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AUTHORITY: 45 U.S.C. 231(f)(b)(5).

SOURCE: 58 FR 53397, Oct. 15, 1993, unless otherwise noted.

Subpart A—General

§ 229.1 Introduction.

This part explains when an annuity can be increased under the social security overall minimum guarantee, also sometimes referred to as the “special guaranty”, and how the increased amount is determined. Deductions and reductions in the overall minimum rate are explained.

§ 229.2 Definitions.

The following definitions are used in this part:

Annuity means a payment under the Railroad Retirement Act due and payable to an entitled claimant for a calendar month and made to him or her on the first day of the following month. The recipient of an annuity is called an annuitant.

Average Indexed Monthly Earnings or AIME means the average of the employee’s monthly creditable earnings in both railroad and social security covered employment in the years used in computing the Primary Insurance Amount, after the earnings are adjusted or “indexed”. The indexing is a means of expressing prior years earnings in terms of their current dollar value. It is based on increases in the average wages of all wage earners from 1951 although the second year before the year the worker dies or becomes eligible for benefits.

Contribution and benefit base means the maximum earnings used in computing a social security benefit under section 230 of the Social Security Act.

1974 Act means the Railroad Retirement Act approved October 16, 1974, including all amendments.

Railroad formula rate means the amount computed in accord with the regular railroad computations (sections 3(a), 3(b) and 3(h) of the Railroad Retirement Act).

Retirement age means age 65, with respect to an employee or spouse who attains age 62 before January 1, 2000 (age 60 in the case of a widow(er), remarried widow(er) or surviving divorced spouse). For an employee or spouse who attains age 62 (or age 60 in the case of a widow(er), remarried widow(er), or surviving divorced spouse) after December 31, 1999, retirement age means the age provided for in section 216(l) of the Social Security Act.

§ 229.3 Other regulations related to this part.

This part is related to a number of other parts of this chapter (listed numerically):

Part 216 describes when a person is eligible for an annuity under the Railroad Retirement Act.

Part 217 describes how to apply for an annuity or for lump-sum payments.

Part 218 sets forth the beginning and ending dates of annuities.

Part 219 sets out what evidence is necessary to prove eligibility and the relationships described in this part.

Part 220 describes when a person is eligible for a disability annuity under the Railroad Retirement Act or a period of disability under the Social Security Act.

Part 222 describes the family relationships which may cause an annuity to be increased under this part.

Part 225 explains how Primary Insurance Amounts (PIA’s) are computed.

§ 229.4 Applying for the overall minimum.

The Board may require an annuitant to provide information regarding his or her family and regarding his or her earnings from employment and self-employment in order to determine

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whether the claimant or annuitant qualifies for the overall minimum.

(Approved by the Office of Management and Budget under control number 3220-0083)

Subpart B—Social Security Overall Minimum Guarantee Defined

§ 229.10 What the social security overall minimum guarantee is.

The social security overall minimum guarantee is the amount of total family benefits which would be paid under the Social Security Act if the employee's railroad service had been covered by that Act. A 100 percent overall minimum benefit may be paid, as described in § 229.11. A 100 percent overall minimum based on age (age O/M) may be payable when the employee is 62 years old. The age O/M is reduced for age for months in which the O/M is payable before the employee attains retirement age. An overall minimum may also be payable before age 62 based on an employee's disability (DIB O/M). The DIB O/M is not reduced for age.

§ 229.11 100 percent overall minimum.

Section 3(f)(3) of the 1974 Act guarantees that the total annuities payable to the employee and spouse, including the vested dual benefits but not including a supplemental annuity, will not be less than 100 percent of the total family benefits payable under the Social Security Act if the employee's railroad service after 1936 were credited as social security earnings. Subpart F describes how the 100 percent overall minimum rate is computed.

Subpart C—Eligibility for Increase Under the Overall Minimum

§ 229.20 When an employee is eligible for an increase under the overall minimum.

(a) *Overall minimum based on age.* An employee annuity can be increased under the age O/M if all the following conditions are met:

(1) The employee is entitled to an age or disability annuity as shown in part 216 of this chapter.

(2) The employee is at least 62 years old throughout the whole month. The O/M is reduced for each month it is

payable before the month the employee attains retirement age.

(3) The employee is fully insured under section 214 or 227 of the Social Security Act based on railroad and social security earnings.

(b) *Overall minimum based on disability.* An employee annuity can be increased under the DIB O/M if the employee is under retirement age, and

(1) Is entitled to an age or disability annuity; and

(2) Is disabled under § 404.1505 of this title; and

(3) Is insured for a disability benefit under § 404.130 of this title based upon combined railroad and social security earnings.

(c) *Spouse with child in care or spouse retirement age or older.* If the employee has not attained the age required to qualify the spouse for a spouse annuity but the employee meets the conditions of paragraph (a) or (b) of this section, the employee annuity can be increased under the overall minimum if:

(1) The employee and spouse complete the required statements concerning the family and earnings as provided for in § 229.4 of this part; and

(2) The spouse meets the marriage requirements as provided for in part 222 of this chapter; and

(3) The spouse has an eligible child in care, or the spouse is retirement age or older.

(d) *Spouse election.* If the employee has not attained the age required to qualify the spouse for a spouse annuity but the employee meets the conditions of paragraph (a) or (b) of this section, the employee annuity can be increased under the overall minimum if:

(1) The employee and spouse complete the required statements concerning the family and earnings as provided for in § 229.4 of this part; and

(2) The spouse meets the marriage requirements as provided for in part 222 of this chapter; and

(3) The spouse is between age 62 and retirement age and does not have a child in care; and

(4) The spouse files an election to be included.