

**EMPLOYER STATUS DETERMINATION  
Short Line Safety Institute (SLSI)**

This is a determination of the Railroad Retirement Board concerning the status of the Short Line Safety Institute (SLSI) 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.). The status of SLSI under the Acts has not been previously considered.

SLSI was incorporated by the American Short Line and Regional Railroad Association (BA# 7301) (ASLRRA) on September 18, 2015. ASLRRA is a covered employer under the Acts with service creditable from January 1, 1917. Keith T. Borman, Vice President and General Counsel of ASLRRA, provided information regarding SLSI's organization and operations. Mr. Borman stated that ASLRRA founded SLSI to advance safety within the Class II and Class III railroad industry, and SLSI's bylaws state the mission of SLSI is "to provide leadership to enhance the safety culture and safety conformance of short line and regional railroads through assessment, education and training." Legal, accounting, grant management, and other support services for SLSI will be provided by current employees of ASLRRA, and SLSI's offices will be located within the offices of ASLRRA.

SLSI's bylaws require that the Board of Directors consist of at least four members, consisting of three ASLRRA officers (the President, Vice Chairman, and Chair of the Safety Training Committee of ASLRRA) who must be employed by ASLRRA member railroads, and the Executive Director of SLSI. Mr. Borman anticipated that the Executive Director would initially be SLSI's only employee, and would be selected by the other Board members from candidates recommended by the President of ASLRRA. This Executive Director was expected to begin work for SLSI beginning January 1, 2016. The initial Board of SLSI consists of seven Directors (including the Executive Director), five of whom are covered employees under the Acts according to Mr. Borman. A majority of the current Board of Directors may vote to increase or decrease the number of Directors, but may not eliminate any of the four minimum ex officio members.

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:

- (iv) any railroad association, traffic association, tariff bureau, demurrage bureau, weighing and inspection bureau, collection agency and any other association, bureau, agency, or organization which is controlled and maintained wholly or principally by two or more employers as defined in paragraph (i), (ii), or (iii) of this subdivision and which is engaged in the performance of services in connection with or incidental to railroad transportation.

Section 1(a) of the RUIA (45 U.S.C. § 351) contains essentially the same definition, as does section 3231 of the Railroad Retirement Tax Act (26 U.S.C. § 3231). Section 202.7 of the Board's regulations (20 CFR §202.7) states that service or operation of equipment or facilities is in connection with railroad transportation when such service or operation is reasonably directly related, functionally or economically, to the performance of obligations which a company or person or companies or persons have undertaken as a common carrier by railroad, or to the receipt, delivery, elevation, transfer in transit, refrigeration or icing, storage, or handling of property transported by railroad.

While SLSI is not itself a carrier by railroad, its bylaws and corporate filings indicate SLSI is an association or organization which is controlled and maintained principally by the ASLRRA and its member railroads, all of whom are covered employers under the Acts. SLSI is also engaged in the improvement of rail safety within the Class II and Class III railroad industry, which service is functionally directly related to the performance of obligations undertaken by those Class II and Class III railroads as common carriers by railroad. As a result, the Board finds that SLSI is a covered employer within the meaning of Section 1(a)(1)(iv) of the Railroad Retirement Act and Section 1 of the Railroad Unemployment Insurance Act effective January 1, 2016. Cf. Rev. Ruling 82-100, 1982-1 C.B. 155, wherein the IRS ruled that a company became an employer subject to taxes under the Railroad Retirement Tax Act on the date it hired employees to perform functions directly related to its carrier operations.

Original signed by:

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