

EMPLOYER STATUS DETERMINATION

Port Harbor Railroad Inc.

This is the determination of the Railroad Retirement Board concerning the status of Port Harbor Railroad Inc. (PHR), as an employer under the Railroad Retirement Act (45 U.S.C. § 231 et seq.) and the Railroad Unemployment Insurance Act (45 U.S.C. §351 et seq.).

Information regarding PHR was provided by Attorney Andrew P. Goldstein of McCarthy, Sweeney & Harkaway on behalf of PHR. According to Attorney Goldstein, PHR began operations on June 10, 2010. Two employees have been compensated by PHR since June 10, 2010.

In Surface Transportation Board Finance Docket No. 35374, PHR filed a notice of exemption to lease and operate 2.97 miles of rail line from Tri-City Regional Port District (Tri-City). Tri-City interchanges with Terminal Railroad Association of St. Louis, an employer under the Acts (B.A. number 4819).

Section 1(a)(1) of the Railroad Retirement Act (45 U.S.C. § 231(a)(1)), insofar as relevant here, defines a covered employer as:

- (i) any carrier by railroad subject to the jurisdiction of the Surface Transportation Board under Part A of subtitle IV of title 49, United States Code;

Sections 1(a) and 1(b) of the Railroad Unemployment Insurance Act (45 U.S.C. §§ 351(a) and (b)) contain substantially similar definitions, as does section 3231 of the Railroad Retirement Tax Act (26 U.S.C. § 3231).

The evidence of record establishes that PHR is a carrier operating in interstate commerce. Accordingly, it is determined that PHR is an employer within the meaning of section 1(a)(1)(i) of the Railroad Retirement Act (45 U.S.C. § 231(a)(1)(i)) and the corresponding provision of the Railroad Unemployment Insurance Act as of June 10, 2010, the date as of which it first compensated employees.

Original signed by:

FOR THE BOARD
Beatrice Ezerski
Secretary to the Board