

**EMPLOYER STATUS DETERMINATION**  
**Camp Chase Industrial Railroad**

This is the determination of the Railroad Retirement Board concerning the status of Camp Chase Industrial Railroad (CCIR) 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 CCIR was provided in a letter dated December 2, 1994, from Mr. Dennis E. Larson, Vice President, General Manager, and General Counsel of CCIR. In Interstate Commerce Commission (ICC) Finance Docket No. 32581, CCIR was granted an exemption to acquire from Conrail all rail properties presently known as the Camp Chase Industrial Track. According to Mr. Larson, this property is 14 miles long, running from Columbus/Camp Chase, Ohio to Lilly Chapel, Ohio. CCIR began operations on October 11, 1994, and has two employees who were first compensated for services performed on that date. Mr. Larson described CCIR as anticipating approximately 2,500 car loads of traffic annually. The CCIR is a switch carrier only, and interchanges directly with Conrail. Conrail also serves as an intermediate switch carrier between the CCIR and the CSXT and Norfolk Southern in Columbus.

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 subchapter I of chapter 105 of Title 49;
- (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) of the Railroad Unemployment Insurance Act (RUIA) (45 U.S.C. §§ 351(a) contains substantially similar definitions.

The term "railroad" under the Interstate Commerce Act includes a switch, spur, track, terminal, or terminal facility as well as a freight depot, yard, and ground used or necessary for transportation (49 U.S.C. §10102(21)(C)). It is well settled that a terminal or switching company is a common carrier rather than a private carrier if it holds itself out to be one, acts in that capacity, and is dealt with in that capacity by railroads in

general. U.S. v. California, 297 U.S. 175 (1936). Consistent with this, the Board has held terminal railroads to be covered employers under the RRA and RUIA where they act in the capacity of a common carrier subject to part I of the Interstate Commerce Act.

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Conversely, where switching operations are conducted by a plant owner for itself, these operations do not result in the plant owner's being a covered employer under the Acts.

It is clear from the information contained in the file that CCIR is holding itself out to the public as engaging in the business of transporting people or property over Camp Chase Industrial Track. CCIR owns the trackage involved. Therefore, in view of the foregoing, it is the determination of the Board that CCIR is an employer under the Railroad Retirement and Railroad Unemployment Insurance Acts effective October 11, 1994, the date it began operations.

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