

**EMPLOYER STATUS DETERMINATION
VIA Rail Canada, Inc.**

This is the determination of the Railroad Retirement Board concerning the continuing status of VIA Rail Canada, Inc. (VRCI), (B.A. No. 8101) 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 Legal Opinion L-79-144, issued April 20, 1979, VRCI was determined to be an employer under the Railroad Retirement Act and Railroad Unemployment Insurance Act only with respect to service performed in the United States, effective October 29, 1978.

On March 28, 2008, in response to an inquiry letter dated March 12, 2008, Mr. Mike Regimbal, the Senior Advisor of Policies and Procedures for VRCI, provided answers to a termination questionnaire and forwarded under separate cover copies of several documents showing VRCI's last IRS filings in 2004 which confirm that its operation ceased in the United States in 2004. Mr. Regimbal also forwarded other signed statements and documents indicating that VRCI's final train carrying passengers from Toronto to Chicago would complete its trip on April 23, 2004. IRS form CT-1 filed by VRCI in November of 2006, for calendar year 2005, showed that no compensable employer taxes were paid by VRCI in 2005.

Mr. Regimbal reiterated in his response to the termination questionnaire that rail operations ceased in April of 2004. VRCI has not been merged into any other railroad company and VRCI's remaining operations are exclusively limited to operations within Canada. VRCI's employees were last compensated for work within the United States in April 2004.

Section 202.11 (20 CFR 202.11) of the Board's regulations states that:

The employer status of any company or person shall terminate whenever such company or person loses any of the characteristics essential to the existence of an employer status.

By virtue of the cessation of its operations in the United States, VRCI is no longer subject to the jurisdiction of the Surface Transportation Board. See 49 U.S.C. § 10501. The evidence of record thus establishes that VRCI no longer possesses the characteristics of a railroad carrier employer within the United States. The Board therefore finds that effective April 23, 2004, the date VRCI's railroad operations in the United States ceased, Via Rail Canada, Inc. ceased being a covered employer under the Railroad Retirement and Railroad Unemployment Insurance Act.

Original signed by:

Michael S. Schwartz

V. M. Speakman, Jr.

Jerome F. Kever