

FT NYA 8000-A
(Cancels FT NYA 8000)

**NEW YORK & ATLANTIC RAILWAY
COMPANY**

NYA TARIFF 8000-A
(Cancels NYA Tariff 8000)

**RULES AND CHARGES
GOVERNING SWITCHING
ALSO
MISCELLANEOUS RULES AND CHARGES
APPLYING AT STATIONS
ON THE
NEW YORK & ATLANTIC RAILWAY COMPANY**

This tariff is also applicable on interstate traffic, except where expressly provided to the contrary in connection with particular items.

ISSUED: February 3, 2004

EFFECTIVE: March 1, 2004

ISSUED BY

New York & Atlantic Railway Company, Inc.
68-01 Otto Road
Glendale, NY 11385

(The provisions published herein, if effective, will not result in an effect on the quality of the human environment.)

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<p align="center">RULES AND OTHER GOVERNING PROVISIONS GENERAL RULES & REGULATIONS</p>	<p align="center">SECTION 1 MISCELLANEOUS RULES AND CHARGES</p>
<p>ITEM 5</p> <p align="center">DESCRIPTION OF GOVERNING CLASSIFICATIONS</p> <p>Except as otherwise provided, this tariff is governed by the Rules in Tariff UFC-6000-series, Uniform Freight Classification, National Railroad Freight Committee, Agent.</p>	<p>ITEM 122 (Cont.)</p> <p>c. On shipments imported to, or for export from, the United States of America, rail carriers will not be liable for charges such as brokerage fees, fines, penalties, foreign marine or foreign country freight charges, import duties or other such charges on cargo that is lost, damaged or delayed in domestic rail transportation.</p> <p>d. Any loss or damage(s) that arise out of shipments that are delayed in transit are limited to the specific amount of cargo loss or damage occurring to product.</p> <p>e. Carriers will not be liable for loss, damage, or delay caused by an Act of God, public enemy, public offense, the authority of law, riots, strikes, acts of civil disobedience, inherent quality of characteristic of the commodity, natural shrinkage, an act of default of the shipper, owner or receiver or from shipments stopped and held in transit at the request of the shipper, beneficial owner or receiver.</p> <p>f. Carrier's liability will not exceed the actual amount of physical loss or damage sustained to the cargo plus any costs incurred through the efforts to mitigate such loss and/or damage. Carrier will not be responsible for special damages, consequential damages, indirect loss or punitive damages arising from the loss, damage, suspected contamination, or delay to cargo, nor will carriers be liable for any losses attributable to fluctuation in the market value of the cargo. Furthermore, rail carriers will not be liable for any losses, direct or indirect, which result from an interruption of rail service, nor do rail carriers guarantee rail service on any scheduled time frame. Rail carriers will not be responsible for interest or attorney fees. Rail carrier's maximum liability for freight loss or damage will not exceed the liability of the billing party or the party tendering the cargo to the rail carrier.</p> <p>g. Unless amended by written agreement prior to shipment, rail carrier's liability for the contents of any rail vehicle will be limited to the destination value of the cargo or \$250,000, whichever is the lesser of the two amounts.</p> <p>h. Claims or lawsuits for less than \$250 shall not be filed and no claim shall be paid if the amount of the loss or damage is found to be under \$250 per shipment.</p>
<p>ITEM 10</p> <p align="center">SUPPLEMENTS AND REISSUES</p> <p>When reference is made in this tariff, or supplements, to other publications for rates or other information, it includes "Supplements thereto or successive issues thereof."</p> <p>Where reference is made in this tariff to items, it includes "reissues" of such items.</p>	
<p>ITEM 20</p> <p align="center">METHOD OF CANCELLING ITEMS</p> <p>As this tariff is supplemented, numbered items with letter suffixes cancel corresponding numbered items in the original tariff, or in a prior supplement. Letter suffixes will be used in alphabetical sequence starting with A.</p>	
<p align="center">SECTION 1 MISCELLANEOUS RULES AND CHARGES</p>	
<p>ITEM 122 [A]</p> <p align="center">CARGO LOSS AND DAMAGE PROVISIONS</p> <p>1. GENERAL APPLICATIONS</p> <p>a. Provisions of this item take precedence over all other liability provisions contained in this publication, except where expressly modified.</p> <p>b. The shipper agrees to indemnify and hold harmless the rail carriers from any loss, damage, personal injury or death resulting from the shipper's failure to comply with the provisions contained herein. Acceptance of a shipment by the rail carriers for transportation shall not be considered as a waiver of shipper's liability.</p> <p align="center">(Continued – next column)</p>	<p align="center">(Continued – next column)</p>

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<p>ITEM 122 (Cont.)</p> <ul style="list-style-type: none"> i. In the event of an act or omission of any party involved in the transportation process; (shipper, carrier, receiver) is not the sole cause but contributes to any loss or damage, each party will be liable for only that portion of the loss or damage caused by its negligence. j. Rail carriers are not liable for temperature, corrosion or humidity related losses unless mechanical protective service is requested, paid for and carrier owned or leased equipment is used. k. Rail carriers are not liable for loss or damage caused by defective equipment when such equipment is not owned, or leased by rail carriers. l. When the rail carrier(s) provide railcars, consignor/shipper has the responsibility for inspecting the equipment, and rejecting any which is not in suitable condition to protect and preserve the lading during transportation. The carrier shall not be liable for loss or damage to lading caused by defects in boxcars that could have been discovered by reasonable inspection by shipper prior to loading. m. In the absence of any other evidence, a seal breach will not create a presumption of loss or contamination. <p>2. LOSS/DAMAGE VERIFICATION & DISPOSITION PROVISIONS</p> <ul style="list-style-type: none"> a. Rail carriers have the right to inspect, weigh or reject shipments at origin, en route or at destination for non-compliance with the provisions contained in applicable publications. b. Carriers reserve the right to inspect damaged cargo. If rail carrier has notified shipper or consignee that rail carrier is invoking this right, as a condition precedent to recovery of any claims, the consignee must immediately notify the rail carrier upon discovery of any damage and allow carrier or its agent to inspect. c. Failure of the rail carrier to inspect damaged cargo, for whatever reasons, will not relieve the burden of the claiming party to establish that cargo was received in a damaged condition, nor will it be considered an admission of liability by the rail carrier. d. Shippers and/or consignee must mitigate damage situations by accepting the damaged cargo unless it is without salvage value. Shippers and/or consignees may not abandon damaged or partially damaged shipments to the rail carrier when the damaged shipments retain value. <p align="center">(Continued – next column)</p>	<p>ITEM 122 (Cont.)</p> <ul style="list-style-type: none"> i. Product that is abandoned to the rail carrier in an undamaged condition shall be sold for account of whom concerned and salvage proceeds only, less any salvaging expenses incurred, shall be remitted to the beneficial owner. <p>3. CLAIMS</p> <ul style="list-style-type: none"> a. As a condition of precedent for payment of a claim, claims must be filed in writing on approved form and submitted within twelve months of delivery date. Claims may only be submitted by the beneficial owner or a party to the transportation terms or agreements. b. All written claims must include the following documentation: <ul style="list-style-type: none"> 1. A demand for payment of a specific amount. 2. Information identifying the rail shipment including equipment initials and number, shipper and receiver’s names, shipping date and commodity. 3. Origin records or certification as to the condition and quantity of the cargo at the time tendered to the rail carrier. If shortage is involved, origin seal records must be furnished. 4. Verification of the amount claimed such as certified invoices. 5. Evidence as to the disposition of damaged cargo. c. Carrier reserve the right to summarily deny any and all claims submitted that do not contain all or part of the aforementioned documentation. d. All loss and damage cargo claims filed against the carrier(s) must be filed with: <p align="center">New York & Atlantic Railway Co. 68-01 Otto Road Glendale, NY 11385 Fax: (718) 497-3364</p> <p>ITEM 125 [A] RETURN OF REFUSED/REJECTED SHIPMENTS</p> <p>When a given shipment is refused or rejected at destination for reason other than carrier error and is not unloaded, it may be returned to the original shipping point via reverse route of original movement, and will be subject to applicable rate from original origin to original billed destination in effect at time shipment is returned.</p>

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<p>ITEM 126 [I] CARS INTERCHANGED IN ERROR</p> <p>A charge of \$175.00 per car will be assessed against the delivering carrier on any car interchanged to the NYA in error.</p>	<p>ITEM 130 (Cont.)</p> <p>The carrier will refund the balance of the deposit to the customer within 30 days after the equipment is released to the carrier, and after deducting all unpaid charges on that equipment. Such deposit shall not be transferable to another freight car.</p>
<p>ITEM 127 [I] CARS ORDERED AND NOT USED</p> <p>If an empty car is ordered and placed for loading and car is subsequently released back to carrier without being used in transportation service, a charge of \$175.00 will be assessed and will be in addition to other charges. Provisions of this item are not applicable on cars refused or rejected account defective or unfit for loading.</p>	<p>Security deposits will no longer be required after the customer has paid all outstanding demurrage, storage, and other accessorial charges, and has given assurance to the satisfaction of the carrier's credit office that future demurrage, storage and other accessorial charges will be paid within the credit period prescribed.</p>
<p>ITEM 128 [I] IMPROPER CARS FURNISHED FOR LOADING BY CONNECTING LINES</p> <p>When cars ordered for loading are refused on account for not being in proper condition to load, a charge of \$175.00 per car will be assessed against the railroad furnishing the car.</p>	<p>SECTION 2 SWITCHING / RESTRICTIONS</p>
<p>ITEM 129 REBILLED CARS</p> <p>Any car of which rebilling is requested will have a charge of \$300 per car assessed against requesting party.</p>	<p>ITEM 200 INTRA-PLANT SWITCHING</p> <p>A switching movement from one track to another within the same plant or industry, or from one location to another location on the same track within the same plant or industry, shall be performed by NYA at a charge of \$175.00 per car.</p>
<p>ITEM 130 SECURITY DEPOSITS</p> <p>A security deposit to insure payment of any demurrage, storage or other accessorial charges that may accrue will be required from any consignor, consignee, beneficial owner, or other responsible party, hereinafter referred to as customer, who:</p> <ol style="list-style-type: none"> 1. Is not on the carrier's authorized credit list, and 2. Fails to pay demurrage, storage, switching or other accessorial charges after specific written demand referring to this tariff provision. <p>The deposit must be paid in cash, cashier's check or money order before any car is delivered to such customer for loading or unloading. The deposit for each freight car will be the average amount of demurrage, storage or other accessorial charges that accrued on any one freight car during the preceding 12 months, but not less than \$150.00 per car.</p> <p align="center">(Continued – next column)</p>	<p>ITEM 210 [I] INTRA-TERMINAL SWITCHING</p> <p>A switching movement (other than intra-plant switching) from one track to another track on the same railroad, or between the track(s) of an industry and the track of the railroad, or between the tracks of two separate industries served by the same railroad, all of which are within the limits of one station, shall be performed by NYA at the charge of \$375.00 per car.</p>
	<p>ITEM 255 [I] GENERAL DIMENSION AND WEIGHT LIMITATIONS</p> <p>New York & Atlantic Railway's Clearance Department must be contacted with a written request to obtain advance authorization for shipments which would not conform to the dimension and weight limitations listed below:</p> <ol style="list-style-type: none"> a. Gross weight of shipment must not exceed 263,000 lbs. b. Lading must not exceed maximum height of 15 feet, 6 inches above top of rail. c. Lading must not exceed maximum width of 10 feet, 8 inches.

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EXPLANATION OF ABBREVIATIONS AND REFERENCE MARKS	
<p>[A] – Addition [I] – Increase [R] – Reduction/Decrease [C] – Change in wording which results in neither an increase or decrease in charges [NC] – Brought forward without change.</p>	