

THE NEW YORK, SUSQUEHANNA AND WESTERN RAILWAY

NYSW CONDITIONS OF CARRIAGE #1-B

**NYSW CONDITIONS OF CARRIAGE #1-B
CANCELS
NYSW CONDITIONS OF CARRIAGE #1-A**

**- RULES AND RELATED PROVISIONS -
ON
RAIL TRANSPORTATION OF COMMODITIES
MOVING IN INTERSTATE AND INTRASTATE COMMERCE
VIA
THE NEW YORK, SUSQUEHANNA AND WESTERN RAILWAY**

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Marketing and Sales Department
The New York, Susquehanna and Western Railway Corp.
1 Railroad Avenue
Cooperstown, NY 13326
www.nysw.com

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RULE 110 - APPLICATION OF REFERENCED PUBLICATIONS

The rules, regulations, charges and allowances of the following named publications shall, along with the terms of service specified herein, apply to all rail transportation undertakings of NYSW as specified in Rule 120 herein except where inconsistent with a provision of this document or other contractual terms specifically agreed to by NYSW and users of transportation services or otherwise inapplicable under their own terms.

AAR 2 -- Hazardous Materials Shipping Descriptions (49-series STCC numbers)	
Bureau of Explosives Rules	BOE 6000 Series
Demurrage Rules and Charges	NYSW 8003 Series
Heavy Duty Flat Car Charges	RIC 6740 Series
Mileage Allowance and Rules	RIC 6007 Series
NYSW Switching	NYSW 8001 Series
Official Railway Equipment Register	RER 6414 Series
Open and Prepay Station List	OPSL 6000 Series
Standard Transportation Commodity Code	STCC 6001 Series
Uniform Freight Committee	UFC 6000 Series

References to specific publications herein include successor publications.

RULE 120 - GENERAL APPLICATION

The provisions of this Document apply to transportation when such transportation originates on NYSW and moves under single line or single factor joint line through rates offered by NYSW itself or in conjunction with a connecting railroad as an exempt rate or as a regulated common carrier rate and to the NYSW portion of through movements under AAR Accounting Rule 11 or other combination or proportional exempt or common carrier rates. In the absence of a separate contract specifically covering the transportation, the terms and conditions of this Document constitute a unilateral offering of such terms and conditions of a bilateral contract between NYSW and its connecting lines on the one hand, and the user of the transportation service on the other upon acceptance by such user. Tender of shipments to the originating carrier shall constitute acceptance of the terms of service in this Document, as well as the exempt or common carrier rate.

When NYSW is not the originating carrier, but does participate in a movement under single factor, joint through rates, the Conditions of Carriage or comparable offering of the originating carrier shall, along with the exempt or common carrier rates, apply to such transportation performed by NYSW unless specified otherwise in the terms of a rate quotation or separate contract specifically covering the transportation involved. When such originating carrier does not issue or have in effect such an offering, the terms of service contained herein shall apply.

RULE 125 - ROUTING VIA NYSW

Rates applicable via NYSW apply only over the most direct lines of NYSW, forming the shortest possible NYSW mileage, from the first point at which NYSW receives the shipment (from consignor or other railroad) to the last point at which NYSW delivers the shipment (to consignee or other railroad). NYSW reserves the right to actually handle shipments via any route over NYSW lines. If customer directs movement over NYSW lines where mileage exceeds the shortest possible NYSW distance, shipment will be subject to a combination of rates applying via the route requested by customer.

RULE 130 - PUBLICATION OF EXEMPT CIRCULARS

As specified in Rule 120 herein, the exempt circular of the originating carrier for movements under joint single factor through rates applies. When the originating carrier does not issue or have in effect an exempt circular, the NYSW circular shall apply.

RULE 140 - ABSORPTION OF CONNECTING LINE SWITCHING

Reciprocal switching will not apply on the NYSW.

RULE 150 - BILL OF LADING

Services provided by carrier(s) subject to the conditions of this offering shall also be subject to the terms of the Uniform Bill of Lading as contained in the Uniform Freight Classification UFC 6000 Series referred to herein in Rule 110, subject to such modifications as may from time to time be established under separate agreement and irrespective of whether a Bill of Lading is actually executed pursuant to Rule 200. Where provisions specifically provided in this offering conflict with Bill of Lading provisions themselves as contained in the said Uniform Freight Classification, provisions of this offering shall apply.

RULE 200 - TRANSPORTATION SERVICES

Shipper will notify NYSW when loading of equipment is completed. Unless otherwise mutually agreed upon by Shipper and NYSW, Shipper shall prepare and both parties shall execute bill of lading specified in Rule 150 herein to cover the line haul transportation service requested by shipper. NYSW will arrange for transportation and delivery in accordance with instructions shown on the bill of lading and other conditions mutually agreed upon by the parties. Shipper will arrange separately with NYSW independent of the bill of lading for weighing, switching, or other services to be performed by NYSW, or by or on the lines of a carrier other than NYSW. Unless specifically agreed to by NYSW, NYSW will not be liable for any loss, damage, cost or expense arising in connection with services performed by others.

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RULE 210 - UNLOADING AND RELEASE OF EQUIPMENT AT DESTINATION

Upon arrival and placement of equipment for unloading at destination, consignee will be responsible for unloading equipment in a manner which does not damage equipment and for releasing equipment in a condition suitable for reloading by another shipper. If consignee refuses or fails to remove all lading, dunnage blocking, bracing, strapping, debris or other material that was part of the inbound shipment, secure interior loading devices, and close doors, the railroad which discovers such failure may undertake to remedy such failure and the consignee will be responsible for reimbursing the railroad which performs such work for the cost thereof, including without limitation the cost of any switching associated with such work. Otherwise, applicable demurrage, detention and storage charges shall continue to apply until equipment is released to delivering carrier in clean condition or upon completion of any action by the delivering carrier to remedy the consignee's failure.

In order for cars to be considered released, consignee must advise the agent of the delivering railroad by telephone or fax on such form mutually agreed upon by the delivering railroad and consignee that equipment is unloaded and available for release. Information provided by consignee must include identity of consignee, name of person furnishing data and car initial and number. Delivering carrier will maintain the record of such information and shall also note on said record the date and time of receipt and identity of the person receiving the information. Equipment will be considered released on the date and time advice is received from the consignee.

RULE 230 - TRANSPORTATION CHARGES TO APPLY

The charges applicable to the transportation from origin to destination will be those agreed upon by contract or quotation in effect on the date the equipment is actually or constructively placed for loading as reflected on the bill of lading. Any alteration, addition or erasure in the bill of lading made without special notation thereof of an NYSW agent shall be without effect, and the rate agreed upon by contract or quotation as originally reflected in the bill of lading shall be the applicable rate.

If upon inspection it is ascertained that the commodity shipped is not as described on the bill of lading or other shipping document, NYSW at its option may return such shipment to shipper at origin at a charge equal to the charge that would have applied had the commodity been properly described and transported to the destination named in the bill of lading; or NYSW may choose to move said shipment to the destination named in the bill of lading or other shipping document at the transportation rate quoted or otherwise agreed upon plus (+) an additional charge of \$500.00.

RULE 240 - TRANSIT, DIVERSION, RECONSIGNMENT

Except as specifically agreed upon, NYSW will not provide transit but will provide diversion or reconsignment. Provisions of Rules 29 and 24 of UFC 6000-Series will not apply.

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RULE 250 - PAYMENT OF TRANSPORTATION CHARGES

Shipper or consignee shall be liable for payments of the transportation charges accruing on a shipment, and nothing herein shall limit the right of NYSW to require at time of shipment the prepayment or guarantee of charges. Shipper will pay NYSW if shipment is prepaid, or be responsible for payment if shipment is made collect, and pay immediately upon presentation of a bill therefore by NYSW. If shipper or consignee has entered into an agreement for credit with NYSW, the terms and conditions of the credit agreement will supersede any prepayment or payment upon demand requirement. If transportation charges have not been prepaid, or shipper or consignee has not entered into an agreement for credit with NYSW, NYSW shall not make delivery of the shipment without payment or guarantee by shipper or consignee of all charges. Placement of equipment by NYSW under credit agreement for unloading shall be deemed acceptance of shipment. Acceptance of shipment by consignee or beneficial owner shall be deemed acceptance of responsibility for payment of all charges accruing on the shipment, including detention and switching services performed at destination. Such payment shall be in U.S. money and will not be reduced to offset claims, damages to property, or for other reasons.

NYSW required method of transportation charges in the form of freight bill payment is through Electronic Funds Transfer (EFT). With EFT freight bill payments are made without generating unnecessary paper and mailing expenses.

EFTs are initiated through the Automated Clearing House (ACH) operation of the Federal Reserve Bank. Three EFT options are available:

1. ACH Debits – NYSW charges your company's bank account
2. ACH Credits – your company sends payment to NYSW's bank account
3. Fed-Wire Transfers – your company sends payment and remittance detail to NYSW's bank account

To initiate an EFT agreement, contact the NYSW accounting department at 607-547-2555 to obtain the necessary forms. Upon completion, fax the EFT agreement to 607-547-6249, or mail it to:

NYSW – Accounting Department
1 Railroad Avenue
Cooperstown, NY 13326

Questions about establishing credit, freight bill receipt or payment preferences may be directed to our Accounting Department at 607-547-2555.

RULE 280 - OVERCHARGE, OVER COLLECTION OR DUPLICATE PAYMENT CLAIM PROVISIONS

NYSW will accept a whole or partial claim for overcharge, over collection or duplicate payment only if the claim is in writing and contains sufficient information for NYSW to conduct an investigation, including the name of the claimant, which must be the payer; his claim number; the amount of the claim; the original freight bill; freight bill payment information and supporting documents which show, among other things, that NYSW collected all of the charges at issue and, in the case of overcharges, the rate, weight, commodity, description and supporting authority (quotation, etc.) claimed to be applicable. The claim must be filed within eighteen (18) months of the date of delivery or tender of delivery by NYSW or delivering rail carrier of the subject shipment.

Where movements over NYSW form a segment of a through movement involving other carriers and time limitations for filing overcharge claims differ among the carriers involved in the through movement, the time limitation contained in the comparable offering of the origin carrier will apply for overcharge claims against NYSW.

RULE 290 - CARRIER LIABILITY- LOSS AND DAMAGE TO LADING

Carriers will assume liability for loss and damage under the terms of 49 USC 11706 and the terms of the Uniform Bill of Lading as specified in Rule 150 herein. Where provisions maintained by other railroads parties to the through route differ from those provided herein, the liability assumed by the origin carrier will apply.

Except where inconsistent with the liability assumed by the origin rail carrier on a through route as provided for in the first paragraph of this Rule 290, no party shall file with NYSW and NYSW shall have no responsibility for any claim for loss or damage to lading having a value of less than two hundred and fifty dollars (\$250.00) per claim.

RULE 300 - EXTENSION OF CREDIT

Unless established prior to shipment, no credit shall be provided for the party paying the transportation charges.

NYSW requires all customers who are responsible for freight bills to apply for credit. This policy applies to shippers, receivers and third parties. NYSW's credit terms are fifteen (15) days, which begin with the date of the freight bill and end with the payment due date.

To establish credit with NYSW, contact our accounting department at 607-547-2555, complete the form and fax it to 607-547-6249 or mail it to:

NYSW - Accounting Department
1 Railroad Avenue
Cooperstown, NY 13326

Once we receive your application, we will fax notification of approval or disapproval of credit to you within 72 business hours.

If you have not established credit with us, two policies apply:

- For prepaid shipments - freight and other accrued transportation charges must be paid prior to release of the shipment to the railroad.
- For collect shipments - all transportation charges must be paid prior to placement of the shipment at the destination.

RULE 310 - MECHANICAL PROTECTIVE SERVICE (MPS)

Shipments requiring protection from heat or cold will be handled in accordance with rules and provisions (other than charges), for protective services as set forth in Perishable Protective PPT 619 Series publication referred to in Rule 110 herein or offerings of owners of the MPS equipment. Mechanical protective services, including detention of equipment, are separate and distinct services, and charges therefore will be in addition to charges applicable for line haul and other transportation services. (See Exception)

EXCEPTION: NYSW will not provide portable heater service. To the extent cars are received from connections with heaters already installed, such heaters will be allowed to move through to destination.

Shipper shall specify on the bill of lading whether the commodities loaded in equipment are perishable in nature requiring protection against heat or cold. If no such specification is made, NYSW shall not be responsible for any loss or damage arising from the lack or failure of such protection.

Subject to the conditions of this rule for shipper owned or leased cars where mechanical protective service is required, NYSW will provide reasonable maintenance to mechanical protective service (MPS) units including minor repairs, fuel oil, lubrication and other supplies. The expense of operating the MPS units will be borne by the shipper, and the actual cost of labor for any maintenance, service or repairs, and for material (plus 15% material handling charge), fuel

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oil, lubricating oil and all other supplies furnished to such MPS units shall be billed against the shipper directly by the railroad incurring the cost of furnishing such services.

RULE 320 - CHARGES FOR MECHANICAL PROTECTIVE SERVICES

Unless otherwise provided in the application of line-haul transportation rates, carload shipments originating on NYSW do not include protective service charge. To determine the charge applicable for mechanical-protective service, apply charges specified in offerings of the owners or lessees of the MPS equipment.

RULE 330 - MIXED CARLOAD SHIPMENTS

Except as may otherwise be provided in individual contracts or quotations, when two or more commodities for which the same or different ratings or rates apply are shipped in a single carload, and the weight of the predominant article is 95 per cent or more of the total weight of the shipment, the rate to be assessed on the entire shipment will be that applicable on the predominant article.

RULE 420 - AGGREGATE RULE

Except as otherwise specifically provided in individual contracts or rate quotations, rates are not subject to any rule that permits the application of a combination of intermediate rates via a route that a joint through rate applies.

RULE 430 - INTERMEDIATE RATES

Except as otherwise specifically provided in individual contracts or rate quotations, rates are not subject to any rule that authorizes application of rates at intermediate points of origin or destination.

RULE 440 - ALTERNATION OF RATES

Customer-specific rates (contracts or specific quotes) will take precedence over open or noncustomer-specific rates (general quotes). Within each of those two categories, point-to-point rates will apply regardless of any group or scale rates available, and group rates will be applied to the exclusion of any scale rates.

Where a rate authority contains more than one carload rate at varying minimum weights for the same movement, the rate at the actual or minimum weight, whichever is higher, that produces the lowest charges for that authority will apply.

Unless otherwise agreed upon by NYSW and the purchaser of transportation subject to this publication, where NYSW can serve both shipper and receiver (either directly or through switching by another carrier), NYSW single-line rates will apply to the exclusion of any joint-line rates that could under their terms apply via NYSW.

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In addition, unless otherwise agreed upon by NYSW and said purchaser of transportation, where there is in effect a through rate from origin to destination such through rate will apply to the exclusion of any combination of local and/or joint-line rates.

RULE 480 – PRIVATE EQUIPMENT

If equipment used for transportation on the NYSW is owned or leased and provided by or on behalf of User ("Private Equipment"), such equipment shall comply with all applicable laws, rules and regulations, including, but not limited to, applicable hazardous materials regulations of the United States Department of Transportation as published in Title 49 of the Code of Federal Regulations, as amended, supplemented and revised from time to time, provided that such compliance shall not relieve User of other obligations and duties under this Offering. Such Private Equipment shall be in serviceable condition for the safe transportation of Commodity over rail lines. Notwithstanding any other provisions in this Rule, User shall indemnify and hold harmless NYSW for all losses, including, without limitation, attorneys' fees and other costs of litigation, damage or injury to the extent caused by failure of such Private Equipment.

RULE 500 - CHANGE IN PROVISION

Subscribers to this offering will be provided with notification via internet e-mail of any changes made to provision herein. Copies of this offering are available via the internet at www.nysw.com.

RULE 520 – SECURITY SEALS

With the exception requirements under HM 6152 related to railcars containing hazardous materials, the NYSW neither inspects shipments for seals or security devices intended to prevent unauthorized access to a shipment nor determines when a security device is appropriate. In the event that a shipment requires special security measures (such as high security seals, shrink-wrap, paper coverings and the like) to insure its integrity against contamination, theft, and unauthorized entry, it is the duty of the shipper to determine and take the appropriate security measures. Documentation of the application of security devices at shipment origin is the responsibility of the shipper. In determining the extent, if any, of NYSW's responsibility as a common carrier for loss, damage or liability to a shipment, the absence of or damage to a seal without physical evidence of contamination, loss or theft does not establish injury, loss or damage to a shipment.

NYSW CONDITIONS OF CARRIAGE #1-B

RULE 600 – TARIFF STATION GROUPS

The following Station Groups apply when referenced in individual New York, Susquehanna and Western Railway tariffs.

Binghamton Station Group includes:

Binghamton, NY

Chenango Bridge, NY

Chenango Forks, NY

Cortland Station Group includes:

Cortland, NY

Homer, NY

Killawog, NY

Marathon, NY

Whitney Point, NY

Syracuse Station Group includes:

Apulia, NY

Jamesville, NY

Dewitt, NY

Onatavia, NY

Syracuse, NY

Syracuse Geddes St, NY

Tully, NY

Utica Station Group includes:

Chadwicks, NY

Clayville, NY

New Hartford, NY

New York Mills, NY

Sangerfield, NY

Paris, NY

Richfield Junction, NY

Utica, NY

Waterville, NY

New Jersey Station Group includes:

Bogota, NJ

Butler, NJ

Campgaw, NJ

Croxton, NJ

Dundee, NJ

Elmwood Park, NJ

Fangmanns Siding, NJ

Garfield, NJ

Hackensack, NJ

Hawthorne, NJ

Little Ferry, NJ

Lodi, NJ

Lodi Jct, NJ

Marion Interchange, NJ

Maywood, NJ

Midland Park, NJ

New Durham, NJ

Newfoundland, NJ

North Bergen, NJ

Oakland, NJ

Passaic Junction, NJ

Paterson V AV, NJ

Pompton Junction, NJ

Pompton Lakes, NJ

Pompton-Riverdale, NJ

Ridgefield Park, NJ

Rochelle Park, NJ

Saddle Brook, NJ

Sparta, NJ

Sparta Jct, NJ

Warwick, NJ

Wayne, NJ

Woodruffs Gap, NJ

Wortendyke, NJ

Wyckoff, NJ

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