

FEB 04 2003

EMPLOYER STATUS DETERMINATION

Ohio Operation Lifesaver

This is the decision of the Railroad Retirement Board regarding the continued status of the Ohio Operation Lifesaver, 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).

Ohio Operation Lifesaver was held to be a covered employer effective June 24, 1986, in Legal Opinion L-87-21 (B.A. Number 7325). Its purpose is to serve, educate, and inform the general public about highway/railroad grade crossing laws and to promote highway/railroad grade crossing safety throughout the state of Ohio in an effort to reduce crashes, injuries and fatalities. It has one employee. Formerly, one-half of its board of directors consisted of representatives of the four railroads that funded Ohio Operation Lifesaver.¹ Consequently, Ohio Operation Lifesaver was held to be under common control with two or more railroad employers. Effective December 10, 2002, the bylaws of Ohio Operation Lifesaver changed so that the board of directors is now composed of thirteen voting members, of which seven are from non-railroad organizations.

Section 202.11 of the Board's regulations provides 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.

A majority of the Board finds that through the change in its bylaws and composition of its board of directors, Ohio Operation Lifesaver is no longer under common control with two or more railroad employers.

¹ L-87-21 noted that the four funding railroads were CSX Transportation, Conrail, Norfolk Southern Corporation, and Grand Trunk Western Railroad.

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Accordingly, a majority of the Board holds that Ohio Operation Lifesaver ceased to be an employer under the Railroad Retirement and Railroad Unemployment Insurance Acts effective with the close of business on December 10, 2002.

Original signed by:

Cherryl T. Thomas

V. M. Speakman, Jr. (Dissenting)

Jerome F. Kever