

# **PERDUE AGRIBUSINESS, LLC**

Schedule of Charges

Chesapeake, Virginia

TARIFF NUMBER ONE

January 1, 2016

## FACILITY RULES<sup>1</sup> AND REGULATIONS

### Section A

### Overtime Rules

#### 1. Straight-Time

Straight-time work shall be between the hours of 8:00 a.m. to 12:00 noon, and between the hours of 1:00 p.m. to 5:00 p.m. daily, except Saturdays, Sundays, and holidays.

#### 2. Holidays

Holidays shall be:

New Year's Day  
Martin Luther King's Birthday – January 15  
Lee-Jackson Day – 3<sup>rd</sup> Monday in January  
Washington's Birthday – 3<sup>rd</sup> Monday in February  
Tommy Gleason's Birthday – March 17  
Good Friday  
Memorial Day – 4<sup>th</sup> Monday in May  
Independence Day – July 4  
Labor Day – 1<sup>st</sup> Monday in September  
Columbus Day – 2<sup>nd</sup> Monday in October  
Veteran's Day – November 11  
Election Day – 1<sup>st</sup> Tuesday after first Monday in November occurring  
in even numbered years  
Thanksgiving Day  
Thanksgiving Friday  
Christmas Eve Day  
Christmas Day  
New Year's Eve Day

Also any other days designated as holidays by the City of Norfolk, the State of Virginia, the United States Government, or the governmental authority having lawful jurisdiction. Should any of the stipulated holidays fall on a Sunday, the following Monday shall be deemed as that holiday. Should any stipulated holiday fall on Saturday, the preceding Friday shall be deemed as that holiday.

In addition to the stipulated holidays above, any day for which premiums are paid in accordance with labor contracts, will be considered an elevator holiday.

#### 3. Double Time

Double-time hours shall be daily between the hours of 6:00 a.m. to 7:00 a.m., 12:00 noon to 1:00 p.m., 6:00 p.m. to 7:00 pm., 12:00 midnight to 1:00 a.m., all Sundays and holidays.

#### 4. Time and One-Half

Time and one-half shall be all those hours not included above, except holidays.

#### 5. Possible Increase

Overtime rates are based on, and subject to present wage scales and working conditions existing at the elevator. In the event of an increase in such wage scales, or a change in present working conditions adding to the overtime expense of operating the elevator, the rates specified herein shall

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<sup>1</sup> For the purposes of this tariff, "Perdue" shall refer to Perdue Agribusiness, LLC.

be proportionately increased.

6. Rates For time and one-half hours the rate shall be \$400.00 per plant overtime hour. For double-time hours, including Sundays and holidays, the rate shall be \$500.00 per plant hour. None of these rates include the cost of overtime charges of licensed grain inspectors and weighing supervisors, which shall be billed in addition – a minimum charge of four (4) hours shall be applicable if a new crew is used or ordered.

7. Overtime Deadline Vessels requesting overtime must do so not later than 1:00 p.m. of the day preceding the last straight-time working day prior to the start of the overtime period.

8. Ordering Overtime Perdue may order a vessel to work overtime at the vessel's expense whenever --

(a) Other vessels are waiting to load, or

(b) Perdue anticipates that other vessels will be waiting to load when the overtime period in question begins, or

(c) The elevator is threatened with congestion.

9. Overtime Includes Such expense shall include the overtime charges of the elevator, plus those of the licensed grain inspectors and weighing supervisors to be billed in addition to items specified above. The vessel is further obligated, at its expense, to hire the necessary stevedores, and to work such ordered overtime. Should any vessel fail to timely engage stevedores to work such overtime, or fail to timely elect to vacate the berth, then the elevator reserves the right to order labor for the vessel's account.

10. Overtime Rules Should a vessel not desire to work overtime when ordered, it shall lose its turn in favor of the next vessel, in order, that does desire to work overtime. The next vessel shall retain the berth through subsequent straight-time periods and subsequent overtime periods for which it is willing to pay overtime. Any vessel losing its turn shall be entitled to a berth when first available thereafter, subject to losing its turn again, as above, if unwilling to work overtime. The elevator shall not be forced to work overtime even if requested by the vessel or their agents.

## Section B

### Berthing Regulations

1. Line Handling Mooring lines will be handled at a charge of \$1,000.00 for each docking/undocking.

2. Dockage Charges Vessels shall pay a standard berth charge of \$0.35 per gross registered ton for each day from 0700 – 0700 or any part thereof.

3. Vessel Waste Disposal Federal regulations, including "Marpol Annex I" governing vessel oily waste disposal and "Marpol Annex V" governing vessel waste disposal, will be adhered to. Elevator management must receive thirty-six (36) hours written preadvice by any vessel requesting garbage and/or oily waste disposal while at berth. Written request must be accompanied with a prepayment minimum of \$1,000.00. Requested service exceeding the \$1,000.00 minimum to be paid in advance. All

approved requests will require a "Hold Harmless Letter" from vessel owners/operators.

4. Fumigation

The owners, master, and agents of vessels berthing at Perdue's Chesapeake Elevator authorize ship hold fumigation of the cargo in the normal manner as described by Federal Grain Inspection Service regulations. Owners, master and agents of the vessel shall ensure that such vessels are suitable for such fumigation, including tubing and recirculation fumigation methods if required by the Federal Grain Inspection Service.

Only fumigators who have evidence of insurance, are approved and have contracted with Perdue, and have signed a fumigation agreement, shall be permitted to perform fumigation services.

Removal and disposal of fumigation waste, equipment and materials at the discharge port is the responsibility of the vessel and all charges associated with such removal and disposal shall be to the vessel's account.

5. Vessel Bunkering

No bunkering allowed.

6. Berth Application

All vessels, their owners, agents, or masters intending to receive cargo at the Perdue Chesapeake Elevator shall, prior to berthing, file a Perdue Berth Application (attached as Appendix A) in duplicate, with the office of the elevator superintendent or manager. Scheduling of the berthing of all ships will be at the discretion of Perdue. The above referenced application will contain warranties that the vessel has already or will prior to berthing:

- (a) Be entered at the United States Custom House;
- (b) Have certificates showing that its cargo handling gear, if any, meets the gear certification requirements of Title 29 of the Code of Federal Regulations, Part 1918;
- (c) Be accepted under charter party of the charterer or alternatively, have permission from the charterer to commence loading prior to formal acceptance;
- (d) On taking berth, immediately, prior to loading, obtain a final Examination Certificate showing that vessel has maintained all cargo compartments in suitable condition for loading of cargo as in paragraph (c) above. Cost of such certificates is for owner's account;

For breach of any of these warranties, the vessel, its owner, master, and agent agree to defend, indemnify, and reimburse Perdue for, and against, any claim, suit, or loss Perdue may suffer as the result of such breach.

7. Contract

Upon filing, in duplicate, of the Perdue Berth Application, a contract shall be deemed to have been entered into between Perdue and the vessel, its owner and master, who agree to abide by the charges and regulations of this tariff.

8. Berth Assignment

Except as otherwise provided in these regulations, vessels shall be assigned a berth when all of the following have been filed with the office of the elevator manager or superintendent between the hours of 9:00 a.m. to 4:00 p.m. Monday through Friday, and 9:00 a.m. to 12:00 noon on Saturday (holidays excluded) thereby establishing loading order:

- (a) The Perdue Berth Application as described in Section B.6, above;
- (b) A Certificate of Readiness issued by the local National Cargo Bureau, Inc. representative showing vessel's readiness to load in all compartments, and specifying the exact location of all bins and feeders;
- (c) A Certificate of Freedom from Insect Infestation issued by the Grain Inspection Department or an authorized inspection service certifying that all cargo compartments are free of insect infestation and objectionable odor, and are clean, dry, and fit for the intended cargo; and
- (d) All tankers and oil bulk carriers presenting themselves for loading, in addition to the requirements in Section B.6 above, will present a Gas Free Certificate. Such Certificates will indicate that all compartments are free of petroleum odor.

Should a vessel be delayed in loading due to congestion, or other reasons, after initially presenting required certificates, new certificates may be required prior to the vessel being permitted to berth and start loading.

Perdue, in its sole discretion, may direct a vessel to vacate its berth. Perdue may change the turn of vessels whether berthed or not, or assign a berth to vessels passed in specific compartments when confronted by an urgent need to receive or ship a particular grade or kind of grain when, in its judgment, conditions at the dock, or in the elevator, will be facilitated thereby. Dockage, if provided in this tariff, to be assessed only while vessels occupy the berth.

During the course of loading, should loading cease or be interrupted by the elevator or grain inspection due to petroleum odor or for any other reason attributable to the condition of the vessel or its suitability to receive grain, the owners/master agree:

- (1) To immediately remove the vessel from berth;
- (2) Issue clean mate's receipt for cargo loaded;
- (3) Owner/master ensures that vessel is loaded in such a manner that she remains in seaworthy condition and safe trim through loading in order to permit vacating berth should it become necessary.

Failure to comply with these provisions will result in delay damages as set forth in Section B.17 below, which owners agree to pay on berthing vessel.

## 9. Ocean Liners

Ocean liners shall be given preference in berth assignment, except that equal treatment shall be given to non-liner vessels which have filed as per Section B.6 , above, at least four (4) days prior to the time the liner files.

This tariff defines an ocean liner as a vessel which:

- (a) Qualifies as a Common Carrier by water as defined by the United

States Shipping Act of 1916, and

- (b) Sails under an advertised schedule, and
- (c) Is operated by a line maintaining regular sailings from any U.S.A, Gulf, or Atlantic port(s), and
- (d) Is not loading more grain at Norfolk than one-half (1/2) her summer deadweight tonnage.

10. Free-Pour and Pontoon Shifting Movements

Perdue reserves the right to refuse to load bulk carriers, which must mechanically trim cargo holds, due to the absence of Free-Pour shifting movements calculations documented and approved by their respective administrations, as required by the National Cargo Bureau Inc. Vessel loading delayed by the need to remove or re-position cargo hold pontoons shall be subject to liquidated damages under Section B.17.

11. Strikes

If a strike or other labor disturbance involving a vessel at berth, or waiting for berth (whether by the vessel's crew or otherwise) will, in Perdue's judgment, tie up or impede operations at the dock, Perdue may order such vessel out of berth or refuse to accept it at the berth. Should any vessel refuse to vacate, it will be liable for the damages described in Section B.17 below.

12. Inclement Weather

From time to time weather in the vicinity of the Chesapeake Elevator makes it extremely difficult to conduct loading and unloading operations even when the current weather is suitable for vessel operations. At times rail cars or trucks are unable to bring cargo to the elevator, or the Perdue workforce is unable to report to work due to hazardous road conditions. In these rare occurrences Perdue will declare a force majeure weather condition and notify all vessels at berth or awaiting a berth that the terminal is unable to load due to severe weather conditions. Laytime will be tolled for all vessels in accordance with the weather day provisions of the applicable contracts. Perdue will lift the force majeure condition promptly upon the return to safe conditions.

13. Clearing Dock

When directed to vacate the berth, each vessel will be permitted up to three (3) hours to secure its cargo and vacate the berth. Any vessel failing to vacate the berth when ordered to do so will be liable for the damages described in Section B.17 below. Perdue reserves the right to order a vessel to vacate the berth under the following circumstances:

- (a) On completion of loading;
- (b) Failure to work overtime when ordered: Should a vessel refuse to work overtime when ordered, and fails to vacate the berth and/or allow sufficient time for labor to be ordered for another vessel, such vessel will be liable for liquidated damages for the maximum loading hours lost; or
- (c) If, in Perdue's opinion, weather conditions so warrant, or for any other good and sufficient reason, any vessel in berth may be ordered at any time of day or night to vacate berth until such time as weather conditions or other circumstances permit the vessel to return to berth. Appropriate officers and crew shall be

maintained on board at all times for this purpose. Failure of the vessel to maintain sufficient officers and crew on board to comply with a notice to vacate shall not relieve the vessel of its liability for liquidated damages.

14. Completion of Loading

- (a) Each vessel will be notified in writing upon completion of loading which shall serve as a three - hour warning to vacate the berth. Failure to vacate the berth in accordance with Section B.13 may result in delay damages pursuant to Section B.17.
- (b) In the elevator's discretion the vessel may be notified of completion of loading at such time as Perdue has loaded the contractual amount aboard the vessel and the rate of loading has decreased to 75% of the minimum loading rate as stated in the governing contract and/or charter party.

15. Bills of Lading

Bills of Lading shall be issued prior to the vessel's departure from the berth. In circumstances where bills cannot be issued, Mate's Receipts shall be provided to the vessel's agent with unrevocable authorization to sign the Bill of Lading in accordance with the Mate's Receipts prior to departure. Failure to issue proper Bills of Lading within 48 hours of the vessel's departure from the berth will be considered a breach of this tariff as well as the general maritime law of the United States and will subject the vessel to arrest and enforcement of the maritime lien. Failure to timely issue proper Bills of Lading may subject the vessel owner to significant damage claims.

Loading weights stated on Mate's Receipts and Bills of Lading are to be determined by the certification entity identified in the sales contract and those certifications are final as to Perdue and the vessel. If either the vessel or Perdue objects to the certified weight a Letter of Protest shall be issued. Under no circumstances shall the Mate's Receipts or Bills of Lading be claused to document disagreements in certified weights or state a load weight different from the certified amount. Further, authorization to issue Bills of Lading shall not be withheld due to disagreements in certified weights. In circumstances where a certification entity is not identified in the sales contract, the vessel agrees that Federal Grain Inspection Service/United States Department of Agriculture shall act as the independent certifying agents for cargo loading weights.

16. Gangway, Lights, Crew

Upon berthing, vessels shall immediately, and at all times, provide a safe and adequate gangway from the vessel to the dock, adequate lighting equipment, and appropriate officers and crew aboard to permit reception of cargo at any time of the day or night, including Saturdays, Sundays, and holidays. Failing this, Perdue may order the vessel to vacate the berth for safety's sake. Should any vessel not be ready to receive cargo, or refuse to vacate, it will be liable for the damages described in Section B.17, below.

While berthed, it is the responsibility of the vessel to ensure that all lines, ladders, gangways, and vessel appurtenances are secured so that rodents may not enter the vessel. All lines must have rodent guards. Gangways must have sufficient height above the dock to prevent rodents access by jumping, climbing, or other means. Loading may stop any time the vessel is not in compliance with the above; lay time will cease and all charges will be for the vessel's account until such time as the vessel is in compliance.





26. Repairs in Berth

There shall be no work or repairs of any nature to a vessel in berth when such work or repair involves welding, burning, scraping, or any "hot work," nor any work or repairs where there is a possibility of flame or sparks unless prior express written approval is obtained from Perdue.

No repairs should be performed on the vessel at the berth which would impede in any way the ability to load cargo or the ability to remove the vessel from the berth under its own power in accordance with instructions from Perdue to vacate the berth for the reasons set forth in Section B.13. No vessel may remain at the berth while under requirements to perform mechanical repairs set forth by the U.S. Coast Guard or any classification society.

Section C

Miscellaneous

1. Equal Employment

As Perdue is a government contractor and equal opportunity employer, governed by the President's Executive Order 11246 and regulated by the Equal Employment Opportunity Commission, Perdue must insist that such guidelines and regulations be strictly adhered to by stevedores. Further, the affirmative action clause of the Rehabilitation Act of 1973 as amended (41 CFR part 60-741.4) is incorporated herein by reference as are the regulations promulgated pursuant to the Vietnam Veterans Readjustment Act of 1972.

2. Tariff Enforcement

Perdue shall have all remedies available to it at law, in equity and/or under maritime law to enforce this Tariff.

All users and/or vessels berthing at the Perdue elevator and/or elevator facilities agree to pay all reasonable attorneys' fees and costs in the event Perdue incurs such attorneys' fees and costs in connection with the enforcement of any provisions of this tariff, the collection of any charges, or in defending against any and all disputes, claims, or causes of action brought by the user and/or vessel against Perdue.

The law of the Commonwealth of Virginia, and the general maritime law, as applicable, shall apply to this tariff. Disputes regarding this tariff shall be brought to the United States District Court for the Eastern District of Virginia for resolution.