

Justification

Application for Employee Annuity Under the Railroad Retirement Act

RRB Forms AA-1, AA-1cert, AA-1d, and G-204

1. Circumstances of information collection – Section 2 of the Railroad Retirement Act provides for payment of age and service, disability and supplemental annuities to qualified employees as explained below. An annuity cannot be paid until the employee stops working for a railroad employer. In addition, the age and service employee must relinquish any rights held to such jobs. A disabled employee does not need to relinquish employee rights until attaining Full Retirement Age, or if earlier, their spouse files for a spouse annuity. Benefits become payable after the employee meets certain other requirements, which depend, in turn, on the type of annuity payable.

Age and Service, Disability and Supplemental Annuities

Age and Service with at least 360 Months of Railroad Service - An employee with at least 360 months of railroad service is eligible for an age and service annuity at age 60. This annuity is not reduced for early retirement.

Age and Service with 60-359 Months of Railroad Service - The retirement age of an employee with less than 360 months of railroad service is determined under Social Security Administration (SSA) rules. The term Full Retirement Age (FRA) means the age at which an employee with less than 360 months of railroad service can receive a full annuity (not reduced for early retirement).

The Railroad Retirement and Survivor Improvement Act of 2001 provide for an employee annuity to an employee with 60-119 months of railroad service after 1995. The employee must have a Social Security Insured Status under SSA rules (usually 40 quarters of coverage based on combined railroad service and wages).

The employee is entitled to an age and service annuity based on 60-359 months of railroad service at age 62.

Tier 1 Reduction to Age and Service Annuities for Early Retirement

- if the employee has 120-359 months of railroad service, the reduction for early retirement is based on the number of months the employee is under FRA on the RRA annuity beginning date.
- If the employee has 60-119 months of railroad service after 1995, the reduction for early retirement is based on the number of months the employee is under FRA on the RRA annuity beginning date or, if earlier, the beginning date of the employee's SSA benefit.

Tier 2 Age Reduction for Early Retirement

The RRA has a special provision for the Tier 2 benefit:

- If the employee has some railroad service before August 12, 1983, the Tier 2 will be reduced for early retirement if the annuity is awarded before age 65.
- If the employee began railroad service after August 12, 1983, the Tier 2 will be reduced for early retirement if the annuity is awarded before FRA.

Total and Permanent Disability

An employee who has at least 120 months of railroad service and is totally and permanently (T&P) disabled for all employment (has a "disability freeze" based on SSA rules), may be eligible for a T&P annuity at any age. This annuity is not reduced for early retirement.

An employee who has an 60-119 months of railroad service after 1995, and is totally and permanently disabled (has a “disability freeze” under SSA rules), may be eligible for a T&P disability “Tier 1 only” annuity at any age. The employee is not paid the Tier 2 benefit until age 62 is attained. The Tier 2 benefit is then reduced for early retirement under the RRA special provision for Tier 2 benefits as if it were based on age and service.

Occupational Disability Annuity

An employee who is permanently disabled for his or her regular employment, and has at least 120 months of railroad service, may be eligible for an occupational disability annuity. If the employee has 120-239 months of railroad service, the occupational disability annuity is payable at age 60. If the employee has at least 240 months of service, the occupational disability annuity is payable at any age. This annuity is not reduced for early retirement. A “current connection” with the railroad industry is also required for an annuity based on occupational disability.

Waiting Period for a T&P or Occupational Disability Annuity

A waiting period of five full months is required after the onset of disability before a T&P or occupational disability annuity can begin.

Supplemental Annuity

A supplemental annuity can be paid to any employee at:

- age 60, if the employee has at least 360 months of creditable railroad service; or
- age 65, if the employee has 300-359 months of railroad service.

In addition to the railroad service requirement, a “current connection” with the railroad industry is required. Eligibility is further limited to employees who had some rail service before October 1981 and were awarded regular annuities after June 1966. An employee who was born before September 2, 1916, must not have worked in railroad service after certain closing dates (generally the last day of the month following the month in which age 65 is attained).

Current Connection Requirement

An employee who worked for a railroad in at least 12 of the months in the 2½ years immediately preceding retirement will meet the current connection requirement. (If the employee died before retirement, railroad service in at least 12 of the months in the 2½ years before death will meet the current connection requirement for the purpose of paying survivor benefits.)

If an employee does not qualify on this basis, but has 12 months of service in an earlier 2½ year period, he or she may still meet the current connection requirement. This alternative generally applies if the employee did not have any regular employment outside the railroad industry after the end of the 2½ year period which included 12 months of railroad service. Full-time or part-time work for a non-railroad employer in an interim between the end of the 30-month period, including 12 months of rail service and the beginning date of an employee’s annuity, can break a current connection.

Self-Employment in an unincorporated business will not break a current connection; however, self-employment can break a current connection if the business is incorporated. Working for certain U.S. Government agencies (Department of Transportation, National Transportation Safety Board, Surface

Transportation Board, Interstate Commerce Commission, National Mediation Board, or the Railroad Retirement Board) will not break a current connection.

A current connection can also be maintained, for purposes of supplemental and survivor annuities, if the employee completed 25 years of railroad service, was involuntarily terminated without fault from the railroad industry and did not thereafter decline an offer of suitable employment in the railroad industry. A termination of railroad service is considered voluntary unless there was no choice available to the individual to remain in service. Generally, when an employee has no option to remain in the service of his or her employer, the termination of the employment is considered involuntarily regardless of whether the employee does or does not receive a separation allowance. However, each case is decided by the RRB on an individual basis. This exception to the normal current connection requirements became effective October 1, 1981, but only for employees still living on that date who left the rail industry on or after October 1, 1975, or who were on leave of absence, on furlough, or absent due to injury on October 1, 1975.

Once a current connection is established at the time of retirement an employee never loses it, no matter what kind of work is performed thereafter.

The requirements for obtaining the annuities are prescribed in 20 CFR 216 and 220.

2. Purposes of collecting/consequences of not collecting the information – The RRB currently utilizes the following forms to obtain information needed for determining entitlement to and the amount of the employee retirement annuity:

Form AA-1, ***Application for Employee Annuity***, is completed by an applicant for either an age and service or a disability annuity. It obtains information about the applicant's marital history, work history, military service, benefits from other governmental agencies and railroad pensions. Items 1-5 are pre-coded by the RRB.

The RRB proposes the following changes to Form AA-1:

- Items 55 and 66 (Corresponding Items 3 and 4 on the AA-1cert)
We propose to change "12" months to "6" months. A change in the legal interpretation of Section 2(f)(6)(A) of the Railroad Retirement Act, has redefined "Last Pre-Retirement Nonrailroad 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. They now want to use attached L-95-29 dated October 24, 1995, as a precedent for all cases. This legal opinion cites the definition in RRB regulation 20 CFR 216.22(b) and states "Based on the wording of the above cited regulations, it is my opinion that any... company for whom the individual is employed within six months of his annuity beginning date 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 (OMB 3220-0184) is the appropriate form used when the employee is filing for benefits. Form G-19L is a monitoring form used after the employee is receiving benefits.
- Items 60 and 65 - Include reference to seasonal employers. If nonrailroad employment is seasonal, work deductions are handled differently. We propose to create a new "Type of Work" code "6," to identify "seasonal employment," which is described in the attached RRB legal opinion L-97-37. "Seasonal employment" is not considered LPE and will not cause LPE work deductions to Tier 2. Currently, RRB field offices make this determination or request review by Headquarters and details for their determination of "seasonal employment" are provided in a memo that is filed with the application.

Changes proposed to Item 135, Certification

- Revise the first bullet to read, “If I begin to receive a pension based on earnings that are not covered by the Social Security Administration (SSA) or the RRB”.
- Revise the second bullet to read, “If I begin to receive benefits directly from SSA”.
- Revise the fourth bullet to read “If I am entitled to a supplemental annuity from the RRB and receive a lump-sum pension payment or begin to receive a monthly pension from my railroad employer.”
- Revise the sixth 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.”
- Move the seventh bullet (current) to the eighth bullet (proposed).
- Move the eighth bullet (current) to the seventh bullet (proposed) and revise to read “If I return to work for my Last Pre-Retirement NonRailroad Employer and there is a change in my estimated earnings”.
- Add new ninth bullet to read “If I receive a settlement with credit for railroad service as “pay-for-time lost” for months after the dates shown in Item(s) 40 and 47.
- Move ninth bullet (current) to tenth bullet (proposed).
- Move tenth bullet (current) to eleventh bullet (proposed).
- Move eleventh bullet (current) to twelfth bullet (proposed).
- Add thirteenth bullet (moved from the fraud paragraph) to read, “If I earn more than the annual earnings exempt amount”.
- Add fourteenth bullet to read, “If I perform any work, including self-employment, for a family owned, controlled or managed 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 fifteenth bullet to read, “If my spouse who is receiving a benefit dies, or our marriage ends in divorce or annulment.”
- Add sixteenth bullet to read, “If a qualified child marries or leaves my custody or residence”.
- Add seventeenth 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 eighteenth bullet to read, “If I receive anything of value in lieu of salary or wages for any work that I performed”.

Add a reference to receipt of Form G-77a to the penalty statement.

In addition to the required review under the Paperwork Reduction Act, all of the changes proposed to Form AA-1 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: The Paperwork Reduction and Privacy Act notices associated with the AA-1 are found in RRB booklet RB-1, Age and Service Employee Annuity.

Form AA-1cert, Application Summary and Certification, is used when an RRB field office representative interviews an applicant then enters the information obtained into the on-line Application Express (APPLE) system. The APPLE system automatically pre-fills identifying information in real time from RRB database records onto the on-line screens. The remaining information is collected by interviewing the applicant.

The application interview may take place at an RRB field office, (preferred) or by telephone. The interview obtains information about the applicant’s marital history, work history, military service, benefits from other government agencies, railroad pensions and Medicare entitlement. The responses are entered into

APPLE by the RRB field office representative. The direct entry of the interview data into the APPLE system expedites the payment process, thereby enhancing RRB customer service goals.

Depending on the responses to the questions, the APPLE system automatically generates the next appropriate question, eliminating the confusion associated with skip patterns (“go to items”) that are on the paper version of Form AA-1, Application for Employee Annuity.

The information requested by the APPLE system mirrors the information requested on RRB Form AA-1. Depending on the circumstances, the system also incorporates information currently collected on RRB Form AA-6, Employee Application for Medicare (OMB 3220-0154) and Form G-209, Employee Noncovered Service Pension Questionnaire (OMB 3220-0154).

Upon completion of the on-line application process, the APPLE system generates Form AA-1cert. for the applicant to review and sign. If the application interview is taken over the telephone, the Form AA-1cert is mailed to the applicant for review and signature. The RRB field office does not release the payment of the annuity until the signed AA-1cert is returned by the applicant.

Form AA-1cert is divided into two parts:

- Part 1 summarizes information about the employee and corresponds to Sections 2-21 of the manual form AA-1.
- Part 2 provides for the certification of the application and signature of the employee and corresponds to Section 22 of the manual form AA-1.

A footer on each page includes the form number, the page number, and an unique identifier. The unique identifier consists of the applicant’s social security number, the application type code and the time and date of generation. After the application is released, Form AA-1rec, is provided to the applicant. Form AA-1rec, 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.

Self-administration is offered as an option to persons applying for benefits. The other options are an in-person interview at the field office (preferred), an in-person interview at an itinerant point or a telephone interview. This policy is consistent with that of SSA, provides the public with the best balance between need and burden.

The RRB proposes the following changes to Form AA-1cert:

- Revise current Items 3 and 4 (Items 55 and 66 on current Form AA-1) from “12” months to “6” months. Both of these items are used to determine whether the employee has “Last Pre-Retirement Nonrailroad Service” (LPE). We will continue to use Items 3 and 4 to collect the information for all non-railroad employment after the applicant left the railroad to determine if the employee has a current connection under Section 1(o) of the RRA. See more detailed explanation under “Form AA-1” proposed changes.
- Create **new** Item 5 (Items 60 and 65 on Form AA-1) to help identify seasonal employment from other types of employment. Work deductions are handled differently if the nonrailroad employment is seasonal. See more detailed explanation under “Form AA-1” proposed changes.
- Create **new** Item 34 “I expect to receive...” This goes with current Item 33, “I am receiving...” (They correspond to Item 102 on current Form AA-1).
- Split current Item 43, “I have received or expect to receive pay for time lost...” into proposed Item 45, “I have received...” and **new** Item 46, “I expect to receive...”

- Split current Item 45 “I have received or I expect to receive sick pay...” into proposed Item 48, “I have received sick pay...” and **new** Item 49, “I expect to receive sick pay...”
- Remove from current Items 46-55 (proposed Items 50-59), “Last Year,” “This Year,” and “Next Year” so that the actual year can be entered for clarity. The current terminology causes confusion with the applicants and RRB field staff, especially with applications that are started one year and finish in the following year.
- Revise current Items 56 and 57 (proposed Items 60-61) to replace the “Felony” language with “Criminal Offense” language.
- Numbering changes associated with the addition of new items.

Changes proposed to Certification Statement include:

- Add language to proposed page 7, 3rd paragraph to read. “Failure to report my earnings...may result in...criminal and/or civil prosecution.”
- Revise first bullet on page 7 to read, “I go to work for a railroad or labor organization, or return to work in any capacity in the railroad industry”;
- Revise second bullet on page 7 to read, “I begin to receive a pension base on earnings that are not covered by the Social Security Administration or the Railroad Retirement Board”;
- Move ninth bullet (current) to twelfth bullet (proposed);
- Add new ninth bullet (proposed) to read, “I perform any 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 tenth bullet (proposed) to read, “If become a corporate officer, own or operate a corporation, (including a corporation owned by a family member or friend) whether for pay or not”;
- Add new eleventh bullet (proposed) to read, “I receive anything of value in lieu of salary or wages for any work that I perform”;
- Add new thirteenth bullet (proposed) to read, “I receive a settlement with credit for railroad service as “pay-for-time-lost” for months after (print date railroad employment ended)”;
- Move and revise tenth bullet (current) to fourteenth bullet (proposed) to read, “I receive lump-sum payment or begin to receive a monthly pension from my railroad employer”;
- Move eleventh bullet (current) to fifteenth bullet (proposed)
- Move twelfth bullet (current) to sixteenth bullet (proposed)
- Move thirteenth bullet (current) to seventeenth bullet (proposed)
- Add new eighteenth bullet (proposed) to read “My spouse who is receiving a benefit dies or our marriage ends in divorce or annulment”;
- Add new nineteenth bullet (proposed) to read “A qualifying child marries or leaves my custody or residence”.
- Other editorial changes.

Note: The annuitant and any personally identifiable information contained in the AA-1cert (proposed)(completed) are fictitious.

In addition to the required review under the Paperwork Reduction Act, all of the changes proposed to Form AA-1cert 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. The Paperwork Reduction and Privacy Act notices associated with the AA-1cert application process are found in RRB booklet RB-1, Age and Service Employee Annuity.

Form AA-1d, Application for Determination of Employee Disability, is completed by an employee who is filing for a disability annuity under the RRA, or a disability freeze under the Social Security Act for early Medicare based on a disability. The application obtains information about the applicant's disability, doctor or hospital examinations, education, training, employment and worker's compensation. In addition, the employee completes form G-251, Vocational Report, to provide further information about employment. This form is described in more detail under OMB No. 3220-0141. District office personnel use the information from items 17-29 to initiate requests for medical evidence used in disability determinations. The evidence is secured by Forms G-3EMP, G-250 and RL-11b. These forms are described in more detail under OMB No. 3220-0038. If the AA-1 or AA-1d shows the applicant has filed for benefits at SSA, we ask SSA for any medical evidence they have developed before initiating our own request.

The remaining information on the AA-1d, along with Form G-251 and the medical evidence, is used by the RRB's disability examiners to determine whether a disability exists and, if so, whether it is total and permanent or occupational only.

The RRB proposes the following changes to Form AA-1d:

- Cosmetic changes to page one.
- Revise language in the instructions to make consistent with other agency forms.
- For clarity, rewrite second sentence of current Item 6, to make sure applicant understands that they must write down that they are not forwarding medical records.
- Renumber current Item 15 to Item 15a and create **new** Item 15b to ask the applicant if they are scheduled for any additional medical procedures after filing the AA-1d and, if so, to explain what those medical procedures are.
- Revise the language of the Note in Item 22 to request a copy of the disqualification notice if the applicant checked "Yes."

Form G-204, **Verification of Worker's Compensation/Public Disability Benefit Information**, is used to obtain and verify information concerning workman's compensation or public disability benefits that are or will be paid by a public agency to a disabled railroad employee. The form is released by the RRB whenever an applicant checks the "yes" box when completing Items 125 or 126 of Form AA-1.

Items 1-5 are pre-coded by the RRB.

The RRB proposes no changes to Form G-204.

The application package an applicant receives includes an RL-1 transmittal letter, Forms AA-1 and AA-1d, and booklets RB-3, RB-1, RB-1d, and RB-9. 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-1, Employee Age and Service Annuity, and Booklet RB-1d, Employee's Disability Benefits, provide important information which the applicant needs to complete his or her application properly. They also explain what the RRB does after receiving the annuity applications. Booklet RB-9, Employee and Spouse Events That Must Be Reported provides applicants with information about events and circumstances that must be reported to the RRB after the annuity is awarded.

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 collections.
5. Small business respondents – N.A.
6. Consequences of less frequent collection – N.A.
7. Special Circumstances – None
8. Consultations outside the agency – In accordance with 5 CFR 1320.8(d), comments were invited from the public regarding the information collection. The notice to the public was published on pages 42887 and 42888 of the, July 28, 2006, Federal Register. No comments or request for information were received.
9. Payments or gifts to respondents – None
10. Confidentiality – Privacy Act System of Records, RB-22, Railroad Retirement, Survivor and Pensioner Benefit System
11. Sensitive questions – N.A.
12. Estimate of respondent burden - The current and proposed estimated annual burden for this collection is as follows:

Current Inventory				Proposed Inventory
Forms	Annual Responses	Time (Min)	Burden (Hrs)	
AA-1cert (with assistance)	13,300	30	6,650	
AA-1 (without assistance)	100	62	103	
AA-1c (with assistance)	5,600	35	1,960	
AA-1c (without assistance)	60	62	93	
G-204 (with assistance)	65	62	63	
Total (with assistance)	18,000	35	10,083	
AA-1d (without assistance)	5	60	5	
G-204* (moved to separate IC per OMB instructions due to different type of affected public.)	40*	15*	10*	
Total	18,110		9,498	

	Responses	Hours
Total Burden Change	-990	-585
Adjustment	-990	-585

13. Estimated costs to respondents or record keepers – N.A.
14. Estimated cost to the Federal Government – N.A.

15. Explanation for change in burden – A review of completed forms by RRB staff indicated a slight overall reduction in the amount of annual responses received for all of the forms in the collection. We have calculated the reduction as an adjustment.
NOTE: the RRB did reevaluate the estimated completion for Form AA-1cert and AA-1 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 forms associated with this collection are seldom revised. Given the costs associated with programming, redrafting, reprinting, and distributing the forms in order to keep the appropriate OMB expiration date on the form, the RRB requests the authority not to display the OMB expiration date on the forms.
18. Exceptions to Certification Statement – None