

Justification
Application for Spouse Annuity Under the Railroad Retirement Act
RRB Form AA-3, AA-3cert

1. Circumstances of information collection - Section 2(c) of the Railroad Retirement Act (RRA) provide for the payment of annuities to spouses of railroad retirement annuitants who meet the requirements under the RRA. The age requirements for a spouse annuity depend on the employee's age and date of retirement and the employee's years of railroad service. The following requirements apply if the employee's annuity began after 1974:

If a retired employee is age 62 with 10-29 years of service, the employee's spouse is also eligible for an annuity at age 62. Early retirement reductions are applied to the spouse annuity if the spouse retires prior full retirement age.

If a retired employee is age 60 and credited with 30 years of service, the employee's spouse is also eligible for an annuity at age 60. Early retirement annuity reductions are applied to such a spouse annuity if the employee retires before age 62, unless the employee attained age 60 and completed 30 years service prior to July 1, 1984. The reduction is substantially less if the employee met the 60/30 requirement between July 1, 1984, and December 31, 1985.

Also, if a 30-year employee retires at age 62, an age reduction is not applied to the spouse annuity even if the spouse retires at age 60 rather than age 62.

A spouse of an employee qualified for an age and service annuity is eligible for a spouse annuity at any age if caring for the employee's child, and the child is under age 16 or became disabled before age 22. However, a female spouse may continue to receive partial (Tier II only) benefits until the child attains age 18. If the spouse caring for a child is the husband of a female railroad employee, the annuity is, in effect, equal to what social security would pay in the same situation and therefore generally less than the amount of the spouse annuity otherwise payable.

The employee must have been married to the spouse for at least one year, unless the spouse is the natural parent of their child, or the spouse was receiving a railroad survivor annuity before marrying the employee.

A spouse annuity cannot be paid until the spouse stops working for her or his last railroad employer before retirement and gives up any rights to return to such employment.

An annuity may also be payable to the divorced wife or husband of a retired employee, if their marriage lasted for at least 10 years, both have attained age 62 and the divorced spouse is not married at the time she or he applies for benefits.

The amount of a divorced spouse's annuity is, in effect, equal to what social security would pay in the same situation and therefore less than the amount of the spouse annuity otherwise payable.

The requirements for obtaining the annuities are prescribed in 20 CFR 216, 218, 219, 234 and 295.

2. Purposes of collecting/consequences of not collecting the information - **Form AA-3, Application for Spouse/Divorced Spouse Annuity** is used to obtain information needed for determining an applicant's entitlement to an annuity and the amount of the annuity. Form AA-3 is completed by an applicant, or by a representative on behalf of an applicant. Items 1-6 are pre-filled by the Railroad Retirement Board (RRB).

The RRB proposes the following non-burden impacting changes to Form AA-3:

Revise and reformat Item 7 to create a skip pattern by adding new items below.

- Include "Go to Item 8" if a social security number is provided.
- Include check box to indicate social security number is to be provided.
- Include "Go to Item 10" if a social security number is to be submitted.

Reformat Item 18 and rewrite instructions for clarity and consistency. Though part of Item 18 was already formatted for one entry, the other part was formatted for multiple entries. Extra marriages will be entered in the "Remarks" section.

Revise Item 25 to remove Item "Reduced 60/30 Age Annuity." A spouse does not "apply" for a reduced 60/30 annuity, but rather a "reduced age annuity" or "full age annuity." If the age and service employee was paid as a reduced 60/30 before 1-1-2002 and either the employee or spouse have not attained age 62, then the spouse would be "paid" a "reduced 60/30 age annuity," no matter what is selected in Item 25 (other than annuity based on children).

Revise Items 28c-32c to change "Legitimate" to "Natural".

Revise Section 7, Items 62-68. Specifically:

- Item 62 – Add "6" months. A change in the legal interpretation of Section 2(f)(6)(A) of the Railroad Retirement Act, redefined "Last Pre-Retirement Non-Railroad Service (LPE) previously known as "Last Person Service Employer." The RRB's Office of General Counsel has been making LPE determinations on a case-by-case basis. Based on legal opinion L-95-29 which cites the definition in 20CFR 216.22(b) and states "Based on the wording of the above cited regulation, it is my opinion that any... company for whom the individual is employed within six months is presumptively his last person service employer."

- Revise “Note” to read Form G-19F, Earnings Information Request, instead of Form G-19L Annual Earnings Questionnaire, and add new text. Form G-19F is the appropriate form used when the spouse/divorced spouse is filing for benefits. Form G-19L is a monitoring form used after the annuitant is receiving benefits.
- Add New Item 64 – Recent Job Title
- Renumber current items 64 and 65 to items 65 and 66 respectively
- New Item 67 – Include reference to seasonal employers. If railroad employment is seasonal, work deductions are handled differently. The RRB proposes to create a new “Type of work” code “6” to identify “seasonal employment,” which is outlined in legal opinion L-97-37. “Seasonal employment is not considered “LPE” and will not cause LPE work deductions to Tier II. Currently, RRB field offices make this determination or request review by RRB headquarters staff and details for their determination of “seasonal employment” are provided in a memorandum this is filed with the application.
- Renumber current Item 66 to Item 68.
- Add new item 69 – Next Most Recent Job Title.
- Renumber current Items 67 and 68 to Items 70 and 71.
- Add new Item 72 – Include seasonal employment in reference to next most recent employer.
- Renumber current Items 69-122 to Items 73-126.
- Reformat current Medicare Items 105 and 106 for clarity

At the request of the RRB’s Inspector General, the following changes are proposed to Item 125, Certification:

- Revise the first bullet to read, “If I go to work for a railroad or railroad labor organization, or return to work in any capacity in the railroad industry.”
- Add new third bullet (proposed) to read “If I receive a settlement with credit for railroad service as “pay-for-time-lost” for months after the date(s) shown in Item(s) 51 (and 58).
- Reword current third bullet (proposed fourth bullet) to read, “If I return to work for my Last Pre-Retirement Nonrailroad Employer and there is a change in my estimated earnings.”
- Move the fourth bullet (current) to the fifth bullet (proposed).
- Move the fifth bullet (current) to the seventh bullet (proposed).
- Add new sixth bullet (proposed) to read, “If benefits I receive directly from SSA are adjusted for a reason other than normal cost-of-living increases.”
- Move the sixth bullet (current) to the eighth bullet (proposed).
- Move the seventh bullet (current) to the eighth bullet (proposed).
- Move the eighth bullet (current) to the tenth bullet (proposed) and revise to read “If a qualifying child marries or leaves my custody or residence.”
- Move the ninth bullet (current) to the eleventh bullet (proposed).
- Move the tenth bullet (current) to the twelfth bullet (proposed).

- Move from the fraud paragraph (current) to the thirteenth bullet (proposed), that the annuitant must report earnings over the annual earnings exempt amount.
- Add new fourteenth bullet to read, "If I perform work, including self-employment, for a family owned, controlled or managed business, including a business operated, managed or owned by me, a family member, friend or close associate, whether for pay or not and without regard to how the business is organized (e.g., sole proprietorship, partnership, corporation, LLC, etc.)"
- Add new fifteenth bullet to read, "If I become a corporate officer of, own or operate a corporation, (including a corporation owned by a family member or friend), whether for pay or not."
- Add new sixteenth bullet to read, "If I receive anything of value in lieu of salary or wages for any work that I performed."
- Add to the fraud paragraph that if the annuitant is covered by earnings restrictions, that they certify that they have received and reviewed Form G-77a, How Work Affects Your Railroad Retirement Benefits.
- Reword the fraud sentence to say that failing to report any of the bulleted items or other events that may affect the annuity may result in a penalty deduction from the annuity, criminal/and or civil prosecution.

In addition to the required review under the Paperwork Reduction Act, all of the changes proposed to Form AA-3 were reviewed by staff from the RRB's Office of General Counsel (OGC) and Office of the Inspector General (OIG). The OGC advised that the changes were legally acceptable. The OIG also advised that they had no objection. Subsequently, the new form has been reviewed and approved for use (pending OMB approval) by the RRB's Board Members.

Form AA-3 is designed for self-administration. The other options are in-person interview at an RRB field office, an in-person interview at an itinerant point, and a telephone interview. This filing is consistent with that of the Social Security Administration and provides the public with the best balance between need and burden.

The application package the applicant receives includes an RL-1 transmittal letter and booklets RB-3 and RB-30. The RL-1 transmittal letter tells the applicant what forms and booklets should be enclosed and what proofs are needed to support the claim. Booklet RB-3, Furnishing Evidence To Support Your Claim, explains the type of documents which can serve as evidence and gives suggestions for obtaining such documents. Booklet RB-30, Spouse/Divorced Spouse Annuity, serves as an informational booklet for the benefits being applied for. **NOTE: The Paperwork Reduction and Privacy Act notices associated with the AA-3 application process are also found in RRB booklet RB-30.**

The RRB uses the Application Express (APPLE) System to automate the spouse annuity application (AA-3) information gathering process. As part of this effort, the RRB utilizes Form AA-3cert, Application Summary and Certification.

Details regarding the automated capturing of AA-3cert information follow:

An applicant is interviewed by an RRB field-office representative who enters the information obtained on-line via the APPLE system. The APPLE system automatically prefills identifying information resident in RRB automated systems.

The information requested mirrors the information currently requested on manual RRB Form AA-3. However, depending on circumstances, the system also incorporates information currently collected on RRB Form AA-7, Spouse/Divorce Spouse Application for Medicare (OMB 3220-0082), and Form G-208, Public Service Pension Questionnaire (OMB 3220-0136),

Depending on the responses to the questions, the system automatically generates the next appropriate question, eliminating the confusion associated with skip patterns (“go to items”). The direct entry of the application data into the APPLE system expedites the payment process, thereby enhancing RRB customer service goals.

Upon completion of the on-line application process the APPLE system generates Form AA-3cert.

Form AA-3cert is divided into three parts:

- Part 1 summarizes information about the employee.
- Part 2 summarizes information about the applicant.
- Part 3 provides for certification and signature of the application. It includes statements that the information given in relation to the application are true; that the applicant received and reviewed a summary of the information they provided; that the applicant received the correct booklets; that the applicant is obligated to advise the RRB of any errors in the summary they received; and that they know if they make a false or fraudulent statement they are committing a crime punishable under Federal Law.

A footer on each page includes the form number, the page number, and a unique identifier. The unique identifier consists of the applicant' social security number, the application type code and the time and date of generation. After the application is released, Form AA-3rec is provided to the applicant. Form AA-3rec which serves as a receipt, advises the applicant that the processing of the application has begun and provides a general description of the application process. It also provides the

telephone numbers of both the field office and headquarters if there are changes that need to be reported.

The RRB proposes the following non-burden impacting changes to Form AA-3cert.

- Revise item 9 and 10 to change the term “felony” to “criminal offense.”
- Revise Item 38 to read, “You worked for the following employers outside the railroad industry in the 6 months before you expect your annuity to begin.”
- Revise Item 39 to read, “You have not worked for an employer outside the railroad industry in the 6 months before you expect your annuity to begin.”
- Add new Item 40 to help identify seasonal employment from other types of employment. If nonrailroad employment is seasonal, the earnings are handled differently than other earnings.
- Changes in formatting and item numbers due to addition of Item 40.

At the specific request of the RRB’s Inspector General, the following changes are proposed to the certification of Form AA-3cert:

- Add to Certification Statement for applicants less than full retirement age, that failure to report their earnings may result in a penalty deduction from their annuity and/or criminal prosecution.
- Revise third bullet to read, “I receive a lump-sum payment or begin to receive a monthly pension based on my earnings from a Federal, state or local government agency.”
- Revise seventh bullet to read, “I go to work for a railroad or railroad labor organization or work in any capacity in the railroad industry.”
- Add tenth bullet (proposed) to read, “I earn over the annual earnings exempt amount.”
- Move the tenth bullet (current) to the eleventh bullet (proposed).
- Add twelfth bullet (proposed) to read, “I receive a settlement with credit for railroad service as “pay-for-time-lost” for months after...”
- Add thirteenth bullet (proposed) to read, “If I perform work, including self-employment for a family owned, controlled or managed business, including a business operated, managed or owned by me, a family member, friend or close associate whether for pay or not and without regard to how the business is organized (e.g., sole proprietorship, partnership, corporation, LLC, etc).”
- Add fourteenth bullet (proposed) to read, “If I become a corporate officer of, own or operate a corporation (including a corporation owned by a family member or friend) whether for pay or not.”
- Add fifteenth bullet (proposed) to read, “I receive anything of value in lieu of salary or wages for work that I performed.”
- Move the eleventh bullet (current) to the sixteenth bullet (proposed).
- Move the twelfth bullet (current) to the seventeenth bullet (proposed).

- Move the thirteenth bullet (current) to the eighteenth bullet (proposed).
- Move the fourteenth bullet (current) to the nineteenth bullet (proposed) and revise to change the term “felony to “criminal offense.”

In addition to the required review under the Paperwork Reduction Act, all of the changes proposed to Form AA-3cert were reviewed by staff from the RRB’s Office of General Counsel (OGC) and Office of the Inspector General (OIG). The OGC advised that the changes were legally acceptable. The OIG also advised that they had no objection. Subsequently, the new form has been reviewed and approved for use (pending OMB approval) by the RRB’s Board Members.

NOTE: We have included two versions of the proposed form AA-3cert. One version contains all possible questions. The second version serves as an example of a completed questionnaire which includes only the relevant responses. Also, the Paperwork Reduction and Privacy Act notices associated with the AA-3cert application process are found in RRB booklet RB-30, Spouse/Divorced Spouse Annuity.

3. Planned use of improved information technology or technical/legal impediments to further burden reduction – The RRB’s current implementation plan estimates that the forms are to be made available for Internet processing through the RRB’s web-site by 9/30/2008. This estimate is tentative and assumes adequate staff and funding levels. The RRB will submit a request for a new/revised information collection to OMB for approval well in advance of any planned implementation of an Internet version.
4. Efforts to identify duplication - This information collection does not duplicate any other information collection.
5. Small business respondents - N.A.
6. Consequences of less frequent collection - N.A.
7. Special Circumstances - N.A.
8. Public comments/consultations outside the agency - In accordance with 5 CFR 1320.8(d), comments were invited from the public regarding this information collection. The notice to the public was published on page 44727 of the August 7, 2006, Federal Register. No comments or requests for additional information were received.
9. Payments or gifts to respondents - None
10. Confidentiality - Privacy Act System of Records RRB-22, Railroad Retirement Survivor and Pensioner Benefit System.

11. Sensitive questions - N.A.

12. Estimate of respondent burden - The estimated annual burden for the collection is unchanged as follows:

Current Burden

Form #	Annual Responses	Time (Min)	Burden (Hrs)
Form AA-3cert (with assistance)	8,400	30	4,200
Form AA-3 (without assistance)	100	58	97
Total	8,500		4,297

13. Estimated annual cost to respondents or record keepers - N.A.

14. Estimate of cost to Federal government - N.A.

15. Explanation for change in burden – N.A. The RRB did reevaluate the estimated completion for Form AA-3cert and AA-3 and determined that the addition of new items and the additional language in the certification statement as part of the application interview process or stand-alone application were essentially non-burden impacting and that the estimated completion time for both forms **overall** is accurate and should remain unchanged.

16. Time schedule for data collection and publication -The results of this collection will not be published.

17. Request not to display OMB expiration date - The AA-3 is seldom revised. Given the costs associated with redrafting, reprinting, and distributing the form in order to keep the appropriate OMB expiration date in place, the RRB requests the authority to not display the expiration date on the form.

18. Exceptions to Certification Statement -
None