

EMPLOYER STATUS DETERMINATION
SMS Rail Service, Inc.

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

In Interstate Commerce Commission (ICC) Finance Docket No. 32494, decided May 19, 1994, the ICC granted an exemption to SMS to acquire by lease and to operate as a common carrier approximately 3.5 miles of rail line owned by Pureland Association, Incorporated and located within the Pureland Industrial Complex in Glouster, New Jersey. The line starts at the turnout from the track of Conrail near Nortonville, New Jersey and winds up, including spur lines and branches, at the turnout from track of Conrail near Bridgeport, New Jersey. This exemption became effective on May 26, 1994.

Mr. Jeffrey L. Sutch, President of SMS, stated that SMS is a class 3 shortline railroad which interchanges with Conrail. Mr. Arthur H. Adams, SMS Superintendent of Operations, advised that Conrail previously conducted the pick up and delivery of freight to and from the individual businesses in the Pureland Industrial Complex. SMS now conducts such operations, picking up and delivering freight within the complex prior to or after interchange with Conrail. SMS began operations on May 31, 1994.

Based on the information summarized above, it is determined that SMS Rail Service, Inc., which interchanges with a rail carrier operating in interstate commerce, is engaged in interstate commerce and is, therefore, a rail carrier employer under the RRA and RUIA effective May 31, 1994, the date on which it began railroad operations.

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