

B.C.D. 12-21
EMPLOYER STATUS DETERMINATION
Tyburn Railroad, LLC

June 20, 2012

This is the determination of the Railroad Retirement Board concerning the status of Tyburn Railroad, LLC (Tyburn), 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 Tyburn was provided by Robert C. Parker, President and CEO of Tyburn. According to Mr. Parker, Tyburn began operations on September 1, 2011. There are 5 employees and they began compensated service on September 1, 2011. Tyburn is a wholly owned subsidiary of Regional Rail, LLC. Regional Rail owns and operates two other subsidiaries, East Penn Railroad, LLC (BA No. 3394) and the Middletown & New Jersey Railroad, LLC (BA No. 2217). Tyburn was acquired from Tyburn Railroad Company (BA No. 3367). The acquisition constituted the entire rail operation of Tyburn Railroad Company. Tyburn also purchased rail and property from Consolidated Rail Corporation (Conrail, BA No. 1321). Previously, Tyburn Railroad Company was leasing from Conrail. As a result of the transaction, Tyburn acquired two locomotives. Tyburn handles only freight. It expects to handle over 1,200 railcars in 2012.

In Surface Transportation Board Finance Docket No. 33541, Tyburn filed a notice of exemption to acquire from Tyburn Railroad Company and operate approximately 0.9 miles of rail lines in Morrisville, Pennsylvania. The lines were formerly a yard owned by Consolidated Rail Corporation (Conrail) and are located in a Conrail Shared Asset Area. Tyburn states that it will be able to interchange traffic with Norfolk Southern Railway Company (NS, BA No. 1525) and CSX Transportation, Inc. (CSXT, BA No. 1524), and Tyburn will enter into standard agreements with Conrail, NS, and CSXT to effect such interchange.

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 Tyburn is a carrier operating in interstate commerce. Accordingly, it is determined that Tyburn 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 September 1, 2011, the date as of which it first began operations.

Original signed by:

FOR THE BOARD
Martha P. Rico
Secretary to the Board