

# NEW YORK & ATLANTIC RAILWAY COMPANY

---

## FREIGHT TARIFF NYA 8100

(For cancellations, see page 2, this tariff)

NAMING  
RULES AND CHARGES  
GOVERNING  
DEMURRAGE AND STORAGE  
AT STATIONS ON THE  
NEW YORK & ATLANTIC RAILWAY COMPANY

## DEMURRAGE & STORAGE PROVISIONS

ISSUED: September 9, 2006

EFFECTIVE: October 1, 2006

### ISSUED BY

New York & Atlantic Railway Company  
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.)

**FT NYA 8100**

***Cancellation Notice***

FT NYA 8100 cancels demurrage and storage rules and charges for account of NYA published in FT ASLG 6004-series. Rules and charges published in FT ASLG 6004-series for account of the NYA not brought forward into FT NYA 8100 are hereby canceled.

***Table of Contents***

**Railroad Demurrage, Private Car Storage and Hazardous Materials**

<b>Table of Contents</b> .....	2
<b>Method of Canceling Items</b> .....	2
<b>Section I: Extended Time</b> .....	3
Cars Held for Loading.....	3
Cars Held for Complete Unloading.....	3
<b>Section II: Demurrage - railroad cars</b> .....	4
Loading – Item 8000.....	4
Unloading – Item 8050.....	4
Cars Held – Item 8100.....	4
Computation of Demurrage Charges – Item 8150.....	4
<b>Section III: Storage - private cars</b> .....	5
Private Loaded Cars Not Containing Hazardous Materials – Item 8200.....	5
Private Empty Cars Not Containing Hazardous Materials – Item 8250.....	5
Private Empty Cars Released – No Revenue Movement – Item 8300.....	5
Computation of Storage Charges – Item 8350.....	5
Railroad Cars Designated As Private Cars – Item 8400.....	6
Customer-Assigned Pools (Railroad Cars) – Item 8450.....	6
<b>Section IV: Hazardous Materials</b> .....	7
Loading, Unloading and Storage – Item 8500.....	7
Overloaded or Improperly Loaded Cars – Item 8550.....	7
Railroad Cars Containing Hazardous Materials or Hazardous Material Residue – Item 8600.....	7
Private Cars Containing Hazardous Materials or Hazardous Material Residue – Item 8700.....	7
Securing Leaking Cars – Item 8800.....	8
<b>Section V: Miscellaneous Demurrage and Storage Items</b> .....	9
Notification by Customer to Railroad – Item 8900.....	9
Notification by Railroad to Customer – Item 8910.....	9
Billing – Item 8930.....	9
Payment – Item 8940.....	9
Extension of Credit – Item 8950.....	10
Claims – Item 8960.....	10
Holidays – Item 8970.....	11
<b>Notes and Definitions</b> .....	12, 13
<b>Explanation of Abbreviations and Reference Marks</b> .....	14

***Method of Canceling Items***

As this tariff is supplemented, numbered items with lettered suffixes cancel correspondingly numbered items in the original tariff or in a prior supplement. Letter suffixes will be used in alphabetical sequences starting with A. Example: Item 100-A cancels Item 100 and Item 200-B cancels Item 200-A in a prior supplement which in turn cancelled Item 200.

For explanation of abbreviations and reference marks, see last page of tariff.

## ***Section I: Extended time***

### ***Using a car...***

When we move a shipment for you, our line haul rates include the movement of your shipment from origin to destination, as well as a limited time for you to load or unload the railcar.

From time to time, you may need to use a railcar for a longer period of time. In that case, we provide you with the use of that equipment, for a fee.

If you cannot accept a railroad-owned railcar when we are ready to deliver it to you, or if you keep a railroad-owned car on your private siding for an extended period, we charge a fee which is called demurrage. Your cost ends when you release the car and make it available for us to pull it from your siding. For more on demurrage, see Section II.

If you cannot accept a privately-owned railcar when we are ready to deliver it to you, we charge a fee which is called storage. Your cost ends when we spot the railcar on your private siding. There is no storage charge to you when you keep a privately owned railcar on your private siding for an extended period. For more on storage, see Section III.

There are additional charges for handling hazardous materials, in addition to applicable demurrage or storage charges, see Section IV.

We encourage the efficient use of our cars and track. It helps us to efficiently plan the placement of cars - so you get the car you want when you want it - and your shipments arrive at their destination without unnecessary delay.

Efficient asset utilization helps us supply the right car, at the right place, at the right time. That benefits you, and every one of our customers.

Applicable demurrage or storage fees will begin and end at 0001 hrs each day and fees will be assessed based on a 24 hour period or fraction thereof.

### ***Cars Held for Loading***

When we notify you that a car (other than customer assigned pool cars, see below) is available for loading, time begins, but not before your order date. If an order date is to be cancelled, it must be cancelled before the order date.

For customer assigned pool cars, time begins when we notify you that a car is available for loading (see Item 8910), including the actual placement of the car at your rail siding. However, you do receive additional credits for railcars in a pool, see Item 8450.

When you provide forwarding instructions on a loaded car, time will end. Loaded cars must be in the same location as where we placed the empty car. Any car improperly loaded or overloaded will not be considered released until the car is properly loaded.

For customer assigned cars, if the loaded car is released to another rail carrier serving your facility, time ends when you notify us that the car has been interchanged to the other rail carrier.

If a customer assigned car is released from assignment, time will end at the next 0001 (12:01 a.m.).

### ***Cars Held for Complete Unloading***

When we notify you that a loaded car is available for unloading, time will begin.

When you provide us with notification that the rail car is empty, time will end. Empty cars must be in the same location as where we placed the loaded car. Any car improperly unloaded will not be considered released until the car is properly unloaded.

When a loaded railcar is unloaded by you and then reloaded, you must provide empty release information at the time the car is unloaded. If you don't, demurrage will continue on the initial loaded car until the forwarding instructions for the reloaded railcar are received.

For explanation of abbreviations and reference marks, see last page of tariff.

**Section II: Demurrage - railroad cars**

We give you credit days for loading and unloading cars, which you can use to offset debit days accumulated during a service period. We also provide you with credit days for some holidays. Debit days are assessed beginning at the time of constructive or actual placement and extend until you have notified us the car is released and in a condition where we may pull the car from your rail siding. Credits are awarded as follows:

LOADING	ITEM 8000
Loading.....1 credit day allowed	\$50 per car, day 1 \$50 per car, day 2 \$75 per car, per day, after day 2
UNLOADING	ITEM 8050
Unloading.....2 credit days allowed	\$50 per car, day 1 \$50 per car, day 2 \$75 per car, per day, after day 2
CARS HELD	ITEM 8100
Cars that must be held (for example, en route).....0 credit days allowed	\$75 per car, per day

COMPUTATION OF DEMURRAGE CHARGES	ITEM 8150
<p>Computation of demurrage charges will begin at the first 0001 (12:01 a.m.) after the time of constructive or actual placement and ends on the day the rail car is released by you. Empty cars placed prior to order date will receive credits to offset early placement.</p> <p>When a loaded car is unloaded by you and reloaded, time for the original loaded car will end when you notify us that the car has been unloaded. At that same time, computation of charges for the empty car will begin at the next 0001 (12:01 a.m.). If you fail to notify us that the car has been emptied, time will extend until we receive forwarding instructions for the reloaded car.</p> <p>Credit days will be allowed for loading and unloading, based on items in this tariff. One additional credit day will be allowed on a car when it has a demurrage day occurring on a Sunday or a holiday listed in Item 8970.</p> <p>Fees are assessed when net debit days exceed credit days for the service period.</p> <p><b>For cars containing hazardous materials or hazardous material residue, see Section IV, Items 8500 through 8800, for additional charges and requirements.</b></p>	

For explanation of abbreviations and reference marks, see last page of tariff.

**Section III: Storage – private cars**

We give you credit days for loading and unloading cars, which you can use to offset debit days during a service period. We also provide you with credit days for some holidays. Storage fees for extended use are assessed beginning at the time of constructive placement, and extend until the car is placed on your private track. Credit days are awarded as follows:

PRIVATE LOADED CARS NOT CONTAINING HAZARDOUS MATERIALS	ITEM 8200
Private loaded cars held on our track.....2 credit days allowed	\$50 per car, per day

PRIVATE EMPTY CARS NOT CONTAINING HAZARDOUS MATERIALS	ITEM 8250
Private empty cars held on our track.....2 credit days allowed	\$30 per car, per day
Liability: We accept no liability and the user of the storage agreement releases our railroad from such liability, with respect to any damage, loss or injury to the empty car(s) or its/their contents, while in stored status, except to the extent caused by the negligence or intentional acts of our company.	The party responsible for charges on this car is the party responsible for the car while empty on our track, which may be the shipper, consignee, owner or lessee.

PRIVATE EMPTY CARS RELEASED – NO REVENUE MOVEMENT	ITEM 8300
When a private empty car is released from storage and we do not participate in the subsequent revenue movement, a switch fee is also applicable.	\$200 per car

COMPUTATION OF STORAGE CHARGES	ITEM 8350
Computation of storage charges will begin at the first 0001 (12:01 a.m.) after the time that constructive placement begins, and ends at the time the rail car is placed on your private track.	
Credit days will be allowed for loading and unloading based on items in this tariff. One additional credit day will be allowed on a car when it has a demurrage day occurring on a Sunday or a holiday listed in Item 8970.	
<b>For cars containing hazardous materials or hazardous material residue, see Section IV, Items 8500 through 8800, for additional charges and requirements.</b>	

For explanation of abbreviations and reference marks, see last page of tariff.

**FT NYA 8100**

**RAILROAD CARS DESIGNATED AS PRIVATE CARS**

**ITEM 8400**

For shippers who lease railcars from other railroads for shipments that originate or terminate on our railroad, you may be able to avoid assessment of demurrage charges when these railcars are located on a private siding or leased tracks, providing that you have applied for and received approval for certain designated leased cars to be designated as private cars for the purpose of demurrage. This must be approved by us prior to the use of these cars on this railroad.

In order to designate a leased railroad car as a private car for demurrage purposes, a shipper must submit a written application at least thirty (30) days prior to the date that the shipper desires the car designation to take effect. The written application must include the name of the shipper, the name of the lessor railroad, a listing of the railroad car reporting marks, the type(s) of railcars, and how long each car should maintain the private car designation status.

Send your written application to:

New York & Atlantic Railway Co.  
 68-01 Otto Road  
 Glendale, NY 11385  
 Attn: Director of Marketing

Applicant may be required to furnish a copy of the railcar lease.

We will provide a written reply to each application within thirty (30) days of receipt of your application request, and may accept or reject the application in whole or part, including changes to the number of railcars and the length of time, at our sole discretion.

During the time when railroad owned cars are designated as private cars, these cars will not be assessed demurrage charges when the cars are located on private sidetracks that connect with our railroad, nor during the time these cars are on our leased tracks, so long as the tracks are leased by you for the purpose of storage, loading or unloading.

**CUSTOMER-ASSIGNED POOLS (RAILROAD CARS)**

**ITEM 8450**

Customer-Assigned Pools are railroad cars that we have agreed to operate and hold in an assigned pool. Cars will be held from the time the notice of availability is given until the car is ordered-in, actually placed or removed from the pool ( debit days).

\$60 per car per day  
 (cars supplied by us)

Customer assigned pool cars.....4 credit days allowed.

\$40 per car per day  
 (customer-supplied cars)

Railroad car loading demurrage fees (Item 8000) apply following placement.

The assignee may release a car from assignment by providing this railroad with written or verbal notice at least one (1) day prior to the desired release from pool assignment. However, we reserve the right to select which car in a pool is removed from assignment. Assignee will not be permitted to release cars until all shipper-owned appurtenances have been removed.

For explanation of abbreviations and reference marks, see last page of tariff.

**Section IV: Hazardous materials**

**Safety is our first priority**

We never compromise safety. We are particularly diligent when it comes to the safe transportation of hazardous materials, including empty cars with hazardous material residue. No credit days will be allowed for any car containing hazardous materials or hazardous material residue.

Hazardous Materials are defined as “Hazardous Wastes” and “Hazardous Substances” as named in Hazardous Materials Regulations of the U.S. Department of Transportation in 40 Code of Federal Regulations (CFR) 260 through 263 and 49 CFR 171.8 or successor thereof, requiring the use of 4-digit identification numbers on shipping documents, placards or panels.

The following criteria reflect specific regulations of this railroad and North American regulatory authorities:

LOADING, UNLOADING AND STORAGE	ITEM 8500
<p>Hazardous materials may not be loaded, unloaded or stored on our tracks. Shippers, consignees and unloaders must take cars into a recognized secure facility without delay.</p>	

OVERLOADED OR IMPROPERLY LOADED CARS	ITEM 8550
<p>Overloaded, improperly loaded or improperly secured cars will not be pulled unless it is determined that it is safe to do so, and authorized by regulatory agencies. This may require such things as weight reduction, return to origin, or movement towards destination under restriction (e.g., check pressure en route).</p>	

RAILROAD CARS CONTAINING HAZARDOUS MATERIALS OR HAZARDOUS MATERIAL RESIDUE	ITEM 8600
<p>Additional Charge for Hazardous Materials in railroad-owned rail cars.....0 credit days allowed</p> <p>This charge will be in addition to, and run concurrent with, any applicable per day demurrage charges as published in Items 8000 through 8150.</p> <p>This charge applies to cars that are transporting hazardous materials, or have residue from a previous movement of hazardous materials.</p>	<p>\$75 per car, per day</p>

PRIVATE CARS CONTAINING HAZARDOUS MATERIALS OR HAZARDOUS MATERIAL RESIDUE	ITEM 8700
<p>Hazardous Materials in private cars.....0 credit days allowed</p> <p>This charge applies to cars that are transporting hazardous materials, or have residue from a previous movement of hazardous materials.</p>	<p>\$150 per car, per day</p>

For explanation of abbreviations and reference marks, see last page of tariff.

FT NYA 8100

SECURING LEAKING CARS	ITEM 8800
<p>Cars carrying dangerous goods/hazardous materials (or cars containing residue of dangerous goods/hazardous materials) which are found to be leaking may be moved to an isolation track for securement. The cost of securement varies widely, depending on the work involved. Securement fees will be assessed, and invoiced, on a case by case basis.</p>	<p>\$2000 for switching. This charge does not include securement fees, which vary depending on the work involved.</p> <p>Payment of these charges is the responsibility of the origin or destination industry located on our railroad, or the owner of the commodity and/or third party tank car transloader.</p>

For explanation of abbreviations and reference marks, see last page of tariff.

**Section V: Miscellaneous Demurrage and Storage Items**

**NOTIFICATION BY CUSTOMER TO RAILROAD**

**ITEM 8900**

All notification of car placement, hold, availability or release must be made using [www.railconnect.com](http://www.railconnect.com), by email, or fax. Notification must include the car initial and number, date, time and any other relevant information. The recorded date and time that the instructions are received will govern.

During plant shutdowns, shipper assigned cars must be released from assignment to prevent accruing demurrage charges.

**NOTIFICATION BY RAILROAD TO CUSTOMER**

**ITEM 8910**

The railroad will provide notification if rail cars are ready to be delivered, are stopped en route, or are refused, by notifying the affected party (usually the consignee) electronically, by facsimile or by mail. Notice will be provided at these times:

- Cars to be delivered to a public track --- notice will be given when the car is placed.
- Cars to be delivered to the track of consignee --- notice will be given upon a constructive placement if car(s) are held on railroad tracks due to reasons attributable to the consignor or consignee.
- Cars delivered to track of consignee will constitute notice.
- Cars stopped en route --- notice will be given to the consignor, consignee or owner responsible for the car being stopped upon arrival of the car at the point of stoppage. Notification will be given when, but not limited to, cars that are damaged, over-loaded or improperly loaded.
- Refused loaded car(s) --- When a loaded car is refused at destination, railroad will give notice of such refusal to the consignor or owner in writing or electronically, and include car initial, car number, commodity and if lading is transferred en route, the initials and number of the original car.

**BILLING**

**ITEM 8930**

You will be billed monthly for all cars released during the calendar month. Customers having facilities at separate stations cannot combine charges or credits accrued. Credits earned and demurrage days accrued will be calculated separately in accordance with charges and credits in this tariff. Excess credits earned in one calendar month cannot be used to offset demurrage days in another calendar month. Unless otherwise agreed upon and approved by this railroad, demurrage and storage charges are the responsibility of consignor at origin, and consignee at destination.

Your demurrage or storage bill will include the total days accrued for all cars released during a calendar month. Total credits earned for early releases of cars will also be added. Then, if the total days exceed the total credits, charges will apply, based on charges outlined in this tariff.

**PAYMENT**

**ITEM 8940**

If you are the party responsible for demurrage and storage charges (as published in this tariff or other documents) and have not established credit with us, or have had your credit cancelled by us, you will be subject to Liquidated Damages interest of 20% A.P.R., in addition to Demurrage and Storage charges. Interest will begin to accrue for charges not paid within thirty (30) days from the date of the Bill for the Demurrage and Storage charges.

For explanation of abbreviations and reference marks, see last page of tariff.

**EXTENSION OF CREDIT**

**ITEM 8950**

To establish credit with us, contact:

Credit Administration  
 New York & Atlantic Railway Co.  
 53 West Jackson Blvd., Suite 335  
 Chicago, IL 60604

**CLAIMS**

**ITEM 8960**

At times, there may be circumstances when charges are assessed, and the reasons for charges are beyond your control. We may provide relief, provided you submit a claim, in writing, within thirty (30) days of the billing date, along with supporting documentation. Your claim must fully state the circumstance under which you request relief, and including the car initial, car number and location. Circumstances under which a claim may be made include:

- A. **Improper charges** (If you believe we have improperly assessed charges).
- B. **Bunching** (When cars for loading are greater than the normal daily number of cars for placement, due to delay or irregularity created by us, you will be allowed free time equal to what you would have received had the car been placed as ordered. When cars for unloading are greater than the normal daily number of cars as a result of our railroad, or Acts of God as described below, you will be allowed free time equal to what you would have received had the cars not been bunched. For the purpose of applying this item, cars which moved from different points or over different routes to destination, and arriving on different dates, will not be considered bunched, even if tendered for delivery on the same day. The consignee will be allowed free time equal to what would have been received if the cars had been placed or tendered for placement, in the order of their arrival.)
- C. **Weather interference** (Acts of God, including, but not limited to flood, storm, earthquake, hurricane, tornado, or to other severe weather or climatic conditions, as long as the condition lasted at least two (2) days.
- D. **Strike interference** (When you cannot load, unload or receive a car from us, or cannot make a car available to us because of strike interference at the rail location served by us, demurrage days will be charged at a reduced rate of \$35.00 per day during the period of strike interference, provided the disruption exceeds ten (10) days during one calendar month; when we cannot provide service to you due to strike interference at our company, demurrage days will not begin until we can place the car at your facility. This does not apply to:
  - An inbound car, when the waybill is dated four (4) days or more after the beginning of strike interference.
  - An empty car ordered for loading, when the order was placed after the beginning and prior to the ending of strike interference.
- E. **Missed switch allowance** (An allowance for a missed switch will be offered for any car held under Constructive Placement Notification when we are unable to place the car in response to your orders).
- F. **Railroad error** (If through our error, demurrage charges are assessed, the charges will be adjusted to the amount that would have accrued if we had not made an error.)

For explanation of abbreviations and reference marks, see last page of tariff.

HOLIDAYS

ITEM 8970

**The term "Holiday" means:**

- New Year's Day - January 1 (See Note 1)
- Washington's Birthday - Third Monday of February
- Memorial Day - Last Monday of May
- Independence Day - July 4 (See Note 1)
- Labor Day - First Monday of September
- Thanksgiving Day - Fourth Thursday of November
- Christmas Day - December 25 (See Note 1)

Note 1 - When this date occurs on a Sunday, the following Monday will be observed as the holiday.

For explanation of abbreviations and reference marks, see last page of tariff.

*Notes and Definitions*

**ACTUALLY PLACED**

A car is actually placed when it has moved to the track of the shipper or consignee, or the “care of” party, or team track.

**CAR DEMURRAGE RULES AND REGULATIONS**

Any cars handled under this tariff will be subject to demurrage rules and charges.

**CAR RELEASE**

Advice provided by the shipper or consignee to authorized railroad personnel, that the car is loaded or unloaded and available. This information must include the identity of the shipper or consignee, the party furnishing information, and the car(s) initial and number.

**CLASSIFICATION GOVERNING**

The term “Uniform Freight Classification” when used herein means Freight Tariff Uniform Freight Classification 6000-Series.

**CONSIGNEE**

The party to whom a shipment is consigned or the party entitled to receive the shipment.

**CONSIGNOR**

The party in whose name a car(s) is ordered; or the party who furnishes forwarding directions.

**CONSTRUCTIVE PLACEMENT**

Constructive placement is the industry term for cars held available for placement but held on our tracks, either at your request, awaiting your instructions, or because you are not able to accept cars.

**CREDIT**

A non-chargeable demurrage day. Credits may be earned when a car is released by the customer and is used to offset chargeable demurrage days. Credits have no monetary value and are not carried over to a future service month.

**DEMURRAGE DAY**

A twenty-four (24) hour period (calendar day), or part thereof, commencing 0001 after tender.

**DIVERSION**

An order provided by the consignor instructing that a car be delivered to a location other than the one indicated on the original forwarding instructions.

**EMPTY CAR(S) ORDERED AND NOT USED**

Empty car(s), placed for loading as ordered, and subsequently released without being used in transportation service or, empty cars received from foreign railroad without being utilized by Customer.

**LOADED CAR**

A car that is completely or partially loaded.

**LOADING**

The complete or partial loading of a car(s) in conformity with loading and clearance rules and, the furnishing of forwarding instructions.

**ORDER DATE**

The date that the consignor requests empty car(s) to be furnished for loading.

For explanation of abbreviations and reference marks, see last page of tariff.

***Notes and Definitions (Cont'd)***

**PARTIAL UNLOADING**

The partial unloading of a car(s) and furnishing of the proper forwarding or handling instructions.

**PRIVATE CAR**

A car bearing other than railroad reporting marks that is not railroad-controlled.

**PRIVATE TRACK**

Tracks that are not owned or leased by the railroad.

**RECONSIGNMENT**

An order provided by the consignor to bill a car to other than the original consignee. (An order to turn over the car to another party that does not require any additional movement of the car is not a reconsignment).

**RESPONSIBILITY**

Demurrage and storage fees will be assessed to, and payment will be the responsibility of the shipper at origin, the consignee at destination, or any other third party mutually agreed to in writing with our railroad to accept responsibility for all demurrage charges.

**SERVICE PERIOD**

One calendar month.

**SHIPPER ASSIGNED CAR**

A railroad car that is put in a car pool for sole utilization of a customer.

**STATION LISTS AND CONDITIONS**

This tariff is governed by Tariff OPSL 6000-Series, for:

- Additions or changes in Name, Location or Abandonments of Stations.
- Prepay Requirements.
- Restrictions as to acceptance or delivery of freight.
- Changes in station facilities.
- When a station is abandoned, all provisions applicable thereto are cancelled, effective on the date of abandonment.

**STORAGE AGREEMENT**

An agreement that entitles our railroad to provide storage services for a specified number of cars at a specific location at a negotiated storage fee, and negotiated and agreed to by us and the owner, lessee, shipper or receiver of a private car.

**TENDER**

The notification, actual or constructive placement, of an empty or loaded car(s).

**TIME FOR CALCULATION OF DEMURRAGE ON RAILROAD OWNED EQUIPMENT**

Demurrage time begins at 00:01 (12:01 a.m. local time) after placement or notification of constructive placement, notice of availability or hold or notice of being held. It ends when the responsible party has provided us with the necessary instruction and/or documentation to release or order in the car and moves it forward.

**TIME FOR CALCULATION OF STORAGE ON PRIVATELY OWNED EQUIPMENT**

Storage time begins at 00:01 (12:01 a.m. local time) after placement or notification of constructive placement, notice of availability or hold or notice of being held. It ends when the car has been placed on private tracks, or when instructions for diversion, reconsignment or reshipment are received by our authorized personnel.

**UNLOADING**

The complete unloading of a car, and the advice received from the consignee that the car is empty and available to the railroad.

For explanation of abbreviations and reference marks, see last page of tariff.

FT NYA 8100

***EXPLANATION OF ABBREVIATIONS AND REFERENCE MARKS***

ABBR / REF	EXPLANATION
ABBR CFR NYA OPSL REF	Abbreviation Code of Federal Regulations New York & Atlantic Railway Company Official Railroad Station List, OPSL 6000-series Reference
[A]	Addition
[C]	Change in wording resulting in neither an increase or decrease in charges
[I]	Increase
[R]	Reduction
[NC]	Brought forward without change

(Underscored portion denotes change.)