritime Organization which permits the container to be used for the marine shipment of goods.
- Containers or similar containers having been observed or identified as being on an ocean vessel in close proximity to the dates they were in the Lower Mainland.
- Ownership by companies in the business of shipping containers by ocean or supplying containers to companies that do.

A metal box does not need to have all of the indicia above to be a “container” under the *Regulation*.

Licensees have an exclusive entitlement to access marine terminals in the Lower Mainland and, as a condition of their licence, they are required to meet all the requirements set out in the *Container Trucking Act*, *Container Trucking Regulation*, and the CTS licence including paying the regulated off-dock trip rates when they move a “container” within the Lower Mainland.

In other words, if a licensee moves a metal box that meets the regulatory definition of “container” between facilities (including rail yards) in the Lower Mainland, it is required to pay the regulated rates to its drivers and independent operators.

The OBBCTC’s position on “containers” and “rail yards” is not new. See, for example, Commissioner MacPhail’s decision in [Forfar Enterprises Ltd. \(CTC Decision No. 20/2016\)](#).

Conclusion

The OBCCTC is committed to ensuring licensees pay company drivers and independent operators in accordance with the minimum regulated rates.

Licensees are encouraged to review [Forfar Enterprises Ltd. \(CTC Decision No. 20/2016\)](#) and [Simard Westlink Inc. \(CTC Decision No. 04/2024\) \(Reconsideration\)](#) for a more comprehensive explanation of the above and the rationale for same.

Sincerely,

OFFICE OF THE BC CONTAINER TRUCKING COMMISSIONER



Glen MacInnes
Commissioner



Karm Jauhal
Deputy Commissioner