

MAR 31 2006

EMPLOYER STATUS DETERMINATION
Morehead & South Fork Railroad Co., Inc.

This is the determination of the Railroad Retirement Board concerning the status of Morehead & South Fork Railroad Co., Inc. (MHSF) as an employer under the Railroad Retirement Act (45 U.S.C. § 231, et seq. (RRA) and the Railroad Unemployment Insurance Act (45 U.S.C. § 351, et seq.) (RUIA).

Information about MHSF was supplied by Deborah Jenkins, Vice President, Administration, MHSF. MHSF acquired an exclusive freight easement at the Port of Morehead City, North Carolina from Carolina Rail Service, LLC (B.A. No. 4576). Surface Transportation Board (STB) authority for this acquisition and operation of freight service is set forth in STB Finance Docket No. 34748, decided September 16, 2005. The easement includes all trackage at the port, the owner of which is the North Carolina State Ports Authority (SPA). MHSF operates over the rail property pursuant to an operating agreement with SPA. MHSF first compensated employees and began freight operations on September 1, 2005. MHSF interchanges with Norfolk Southern Railway (B.A. No 9408) at milepost 0.0 in Morehead City, North Carolina.

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 [45 U.S.C. § 231(a)(1)(i)].

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

Based on the information summarized above, it is determined that Morehead & South Fork Railroad Co., Inc. became an employer covered under the Railroad Retirement Act and the Railroad Unemployment Insurance Act on September 1, 2005, the date on which employees were first compensated and on which railroad operations began.

Original signed by:

Beatrice Ezerski
FOR THE BOARD
Secretary to the Board