

parties to the disputes determined by them. The Railroad Retirement Board falls within this exclusion (45 U.S.C. 231f(a)) and is therefore exempt from the Regulatory Flexibility Act and the Unfunded Mandates Act.

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a rule that imposes substantial direct compliance costs on State and local governments, preempts State law, or otherwise has Federalism implications. We have reviewed this proposed rule under the threshold criteria of Executive Order 13132 and have determined that it would not have a substantial direct effect on the rights, roles, and responsibilities of States or local governments.

In accordance with the provisions of Executive Order 12866, this regulation has been reviewed by the Office of Management and Budget.

#### List of Subjects in 20 CFR part 206

Railroad retirement.

For the reasons set out in the preamble, the Railroad Retirement Board proposes to add Part 206 to Title 20, chapter II of the Code of the Federal Regulations to read as follows:

#### PART 206—ACCOUNT BENEFITS RATIO

Sec.

206.1 Definitions.

206.2 Computations.

**Authority:** 45 U.S.C. 231f(b)(5); 45 U.S.C. 231u(a).

##### § 206.1 Definitions.

Except as otherwise expressly noted, as used in this part—

*Account benefits ratio* means the amount determined by the Railroad Retirement Board by dividing the fair market value of the assets in the Railroad Retirement Account and the National Railroad Retirement Investment Trust (and for years prior to 2002, the Social Security Equivalent Benefits Account) as of the close of each fiscal year by the total benefits and administrative expenses paid from those accounts during the fiscal year.

*Administrative expenses paid* means the amount of the cash transfers from the Railroad Retirement Account to the agency's single administrative fund. Also included in this term is the amount of the cash transfers from the Railroad Retirement Account to the Limitation on the Office of Inspector General and the administrative expenses paid by the National Railroad Retirement Investment Trust.

*Assets* means the market value of cash and investments in the Railroad

Retirement Account and the National Railroad Retirement Investment Trust (and for years before 2002, the Social Security Equivalent Benefits Account).

*Average account benefits ratio* means for any calendar year, the average of the account benefits ratio for the 10 most recent fiscal years ending before such calendar year. If the amount computed is not a multiple of 0.1, such amount shall be increased to the next highest 0.1.

*Total benefits paid* means the total amount of benefits paid from the Railroad Retirement Account and the National Railroad Retirement Investment Trust in a fiscal year minus any benefit overpayments actually recovered during that fiscal year.

##### § 206.2 Computation.

(a) On or before November 1, 2003, the Railroad Retirement Board shall:

(1) Compute the account benefits ratios for each of the most recent 10 preceding fiscal years; and

(2) Certify the account benefits ratio for each such fiscal year to the Secretary of the Treasury.

(b) On or before November 1 of each year after 2003, the Railroad Retirement Board shall:

(1) Compute the account benefits ratio for the fiscal year ending in such year; and

(2) Certify the account benefits ratio for such fiscal year to the Secretary of the Treasury.

(c) No later than May 1 of each year, beginning in 2003, the Board shall compute its projection of the account benefits ratio and the average account benefits ratios for each of the next succeeding 5 fiscal years.

Dated: December 12, 2002.

By Authority of the Board,

**Beatrice Ezerski,**

*Secretary to the Board.*

[FR Doc. 02-31776 Filed 12-17-02; 8:45 am]

BILLING CODE 7905-01-P

#### RAILROAD RETIREMENT BOARD

##### 20 CFR Part 217

RIN 3220-AB55

##### 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 permit the filing of applications via the Internet. The Government Paperwork Elimination Act provides that federal agencies are

required by October 21, 2003, to provide "for the option of the electronic maintenance, submission, or disclosure of information, when practicable as a substitute for paper". The proposed changes to part 217 will permit the filing of applications for benefits under the Railroad Retirement Act electronically.

**DATES:** Submit comments on or before February 18, 2003.

**ADDRESSES:** Address any comments concerning this proposed rule to Beatrice Ezerski, Secretary to the Board, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611-2092.

**FOR FURTHER INFORMATION CONTACT:** Marguerite P. Dadabo, Assistant General Counsel, (312) 751-4945, TTD (312) 751-4701.

**SUPPLEMENTARY INFORMATION:** The amendments would revise part 217 of the Board's regulations (20 CFR 217) to permit the filing of applications via the Internet. The Government Paperwork Elimination Act, Pub. L. 105-277 §§ 1701-1710 (codified as 44 U.S.C. § 3504n), provides that Federal agencies are required by October 21, 2003, to provide "for the option of the electronic maintenance, submission, or disclosure of information, when practicable as a substitute for paper". The proposed changes to part 217 will permit the filing of applications under the Railroad Retirement Act electronically.

The change to § 217.5 provides that the application may be filed electronically. That section is further amended to provide that if the application is filed electronically, the applicant's proper use of the Board's User ID/PIN/Password system is an acceptable signature.

The Board currently uses a User ID/PIN/Password system that allows railroad employers access to RRBLINK to make electronic tax deposits and electronically submit Form DC-1, "Employer's Quarterly Report of Contributions Under the Railroad Unemployment Insurance Act". A User ID/PIN/Password system is used to access the <http://www.pay.gov> site. The U.S. Department of the Treasury operates the <http://www.pay.gov> site. Such a system also is consistent with the guidance provided by the Department of Justice regarding the use of electronic processes.

The change to § 217.6 makes an electronic submission of an application through the Board's system a valid application for benefits under the Railroad Retirement Act. Section 217.15 is amended to permit a claimant to file

an application electronically through the Board's system.

Section 217.16 has been amended to clarify the filing date when an application is filed electronically. Section 217.17 has been amended to permit the submission of an application through the Board's electronic system using a User ID/PIN/Password as an adequate signature. Section 217.18 has been amended to explain when an electronic submission of an application is not acceptable.

#### Collection of Information Requirements

Under the Paperwork Reduction Act (PRA) of 1995, agencies are required to provide 60-day notice in the **Federal Register** and solicit public comment before a collection of information requirement is submitted to the Office of Management and Budget (OMB) for review and approval. Because this rule proposes to collect application information by a different method, *i.e.*, via the Internet rather than on a paper application, and in order to fairly evaluate whether an information collection should be approved, section 3506(c)(2)(A) of the PRA of 1995 requires that we solicit comment on the following issues:

- Whether the information collection is necessary and useful to carry out the proper functions of the agency;
- The accuracy of the agency's estimate of the information collection burden;
- The quality, utility, and clarity of the information to be collected; and
- Recommendations to minimize the information collection burden on the affected public, including automated collection techniques.

The information which will be collected via the Internet is the same information currently collected on paper applications. Those information collections through paper applications have been approved by OMB under the following control numbers, which expire as indicated: 3220-0002, Application for Employee Annuity under the Railroad Retirement Act, expiring July 31, 2003; 3220-0030, Application for Survivor Insurance Annuities, expiring March 31, 2004; 3220-0031, Application for Survivor Death Benefits, expiring January 31, 2003; and 3220-0042, Application for Spouse Annuity under the Railroad Retirement Act, expiring July 31, 2003.

The Board has not yet completed development of the format to be used in collecting application information via the Internet. We will therefore again solicit public comment on this rule along with the actual format to be used to collect application information via

the Internet at the final rule stage of this rule.

#### Regulatory Impact Statement

Prior to publication of this proposed rule, the Board submitted this rule to the Office of Management and Budget for review pursuant to Executive Order 12866. Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). A regulatory impact analysis (RIA) must be prepared for rules that constitute significant regulatory action, including rules that have an economic effect of \$100 million or more annually. This proposed rule is not a major rule in terms of the aggregate costs involved. While this amendment should result in modest savings in administrative costs due to the streamlining of procedures, we have determined that this proposed rule is not a major rule with economically significant effects because it would not result in increases in total expenditures of \$100 million or more per year.

The proposed rule is significant because for the first time applicants for benefits under the Railroad Retirement Act will be afforded a method of applying for benefits without completing a written form. Part 217 is proposed to be amended to permit the filing of applications for an annuity or lump sum electronically via the Internet in accordance with the provisions of the Government Paperwork Elimination Act. Sections 1701-1710 of that Act, Pub. L. 105-277 (codified as 44 U.S.C. 3504n), require Federal agencies to provide for the option of electronic maintenance, submission, or disclosure of information, when practicable, as a substitute for paper. The proposed changes to Part 217 will benefit the agency's constituents who will have the opportunity to file applications for benefits electronically via the Internet.

Both the Regulatory Flexibility Act and the Unfunded Mandates Act of 1995 define "agency" by referencing the definition of "agency" contained in 5 U.S.C. 551(1). Section 551(1)(E) excludes from the term "agency" an agency that is composed of representatives of the parties or of representatives of organizations of the parties to the disputes determined by them. The Railroad Retirement Board falls within this exclusion (45 U.S.C. 231f(a)) and is therefore exempt from the Regulatory Flexibility Act and the Unfunded Mandates Act.

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a rule that imposes substantial direct compliance costs on State and local governments, preempts State law, or otherwise has Federalism implications. We have reviewed this proposed rule under the threshold criteria of Executive Order 13132 and have determined that it would not have a substantial direct effect on the rights, roles, and responsibilities of States or local governments.

In accordance with the provisions of Executive Order 12866, this regulation has been reviewed by the Office of Management and Budget.

#### List of Subjects in 20 CFR Part 217

Claims, Railroad retirement, Reporting and record keeping requirements.

For the reasons set out in the preamble, the Railroad Retirement Board proposes to amend title 20, chapter II, part 217 of the Code of Federal Regulations 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.

2. Section 217.5 of Subpart B is revised to read as follows:

#### § 217.5 When an application is a claim for an annuity or lump sum.

An application is a claim for an annuity or lump sum if it complies with paragraphs (a), (b), and (c):

(a) It is either on an application form completed and filed with the Board or is submitted electronically through the Board's system as described in § 217.6;

(b) It is either:

- (1) Signed by the claimant or by someone described in § 217.17 who can sign the application for the claimant; or
- (2) Filed electronically through the Board's system.

(c) It is filed with the Board on or before the date of death of the claimant. (See § 217.10 for limited exceptions.) (Approved by the Office of Management and Budget under control number 3220-0002)

3. Section 217.6 of Subpart B is amended by adding a new paragraph (d) to read as follows:

#### § 217.6 What is an application filed with the Board.

\* \* \* \* \*

(d) *Claim filed electronically.* A claim filed electronically utilizing the Board's

system with a User ID/Pin/Password is a valid application for an annuity or lump sum.

4. Section 217.15 of Subpart C is amended by adding a new paragraph (c) to read as follows:

**§ 217.15 Where to file.**

\* \* \* \* \*

(c) *Electronic filing.* An application for an annuity or lump sum may be filed electronically through the Board's Web site, [www.rrb.gov](http://www.rrb.gov) utilizing a User ID/Pin/Password.

5. Section 217.16 of Subpart C is amended by adding a new paragraph (f) to read as follows:

**§ 217.16 Filing date.**

\* \* \* \* \*

(f) On the date that the electronic filing of an application for an annuity or lump sum is accepted as submitted by the Board's electronic system.

6. Section 217.17 of Subpart C is amended by adding a new paragraph (f) to read as follows:

**§ 217.17 Who may sign an application.**

\* \* \* \* \*

(f) An application for an annuity or lump sum that is filed electronically through the Board's Web site, <http://www.rrb.gov>, utilizing a User ID/Pin/Password. The use by the applicant of his/her self-selected password in conjunction with the Board's User ID/PIN/Password system has the same validity as a signature on a paper application.

(Approved by the Office of Management and Budget under control numbers 3220-0002, 3220-0030, 3220-0031, and 3220-0042)

7. Section 217.18 of Subpart C is amended by adding a new paragraph (d) to read as follows:

**§ 217.18 When application is not acceptable.**

\* \* \* \* \*

(d) *Electronic filing.* If an application for an annuity is filed through the Board's electronic system and it is rejected by that system, the claimant must submit another application. If the new application, electronic or paper, is submitted within 30 days from the notification that the initial filing was rejected, the Board will set the filing date of the subsequent application as the date the rejected application was attempted to be filed.

Dated: December 12, 2002.

By Authority of the Board.

For the Board.

**Beatrice Ezerski,**

*Secretary to the Board.*

[FR Doc. 02-31775 Filed 12-17-02; 8:45 am]

BILLING CODE 7905-01-P

**DEPARTMENT OF THE TREASURY**

**Internal Revenue Service**

**26 CFR Part 1**

[REG-151043-02]

RIN 1545-BB44

**Rents and Royalties**

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This document contains proposed regulations relating to the inclusion in gross income of advance rentals. The proposed regulations authorize the Commissioner to provide rules allowing for the inclusion of advance rentals in gross income in a year other than the year of receipt. The proposed regulations will affect taxpayers that receive advance payments for the use of certain items (such as intellectual property) to be designated by the Commissioner.

**DATES:** Written or electronic comments and requests for a public hearing must be received by February 18, 2003.

**ADDRESSES:** Send submissions to: CC:ITA:RU (REG-151043-02), Room 5226, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to: CC:ITA:RU (REG-151043-02), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC. Alternatively, taxpayers may submit electronic comments directly to the IRS Internet site at [www.irs.gov/regs](http://www.irs.gov/regs).

**FOR FURTHER INFORMATION CONTACT:** Concerning the proposed regulations, Edwin B. Cleverdon, at (202) 622-7900; concerning submissions of comments, Guy Traynor, at (202) 622-7190 (not toll-free numbers).

**SUPPLEMENTARY INFORMATION:**

**Background**

This document contains proposed amendments to 26 CFR part 1 relating to the inclusion in gross income of advance rentals under section 61.

**Explanation of Provisions**

Currently § 1.61-8(b) provides that, except as provided in section 467 and

the regulations thereunder, advance rentals must be included in gross income in the year of receipt regardless of the period covered or the method of accounting employed by the taxpayer. The proposed amendments authorize the Commissioner to provide, through administrative guidance, rules for deferring income inclusion of advance rentals to a taxable year other than the year of receipt. This amendment will ensure that the Commissioner, in modifying Rev. Proc. 71-21 (1971-2 C.B. 549), may provide deferral rules for licenses of intellectual property.

**Proposed Effective Date**

The regulations, as proposed, are effective on the date of publication of a Treasury decision adopting these rules as final regulations in the **Federal Register**.

**Special Analyses**

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations and, because the regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Internal Revenue Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

**Comments and Requests for a Public Hearing**

Before these proposed regulations are adopted as final regulations, consideration will be given to any written (a signed original and eight copies) or electronic comments that are submitted timely to the IRS. The IRS and the Treasury Department specifically request comments on the clarity of the proposed regulations and how they can be made easier to understand. All comments will be available for public inspection and copying. A public hearing may be scheduled if requested in writing by any person that timely submits written comments. If a public hearing is scheduled, notice of the date, time, and place for the hearing will be published in the **Federal Register**.

**Drafting Information**

The principal author of these regulations is Edwin B. Cleverdon,