

NEW YORK & ATLANTIC RAILWAY COMPANY



FREIGHT TARIFF NYA 7000-A

(Cancels Freight Tariff NYA 7000)

NAMING

RULES AND CHARGES GOVERNING

CARGO LOSS AND DAMAGE

RULES AND CHARGES

APPLYING AT STATIONS ON THE

NEW YORK & ATLANTIC RAILWAY COMPANY

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

ISSUED: **October 10, 2025**

EFFECTIVE: **November 1, 2025**

ISSUED BY

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

FT NYA 7000: Cargo Loss and Damage

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CANCELATION NOTICE [C]

FT NYA 7000-A cancels and replaces in its entirety the provisions formerly shown in FT NYA 7000, which was effective April 1, 2025.

APPLICATION GENERALLY [A]

By shipping or accepting traffic in a route that includes New York & Atlantic Railway Company (“NYA”), the Consignor, Consignee, receiver, and freight payor (or any third party acting through or on behalf of such persons or entities) authorizes and accepts all applicable rates, requirements, and, conditions, and charges contained in NYA’s published tariffs (unless otherwise specified in a separate, applicable rate authority, such as a price quote or contract).

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ITEM 122 LIABILITY (CARMACK LIABILITY AND LIMITATIONS ON LIABILITY) [C]

A. Carmack Liability

1. A person or entity entitled to recover under the bill of lading (or waybill) for property loss or damage ("BOL Party") may, at its option, choose the liability provisions for property loss or damage set forth in 49 USC Section 11706 (referred to in this Item as "Carmack Liability"), which impose greater liability on NYA than otherwise would apply under the liability terms in Section B of this Item. In order to select Carmack Liability, a BOL Party must comply with ALL of the following provisions set forth in Section A.2 or Section A.3, below (as applicable) (in each case, the "Carmack Liability Requirements"). If a BOL Party does not comply with all the Carmack Liability Requirements, such noncompliance shall create a conclusive presumption that the BOL Party has elected the liability terms in Section B of this Item (and not Carmack Liability) to apply to the transportation of the property.
2. If NYA establishes the rate for all or a portion of the railroad movement, then, in order for Carmack Liability to apply to such movement, a BOL Party must:
 - i. Notify NYA's Marketing Department at NYAMarketing@anacostia.com, and notify all other interline rail carriers in the route (if any), no less than seventy-two (72) hours before the rail car is released for transportation, that the BOL Party is choosing Carmack Liability; and
 - ii. Prepay to NYA the rate quoted by NYA's Marketing Department in response to the BOL Party's notification of its choice of Carmack Liability, which rate (A) reflects the added liability risk of Carmack Liability and is no less than 250% of the rate that would have applied if the BOL Party had not elected Carmack Liability, and (B) is tailored to the applicable property and route (the "Carmack Liability Rate"); and
 - iii. Note on the shipping instruction that the shipment is moving under 49 USC Section 11706 (Carmack Liability) and is subject to the Carmack Liability Rate
3. If NYA does not establish the rate for all or a portion of the railroad movement, then, in order for Carmack Liability to apply to NYA, a BOL Party must:
 - i. Notify NYA's Marketing Department at NYAMarketing@anacostia.com, no less than seventy-two (72) hours before the rail car is released for transportation, that the BOL Party has obtained a rate that covers the movement over NYA's rail lines and includes Carmack Liability; and
 - ii. Note on the shipping instruction that the shipment is moving under 49 USC Section 11706 (Carmack Liability); and
 - iii. Comply with all the requirements and conditions for Carmack Liability established by the interline carrier(s) issuing the rate(s) for the movement over NYA rail lines.
4. All claims for property liability must be filed in writing via email at NYALossandDamage@anacostia.com within nine (9) months after the delivery date of the property or in the event of non-delivery, within nine (9) months after the expected delivery date. All civil actions/lawsuits in connection with claims for property loss, damage, or delay must be filed within twenty-four (24) months after NYA has provided written notice that the claim, in whole or in part, has been disallowed.

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5. If Carmack Liability applies to a movement over NYA's rail lines, (a) no provision of this publication is intended to waive or limit any rights or protections available to NYA under Carmack Liability, and (b) to the extent permissible under Carmack Liability, the provisions of Section B.4, B.9, and Sections C through F will apply.

B. Alternative/Non-Carmack Liability

If a BOL Party does not elect Carmack Liability, in accordance with the provisions in Section A of this Item 122, then the following terms and conditions of liability shall apply to the shipment:

1. NYA will be liable only to the extent that NYA's own negligence is the direct and proximate cause of the loss, damage, or delay. The burden of proof to establish NYA liability for any loss, damage, or delay of property is upon the claimant.
2. NYA's liability for the contents of any rail car will be limited to the lowest of the following amounts: the actual value of the property at the time and placement of the shipment; the declared value (if applicable); the cost of replacement; or Fifty Thousand Dollars (\$50,000); provided, that, on Trailer on Flat Car ("TOFC") and Container on Flat Car ("COFC") units, NYA's liability for the contents of any such unit will be limited to the lowest of the following amounts: the actual value of the property at the time and placement of shipment of the property; the declared value (if applicable); cost of replacement; or Two Dollars (\$2.00) per pound up to Fifty Thousand Dollars (\$50,000).
3. The liability of NYA pursuant to Section B.2 shall be reduced by the amount of any net salvage proceeds received by a BOL Party for the applicable property. NYA will not be responsible for any loss, damage, or delay with respect to the property that occurs outside the United States.
4. In no event shall NYA's liability exceed the actual amount of physical loss or damage sustained to the property. NYA shall not be liable for any or all of the following: (i) special, consequential, indirect, incidental, reliance, or punitive damages, attorneys' fees, or interest; (ii) loss of revenue or profits, loss or decline of market, or vessel or third-party demurrage; (iii) losses or damages caused, whether directly or indirectly, by business or production interruptions, or delays in transportation; and (iv) losses or damages, whether caused directly or indirectly, by loss of business opportunity, goodwill, contracts, anticipated savings, or reputation. Railroad does not guarantee rail service on any scheduled time frame. For property intended for export from the United States, NYA 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 property that is lost, damaged or delayed in domestic transportation.
5. Claimant shall not file any claims or lawsuits for less than Five Hundred Dollars (\$500.00), and claimant shall not be entitled to payment with respect to any claim or lawsuit if the amount of the loss or damage is determined to be less than Five Hundred Dollars (\$500.00).
6. NYA is not liable for temperature, corrosion, or humidity-related losses or damages unless mechanical protective service is requested, paid for, and NYA-owned or NYA-leased

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equipment is used. NYA is not liable for loss or damage caused by defective equipment when such equipment is not owned or leased by NYA.

7. If the location of the loss, damage, or delay of the property is known to the claimant, the claim must be filed with the rail carrier on whose line the loss, damage, or delay occurred.

8. For all interline movements, NYA's liability shall be determined in accordance with the provisions that apply to one or more carriers involved in the interline movement and that would allocate the least amount of liability to NYA; in no event, shall NYA have any liability for an interline movement that is greater than set forth in this Item 122.

9. NYA's liability for claims of shortage of property shall be conditioned upon physical evidence of unauthorized forced entry into the rail car while the same is in the possession of NYA.

10. The Consignor is obligated to inspect rail cars and to reject any such cars not suitable to protect or preserve the Consignor's-controlled property during transportation. NYA shall not be liable for loss or damage to such property caused by defects in the rail cars that could have been discovered by a reasonable inspection by Consignor prior to the loading of such property.

11. All claims for loss, damage or delay of property must be filed in writing and sent via email at NYALossandDamage@anacostia.com within nine (9) months after the delivery date of the property or in the event of non-delivery, within nine (9) months after the expected delivery date.

a. Such written communication shall comply with the minimum requirements contained in 49 C.F.R. 1005.2(b). If a claim is not timely filed with NYA in accordance with this Section B.11, then such claim shall be deemed waived by the claimant. Claims for property liability may only be submitted by the party identified on the bill of lading (or waybill) as the shipper, the Consignee, or the payor of freight.

b. In addition to the requirements of 49 C.F.R. 1005.2(b), all claims must include the following documentation:

- i. A demand for payment of a specific amount, with a statement of the formula or basis on which the damages are calculated, plus documentation to support the calculation;
- ii. Information identifying the property including equipment initials and numbers, the names of the shipper and receiver, the notify party's name, the shipping date, and the commodity;
- iii. Origin records or certification as to the condition and quantity of the property at the time Tendered to the origin rail carrier; if shortage is involved, origin seal records must be furnished;
- iv. Destination records as to the condition and quantity of the property at the time received from the destination rail carrier; if shortage is involved, destination seal records must be furnished;
- v. Verification of the amount claimed such as certified invoices or repair bills;
- vi. Evidence of the disposition of the damaged property and the salvage proceeds therefrom;
- vii. Evidence that the property was loaded in compliance with any provisions of this publication;
- viii. NYA Loss and Damage Claim Form;

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- ix. Pictures of all seals at time of delivery; and
- x. Copy of the Loading Pattern used by Shipper.

NYA reserves the right to summarily deny any and all claims submitted that do not contain all or part of the aforementioned documentation.

12. All civil actions/lawsuits in connection with claims for property loss, damage, or delay must be filed within twenty-four (24) months after the actual loss, damage, or delay or, in the event of non-delivery, of the expected date of delivery by the delivering rail carrier.

C. Loss or Damage Verification and Disposition Provisions

1. NYA has the right to inspect, weigh or reject the property at origin, en route, or at destination. Failure of NYA to perform one or more of such actions will not constitute an admission of liability by NYA or alter the burden of proof on claimant to establish the liability of NYA.

2. NYA reserves the right to inspect damaged property. As a condition precedent to payment of any claims by NYA for damage to property, the Consignee must, within twenty-four (24) hours after the shipment's arrival, notify NYA of any claimed damage and allow NYA or its agent or designee to inspect.

3. The failure of NYA or any of the interline carriers involved in the subject movement to inspect damaged property, for any reason, will not relieve the burden of the claiming party to establish that the property was received in a damaged condition nor will it be considered an admission of liability by NYA.

4. Claimant must mitigate damage by accepting the damaged property unless it is totally worthless and without salvage value. Claimant may not abandon damaged or partially damaged property to a rail carrier when the damaged property retains any value. Property that is abandoned to a carrier may be sold for the account of the owner, and such salvage proceeds only, less any salvaging expenses incurred, shall be remitted to the owner.

5. With respect to damage that occurs during an incident, such as a derailment, NYA will contact its on-line customer involved in the affected railroad movement, and such entity must respond within twenty-four (24) hours of such contact if the entity desires NYA to implement any specific disposal or salvage procedure. If the entity does not do so, NYA shall not be liable for any claim for losses or damages resulting from NYA not implementing a specific disposal or salvage procedure. Regardless of any contact with such entity regarding a specific disposal or salvage procedure, upon an incident occurring, NYA shall have the right promptly to move the property to a safer location or to a location where the property is not accessible to the general public.

D. Seals

It is the sole responsibility of the Consignor, as identified in the bill of lading (or waybill), to apply appropriate seal security devices necessary to protect the property while in transit, taking into account industry-recommended standards and the nature and value of the property being moved. In order for NYA to consider a claim for contamination of property, the shipment must be sealed

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by the Consignor or its agent. NYA has no obligation to (a) inspect shipments for seal integrity or the adequacy of seals or security devices, or (b) report the condition of seals during its transportation of the property. In the event a seal or security device is broken or missing, the absence or breach of a seal will not create a presumption of loss or damage (including contamination or theft) without actual physical evidence. As a condition precedent to recovery for loss of or damage to property caused by a breach of shipment integrity while in transit, the Consignor is responsible for the documentation of the seal type and identification numbers at origin and the seal number(s). The seal type, seal numbers, and identification numbers must be included in any claim presented for such loss or damage. NYA will not be responsible for losses or shortages of any kind without proof that the Consignor applied appropriate and adequate seals and security devices, based on the requirements in this publication (if any) and industry standards and best management practices.

E. Federal Excise Tax Claims

Whether or not the claimant files a claim with the government to receive a tax refund or credit allowance on such shipments as alcohol, alcoholic beverages, tobacco products, and firearms, the amount equivalent to such tax will not be made part of any claim against NYA, and NYA will have no liability for such amount of the equivalent, except in the case of loss due to theft. If the shipment is insured, the claimant waives any claim for subrogation.

F. Miscellaneous

1. For the purposes of consistent and uniform interline claim handling and claim settlement, NYA has the right to share the specific terms relating to an interline claim with the applicable interline carriers regardless of any otherwise applicable confidentiality provision.
2. Acceptance of a shipment by NYA for transportation shall not be considered a waiver of any liability of an entity subject to the bill of lading (or waybill).

ITEM 123 STANDARD TRANSPORTATION COMMODITY CODES/STCCS [A]

A BOL Party shall ensure that each bill of lading (or waybill) contains one or more STCCs that correctly identify the commodity(ies) being shipped pursuant to the bill of lading (or waybill). **THE ADDITION OF ONE OR MORE STCCs TO THE BILL OF LADING (OR WAYBILL) CONSTITUTES AN AGREEMENT BY NYA AND EACH BOL PARTY TO MOVE SUCH COMMODITY(IES) IN ACCORDANCE WITH AND SUBJECT TO THE CARGO LOSS AND DAMAGE PROVISIONS (INCLUDING THE LIABILITY LIMITATIONS) SET FORTH IN ITEM 122 OF THIS TARIFF.**

NOTES AND DEFINITIONS FOR TERMS NOT OTHERWISE DEFINED IN THE TARIFF [C]

The term "Uniform Freight Classification" when used herein means Freight Tariff Uniform Freight Classification 6000-Series, as published by the American Association of Railroads (AAR).

CONSIGNEE

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

CONSIGNOR

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

LOADING PATTERN

Guideline for loading specific types of freight into rail cars, including loading diagrams and manuals.

Standard Transportation Commodity Code/STCCs

Seven digit code designed to classify all commodities.

TENDER

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

ITEM 9999 EXPLANATION OF REFERENCE MARK [C]

[A] Denotes Addition

[C] Denotes Change