

## Employer Status Determination

### Hardin Southern Railroad Company

This is the decision of the Railroad Retirement Board regarding the status of Hardin Southern Railroad Company (Hardin), as an employer under the Railroad Retirement and Railroad Unemployment Insurance Acts.

On October 1, 1993, Hardin purchased approximately 8.34 miles of rail line running between Murray and Hardin, Kentucky. The line serves only one shipper, Hardin Grain Elevators. The Interstate Commerce Commission exempted the transfer from regulation in Hardin Southern Railroad Inc., -- Acquisition and Operation Exemption -- Line of J and J Railroad, Inc., Finance Docket No. 32347, 56 Fed. Reg. 54603, 54604, October 22, 1993.

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

(i) any express company, sleeping-car company, and carrier by railroad, subject to part I of the Interstate Commerce Act;

(ii) any company which is directly or indirectly owned or controlled by, or under common control with one or more employers as defined in paragraph (i) of this subdivision and which operates any equipment or facility or performs any service (other than trucking service, casual service, and the casual operation of equipment and facilities) in connection with the transportation of passengers or property by railroad \* \* \*.

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

As Hardin conducts rail operations only for one shipper, it operates as a private carrier rather than a common carrier in interstate commerce which would be subject to the Interstate

**Hardin Southern Railroad Company**

Commerce Act. Hardin therefore does not meet the requirements for coverage as a rail carrier employer under the Acts. As no other provision is relevant, the Board determines that Hardin Southern Railroad is not a covered employer under the Acts.

An appropriate form G-215 is attached.

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Glen L. Bower

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V. M. Speakman, Jr.

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Jerome F. Kever

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**TO:** The Board

**FROM:** General Counsel

**SUBJECT:** Hardin Southern Railroad Company  
Employer Status

Attached is a draft determination that Hardin Southern Railroad, Incorporated, is not a covered employer under the Acts.

Catherine C. Cook

Attachment

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