

EMPLOYER STATUS DETERMINATION
Alabama & Gulf Coast Railway, LLC.

This is the determination of the Railroad Retirement Board concerning the status of the Alabama & Gulf Coast Railway, LLC (AGCR) 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.).

In STB Finance Docket No. 33438, decided August 5, 1997, AGCR filed a notice of exemption to acquire from the Burlington Northern and Santa Fe Railway Company (B.A. No. 1621) (BNSF) and operate 140.58 miles of rail line. The 140.58 mile rail line is between milepost 776.10 near Kimbrough, Alabama, and milepost 916.68 in Pensacola, Florida. AGCR also acquired certain trackage rights. AGCR first compensated its employees on September 17, 1997 and began operations on September 22, 1997. AGCR expects to handle 45,000 carloads of freight. Mr. Rick Cecil is president of AGCR. AGCR interchanges with BNSF and CSXT.

The evidence of record establishes that AGCR is a carrier operating in interstate commerce. Accordingly, it is determined that the Alabama & Gulf Coast Railway, LLC is an employer within the meaning of section 1(a)(i) of the Railroad Retirement Act (45 U.S.C. § 231(a)(1)(i)) and the corresponding provision of the Railroad Unemployment Insurance Act effective September 17, 1997, the date as of which its employees were first compensated. [Cf. Rev. Rul. 82-100, 1982 C.B. 155, wherein the IRS held that a company became an employer under the Railroad Retirement Tax Act on the date it hired employees to perform functions directly related to its carrier operations.]

V. M. Speakman, Jr.

Jerome F. Kever