

BAF WHARF FACILITY RULES & RATES

ISSUED BY:

**BRISTOL BAY NATIVE CORPORATION
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RULES AND RATES

1. STATEMENT OF INTENT

It is BBNC's intent that the BAF Wharf Facility be used for the shipment of materials, equipment and other freight into and out of Dillingham. The BAF Wharf Manager may allow limited additional uses of the BAF Wharf Facility, e.g., temporary cargo or equipment storage, large Vessel haul-out and storage, maintenance and repair work, etc.

ALL DECISIONS REGARDING ANY USES ARE THE SOLE DISCRETION OF THE BAF WHARF MANAGER.

THE BAF WHARF MANAGER MAY REFUSE USE OF THE BAF WHARF FACILITY TO ANY USER.

2. ACCEPTANCE OF ALL RULES AND RATES

USE OF THE BAF WHARF FACILITY CONSTITUTES AN ACCEPTANCE OF THESE RULES AND RATES AND ALL TERMS AND CONDITIONS NAMED HEREIN.

ALL USERS MUST COMPLETE A BAF WHARF FACILITY USE AGREEMENT BEFORE ANY USE OF THE BAF WHARF FACILITY.

3. APPLICATION OF RATES – GENERAL

In the absence of differing terms agreed to by the BAF Wharf Manager, these Rules and Rates shall apply to all material, equipment or other freight (Cargo) received at or shipped through, as well as any Vessels that uses, the BAF Wharf Facility. These Rules and Rates, as applicable, will also apply to any other uses of the BAF Wharf Facility permitted by the BAF Wharf Manager.

THE BAF WHARF MANAGER RETAINS THE AUTHORITY TO ALTER THESE RULES AND RATES ON A CASE-BY-CASE BASIS.

4. BAF WHARF FACILITY

The BAF Wharf Facility consists of the western and southern extent of the beach and uplands to the west of the BAF Tank Farm that are located within US Amended Survey 65, Alaska Tideland Survey 95, and parts of US Surveys 167 and 2877. This area is physical demarcated with fencing and other physical barriers.

THE BAF WHARF FACILITY DOES NOT INCLUDE THE BAF TANK FARM OR THE ANY PORTION OF THE DOCK THAT IS ADJACENT TO THE TANK FARM.

5. BAF WHARF MANAGER

Operations of the BAF Wharf Facility are the responsibility of the BAF Wharf Manager, a position designated by the BBNC Land Department. The current BAF Wharf Manager is the BBNC

Natural Resources Manager or his/her designated alternate. **Contact information for the BAF Wharf Manager and the BBNC Land Department is on the cover sheet of these Rules and Rates.**

6. DEFINITIONS

Cargo – Any material, equipment or freight of any kind that is being received at or shipped through the BAF Wharf Facility. Movement of Cargo through the BAF Wharf Facility is subject to the Cargo Fee listed in the Rates section below. Other fees or costs may also apply as specified herein.

Cargo Fee – the charge assessed against any Cargo placed in transit through or across the BAF Wharf Facility.

Consignee – The person(s), company(ies), named on the bill-of-lading, cargo bill, or delivery receipt that the Cargo is consigned to be delivered to.

Delinquent List – A list of users of the BAF Wharf Facility who have failed to pay charges within the credit period allowed or who have not furnished proper Cargo manifests. The BAF Wharf Manager may refuse entry to the BAF Wharf Facility to any person or Vessel on the Delinquent List.

Demurrage Fee – the additional charge assessed against Cargo that remains on the BAF Wharf Facility after the expiration of Free Time.

Facility Storage – storage for which arrangements have been made in advance of Vessel or Cargo arrival at the BAF Wharf Facility. The BAF Wharf Manager has sole discretion to determine the storage location for of any Cargo on the BAF Wharf.

Free Time – The period of time during which Cargo may occupy the BAF Wharf Facility before wharf demurrage fees will apply or such Cargo will be subject to removal at the sole expense of the owner of the goods. The BAF Wharf Manager may extend the Free Time periods.

<u>Cargo</u>	<u>Free Time</u>
Materials, Equipment and other Freight	5 days
Vessels	3 day
All Other Cargo NOS	2 day
Hazardous Materials	None
Overstow	TBD

Handling –Cargo movement from end of ship's tackle or terminal's tackle to the first place of rest.

Holidays - Holidays are counted as regular calendar days for calculating any time-period specified in these Rules and Rates.

Moorage Fee – the fee charged any User for the privilege of mooring or landing a Vessel at the BAF Wharf Facility.

Overstow – Cargo that is off-loaded and temporarily placed on the BAF Wharf Facility (in a location designated by the BAF Wharf Manager) from a Vessel that is transporting Cargo shipped through the BAF Wharf Facility. The duration of Free Time that Overstow may occupy the BAF Wharf Facility without accruing Demurrage Fees or other charges is solely determined by the BAF Wharf Manager.

Points of Rest – Area on the BAF Wharf Facility which is (1) assigned for the receipt of inbound Cargo from a Vessel or (2) assigned for the receipt of outbound Cargo from shippers for Vessel loading. The BAF Wharf Manager shall designate all Points of Rest.

User – any shipper, consignee, vessel owner, vessel master, vessel operator or any other person or entity seeking to use the BAF Wharf Facility in any manner.

Vessel(s) – means a boat, motorboat, ship, waterborne aircraft, houseboat, float, scow, raft, pile driver, or other floating structure or object used for recreational, commercial or other purpose upon the waterway or moored at any place on the waterway.

Vessel Storage Fee - the fee charged any User for the privilege of storing a Vessel at the BAF Wharf Facility.

7. USER RESPONSIBILITIES AND RULES

- A. Users that bring any Cargo to or receive any Cargo from the BAF Wharf Facility, as well as any Vessels that land are subject to charges listed in the Fees Section of these Rules and Rates.
- B. Users desiring to ship materials through or moor a Vessel at the BAF Wharf Facility shall contact the BAF Wharf Manager by email or phone, and execute a BAF Wharf Facility Use Agreement before bringing Cargo to or mooring a Vessel at the Facility. The BAF Wharf Manager must approve the BAF Wharf Facility Use Agreement before any Vessel can moor or Cargo can be brought to or off-loaded at the BAF Wharf Facility.
- C. Prior to any mooring, Users or their agents must verbally schedule with the BAF Wharf Manager the ETA of the Vessel and specific nature and quantity of the Cargo to be handled, and the start time for crew to begin the discharge and/or loading operations. After approval of the scheduling, the Wharf Manager will provide necessary landing instructions and designate appropriate Points of Rest.
- D. **USERS WANTING TO CONDUCT VESSEL REPAIRS OR MAINTENANCE AT THE BAF WHARF FACILITY MUST OBTAIN THE PRE-APPROVAL OF THE BAF WHARF MANAGER.** Vessels unable to move (at all times) will not be permitted to land at any time.
- E. Should more than one carrier or Vessel seek to occupy the BAF Wharf Facility at the same time, the BAF Wharf Manager will determine a priority for those competing uses based upon the nature of the Cargo to on-load or off-load, or the type of work needed to be done on the Vessels, and the relative urgency of the competing needs. **THE BAF WHARF MANAGER SHALL HAVE SOLE DISCRETION IN MAKING ALL DECISIONS REGARDING THIS PRIORITY OR ORDER OF USE.**

- F. Vessels shall vacate a landing or mooring upon demand of the BAF Wharf Manager. Vessels refusing to vacate the beach or moorage on the demand of the BAF Wharf Manager shall be subject to removal. Any expenses, including damage to any Vessel or to wharf structures during such removal, shall be charged to the Vessel moved. Any Vessel refusing to vacate the BAF Wharf Facility upon the request of the BAF Wharf Manager shall be deemed in trespass.
- G. All Vessels using BAF Wharf Facility are required to keep a crew on-hand that is of sufficient size to move the Vessel at the request of the BAF Wharf Manager.
- H. All Vessels who have lines tied or attached to any part of the BAF Wharf Facility will conduct regular checks and make adjustments according to the tides. The BAF Wharf Facility will in no way assume responsibility or be liable for damages caused by improper line attachments or improper and/or unauthorized docking.
- I. The BAF Wharf Manager reserves the right to close the Facility, refuse service and/or cease operations at any time.

8. MANIFESTS

Users must provide the BAF Wharf Manager with a complete manifest that lists all Cargo to be discharged or loaded at the BAF Wharf Facility.

- A. Any inbound Cargo manifest must be furnished to the BAF Wharf Manager forty-eight hours prior to Vessel's arrival.
- B. Any outbound Cargo manifest must be furnished to the BAF Wharf Manager twenty-four hours prior to Vessel's arrival.

Failure to comply with the above manifest requirement will result in a 10% fee added to the invoiced charges. Failure to comply may also result in the future loss of Wharf Facility use privileges.

9. FEES

The fees listed below apply to all uses of the BAF Wharf Facility unless other fees are approved by the BAF Wharf Manager.

A. Cargo Fee

- i. Gravel, bulk material of any kind \$1.10/ton
- ii. Other Freight \$0.50/100lbs
(vehicles, heavy equipment, trailers, connex containers, etc.)
- iii. Empty Connex Containers \$0.10/100lbs

If a User cannot or fails to provide the weight or a reasonable estimated weight for any Cargo, the BAF Wharf Facility will bill the Cargo at an estimated weight, as determined by the BAF Wharf Manager. The BAF Wharf Manager will not consider any adjustments for

billing of estimated weights unless the owner or carrier provides satisfactory proof of the Cargo's true weight.

B. Demurrage Fee

Cargo that remains at the BAF Wharf Facility beyond the Free Time will be subject to a Demurrage Fee of 25% of the applicable Cargo Fees. This Demurrage Fee will be assessed for every period of additional Free Time the Cargo remains at the BAF Wharf Facility.

C. Moorage Fee

A Vessel Moorage Fee shall be assessed on the gross registered tonnage of the Vessel as specified in the table below. All rates are per day and will not be prorated.

Minimum Tonnage	Maximum Tonnage	Daily Rate
0	40	\$24 Flat Rate
41	100	\$24 + \$0.40/ton for every ton over 40
101	1,000	\$48 + \$0.30/ton for every ton over 100
1,001	5,000	\$318 + \$0.20/ton for every ton over 1,000
5,001	No Limit	\$1,118 + \$0.10/ton for every ton over 5000

D. Vessel Storage Fee

All Vessel Storage Fees will be negotiated on a case-by-case basis. The BAF Wharf Manager has the sole authority to negotiate Vessel Storage Fees.

ALL FEES ARE SUBJECT TO CITY OF DILLINGHAM SALES TAX. ALL INVOICES WILL INCLUDE A SALES TAX ASSESSMENT.

10. DELAYS:

Only delays in the loading, unloading, receiving or delivering of Cargo that are entirely unforeseeable or an Act of God may excuse Users from full responsibility for the fees listed above. The BAF Wharf Manager is the only individual authorized to consider any reduction in fees because of any such delays.

11. INSURANCE:

The rates specified above do **NOT** include insurance of any kind.

All risks of loss and damage to any Cargo or Vessels while on or at the BAF Wharf Facility are assumed by the Users who may protect themselves against such loss by covering their shipments with insurance.

Users must have in place and maintain the below enumerated insurance coverages:

- A. Commercial General Liability that provides coverage for bodily injury, property damage and personal and advertising injury with limits of \$1,000,000 per occurrence and \$2,000,000 in the annual aggregate. Such insurance shall cover any maritime liability related to Vessels arising while approaching or departing from the BAF Wharf Facility, while moored at the BAF Wharf Facility, during loading and unloading of any Cargo, fuel or stores, or during haul out, relaunch or storage at the BAF Wharf Facility.
- B. Workers Compensation and Employers Liability that provides statutory limits for Workers Compensation and \$1,000,000 for Employers Liability. Such insurance shall include USL&H coverage and / or Jones Act coverage as appropriate.
- C. Business Automobile Liability that provides coverage for any auto used in the performance of this agreement with limits of \$1,000,000 combined single limit each accident.

All Vessel owners or operators must also have in place and maintain, in addition to the policies listed above, the following insurance coverages:

- D. Hull and Machinery Insurance for the Vessels in an amount equal to their full actual value, as per Hull and Machinery per Pacific Coast Tug/Barge Form (1979) as amended.
- E. Pollution Liability that provides coverage for any environmental impairment resulting from the Vessels or any material or equipment that are moored at, utilize or stored on the Property with limits of \$1,000,000 each occurrence and \$1,000,000 in the annual aggregate.

12. NO WARRANTIES AND LIMITATION OF LIABILITIES

Users are responsible for investigating the physical condition of the BAF Wharf Facility before use. Bristol Bay Native Corporation, Bristol Alliance Fuels, LLC (BAF) and Bristol Bay Industrial, LLC (BBI) make no promises about the condition of the BAF Wharf Facility or the suitability of any portion of the BAF Wharf Facility for any particular purpose.

BBNC, BAF AND BBI ASSUME NO RESPONSIBILITY FOR ANY VESSEL THAT MOORS ITSELF TO OR IS OTHERWISE ON ANY PORTION OF THE BAF WHARF FACILITY.

13. INDEMNITY

Users shall defend, indemnify and hold harmless Bristol Bay Native Corporation, Bristol Alliance Fuels, LLC, and Bristol Bay Industrial, LLC and all of their respective officers, directors, employees, and agents (“BAF Released Parties”) from any losses, damages, penalties, fines, costs and attorney fees awards that result from any claims in tort or negligence or pursuant to statute, regulation, or ordinance for injury or death of persons, wage or employment claims, damage to the environment, and damage to or loss of property that directly or indirectly arise out of, are connected with, or result from any act or omission committed by or on the behalf of the User or their respective employees, agents, and invitees regarding the exercise of rights belonging to or the performance of obligations owed by the User or its agents, or their use or occupancy of the BAF Wharf Facility as specified in these Rules and Rates; provided, that such User shall not be liable to defend, indemnify or hold harmless any BAF Released Parties from any losses, damages, penalties, fines or costs that arise out of or result from the sole gross negligence or willful misconduct of any BAF Released Parties.

14. PAYMENT

- A. Users of the BAF Wharf Facility are jointly and separately responsible for the payments of charges assessed in accordance with these Rules and Rates. These Rule and Rates, apply without regard to the provisions of any bills of lading, charter party agreement, contracts or any other conflicting provisions.
- B. The BAF Wharf Manager will invoice Users as the uses occur. Except as otherwise specified in these Rules and Rates, all charges are due within 30 days of the date of invoice. Any charges outstanding longer than 30 days shall accrue interest at the rate of 6% per annum on the unpaid balance calculated from the original invoice date.
- C. Notwithstanding the foregoing, the BAF Wharf Facility Manager may request payment of charges in advance as follows:
 - i. For all charges to a Vessel from its owner, master or agents before a Vessel commences its loading or discharging of Cargo.
 - ii. For all charges related to Cargo, from Users, before the cargo leaves the BAF Wharf Facility.
- D. Failure to pay invoice when presented may place the name of the User on the Delinquent List if the past due account remains unpaid for more than thirty days.
- E. Those persons or entities on the Delinquent List may not moor at or unload Cargo to the BAF Wharf Facility until all past due charges are paid. Further, those persons or entities on the Delinquent List who satisfy past due charges may be required to pay a 25% deposit of estimated charges for subsequent uses of the BAF Wharf Facility.

15. RIGHT TO REFUSE, REMOVE, TRANSFER OR SELL CARGO

- A. **Right to Refuse Cargo:** The BAF Wharf Manager reserves the right to prohibit (1) any Vessel from mooring at or otherwise using the BAF Wharf Facility or (2) any Cargo from passing through the BAF Wharf Facility. This right of refusal extends but is not limited to:
- i. Cargo for which previous arrangements for space, receiving, unloading or Handling have not been made by the User.
 - ii. Cargo that lacks proper shipping paperwork.
 - iii. Cargo deemed extra offensive, perishable or hazardous.
 - iv. Cargo that is not packaged or contained so that it can be exposed to weather or the ordinary handling incident to its transportation.
- B. **Right to Remove, Transfer, or Warehouse Cargo:** The BAF Wharf Manager reserves the right to remove, transfer or warehouse Cargo that is at the BAF Wharf Facility. This right of removal, movement or disposal extends but is not limited to:
- i. Hazardous or offensive Cargo, which, by its nature, is liable to damage other freight, may be immediately removed to other locations or receptacles with all expense and risk for loss or damage for the account of the User.
 - ii. Cargo which, in the judgment of the BAF Wharf Manager, may hamper normal operations of the Facility.
 - iii. Cargo remaining after the expiration of Free Time.
- All expenses and risk of loss or damage for the removal, transfer or warehouse of Cargo shall remain with the User.
- C. **Right to withhold delivery of freight:** The BAF Wharf Manager reserves the right to withhold delivery of Cargo until all accrued charges have been paid in full. The BAF Wharf Manager may warehouse such Cargo with all costs of removal and subsequent handling and storage for the account of the User.

16. MISCELLANEOUS PROVISIONS

- A. **Explosives:** The acceptance, handling or storage of explosives or excessively flammable material shall be subject to special arrangement with the BAF Wharf Manager and will be governed by all applicable federal, state and local laws and regulations
- B. **Smoking, Drug Use and Alcohol Prohibited.** Smoking, drug use (of any kind, including marijuana) and alcohol are not permitted anywhere on the BAF Wharf Facility (except in approved areas specifically designated for smoking). Persons violating this rule may be asked to leave the property.