

motions must be filed at least 60 days before the five-year period expires.

(vi) Except as provided in paragraph (e)(1)(viii) of this section, all attorney work product containing confidential information may be retained indefinitely. Notwithstanding such retention, the Commission shall not be responsible for enforcing the governing protective order with respect to the work product for more than five years after the exhaustion of all appeals or the expiration of all remedial orders, whichever is later. If information that may be contained in the work product will still be confidential after the five-year period has expired, the supplier of the information may file a motion to have the Commission extend its enforcement of the protective order with respect to the work product beyond the prescribed five-year period. Such motions must be filed at least 60 days before the five-year period expires.

(vii) All confidential information supplied by third parties may be retained until all appeals are exhausted or all remedial orders have expired, whichever is later. If the third party's information appears in a document other than a pleading, a document issued by an administrative law judge or the Commission, or a document constituting attorney work product, the document shall be returned to the supplier or destroyed, and written certification of such return or destruction shall be provided to each supplier and the Commission within 30 days after all appeals are exhausted or all remedial orders have expired, whichever is later. If the third party's information appears in a pleading, a document issued by an administrative law judge or the Commission, or a document constituting attorney work product, the document may be retained indefinitely in accordance with paragraph (e)(1)(iv), (e)(1)(v), or (e)(1)(vi) of this section. However, the third party may request that its information be expurgated from the document pursuant to paragraph (e)(1)(viii).

(viii) If the third-party supplier so requests at the time that its confidential information is supplied and if the third-party supplier's confidential information is contained in pleadings, documents issued by an administrative law judge or the Commission, or attorney work product, within 30 days after all appeals are exhausted or all remedial orders have expired, whichever is later, any law firm in possession of such pleadings, documents, or work product shall expurgate the third-party supplier's confidential information from the

pleadings, documents, or work product and provide written certification of the expurgation to the third-party supplier and the Commission.

(2) Except as required by law or as provided in a written agreement with the supplier, the confidential information contained in the materials enumerated in paragraph (e)(1) of this section shall not be used during the retention periods specified in paragraph (e)(1) of this section for any purposes other than those relating to the subject investigation or a related proceeding under this part.

(3) On or before the commencement of the retention periods specified in paragraph (e)(1) of this section, each law firm whose attorneys are signatories to a protective order in an investigation or a related proceeding under this part shall designate one attorney signatory from the firm as the custodian of the information and the person responsible for ensuring that the requirements of paragraphs (e)(1)–(e)(2) of this section are satisfied. Notice of the designation shall be served on the parties, the appropriate third-party suppliers (if any) and the Secretary.

(4) Parties and suppliers may agree to retention time limits, uses, custodial arrangements, or other conditions that differ from those set forth in paragraphs (e)(1)–(e)(3) of this section. When such an agreement is reached, a copy must be filed with the Commission or the presiding administrative law judge (as the case may be). Neither the Commission nor the administrative law judge shall be responsible, however, for policing the retention, uses, custodial arrangements, and other conditions relating to the subject confidential information in accordance with the agreement.

Issued: February 3, 1995.

By Order of the Commission.

Donna R. Koehnke,

Secretary.

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RAILROAD RETIREMENT BOARD

20 CFR Part 217

RIN 3220–AB08

Application for Annuity or Lump Sum

AGENCY: Railroad Retirement Board.

ACTION: Proposed rule.

SUMMARY: The Railroad Retirement Board (Board) proposes to amend its regulations to enable the Board to pay the following benefits without requiring

additional applications therefor: (1) An accrued annuity due at the death of a spouse or former spouse to a railroad employee receiving an annuity based on the same earnings record; and (2) a full-time student's annuity if the student was entitled to a child's annuity in the month before the month the child attained age 18.

DATES: Comment shall be submitted on or before March 13, 1995.

ADDRESSES: Secretary to the Board, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611.

FOR FURTHER INFORMATION CONTACT: Michael C. Litt, Bureau of Law, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611, (312) 751–4929, TDD (312) 751–4701.

SUPPLEMENTARY INFORMATION: Section 217.8 of the Board's regulations specifies a list of benefits paid by the Board which may be paid based on a previously-filed application (*i.e.*, where a new application is not required). The proposed rule would add to that list the cases where an accrued annuity is due at the death of a spouse or former spouse to a railroad employee receiving an annuity based on the same earnings record as the spouse or former spouse and where a full-time student's annuity is payable if the student was entitled to a child's annuity in the month before the month the child attained age 18. In those cases there is no additional information contained in the applications and there is no utility to the Board in requiring additional applications. Using the earlier application reduces paperwork and the burden on persons claiming benefits.

The Board, in conjunction with the Office of Management and Budget, has determined that this is not a significant regulatory action for purposes of Executive Order 12866. Therefore, no regulatory impact analysis is required. There are no information collections associated with this rule.

List of Subjects in 20 CFR Part 217

Railroad employees, Railroad retirement.

For the reasons set out in the preamble, title 20, chapter II, part 217 of the Code of Federal Regulations is proposed to be amended as follows:

PART 217—APPLICATION FOR ANNUITY OR LUMP SUM

1. The authority citation for part 217 continues to read as follows:

Authority: 45 U.S.C. 231d and 45 U.S.C. 231f.