

225.1 C/C Definition

The concept of current connection (C/C) is the maintenance of a close relationship in time and service to the railroad industry before the employee begins to receive an annuity under the RRA. A C/C indicates that an employee has a railroad career before retirement or death, if that occurs first, without pursuing a subsequent career for which earnings are not covered under the RRA. The C/C requirement is intended to reserve certain RRA benefits for these employees and their survivors.

225.5 C/C Scope of Chapter

This chapter explains the use of a C/C for awarding regular, supplemental and survivor benefits under the RR Act. It includes making a C/C test in a life or death case and the effect of MS and certain other government work on a C/C.

The rules in this chapter apply for C/C determinations made on or after 05-31-79. Prior to that date, C/C determinations were made based on SSA's quarterly earnings reporting data. Effective from 1979, SSA maintains only annual earnings records.

A C/C is obvious when the employee's ABD month or death immediately follows continuous years of railroad employment. However, when there is an interval between an employee's last railroad service and ABD month or death, the C/C may be "broken" or "lost" if the employee works outside the railroad industry during that interval.

An important factor in making a C/C determination is whether or not the employee's non-railroad work is considered "regular employment". Sections [FOM1 225.30-40](#) define "regular employment" and explain when an earnings investigation may be needed to make the C/C determination.

Under special rules, an employee with at least 25 years of railroad service, whose separation from railroad service was involuntary, may be deemed to have a C/C (see [FOMI 225.45](#)).

225.10 Field Office C/C Determination

C/C information may be available from on line systems when a claim is filed. For example, APPLE will display any previous C/C determination shown in PREH.

Use EDM recorded earnings, and information from the applicant, to make a preliminary C/C test when no earlier determination has been made. Give specific attention to any wages shown on the EDM Yearly Totals screen for years after the RRDLW.

Form G-243, CC Determination Worksheet, is available in RRAILS to assist field employees in making a C/C determination (see [FOM1 1720](#) for form instructions).

225.10.1 Retirement Cases

The F/O makes a preliminary C/C test to determine supplemental annuity eligibility. If Headquarters must first make a self-employment or LPE determination, the F/O may be unable to make a C/C decision. When alleged S/E is a factor in the C/C, but the employment may be LPE, refer the facts to headquarters for examiner action.

Code the APPLE Summary screen for MANUAL REVIEW in such cases, and complete the employee annuity application as if the employee does have a C/C. Examiners will make the final LPE and C/C determinations.

Do not informally disallow a SUPP ANN, based on no C/C, if the employee alleges to have a C/C.

225.10.2 Survivor Cases

When an employee's death notice is received, make a preliminary C/C test to determine if the employee is completely insured under the RRA for the payment of survivor benefits (see insured status [FOM1 230.160.4](#) and APPLE entries [FOM1 1581.12](#)).

Headquarters examiners make the final C/C decision. If EDM screens and the applicant's narrative do not provide sufficient information, HQ will secure an SSA DEQY record of employment and, in survivor cases, may request the release of Form RL-94F for details about the employee's work after his RRDLW.

225.15 Use of C/C

A C/C is an eligibility requirement for the following benefits:

225.15.1 Retirement Annuities

An employee must have a C/C to qualify for:

- An occupational disability annuity *
- A supplemental annuity
- For some claims, a vested dual benefit (see [FOM1 305.50.2](#)).

* **NOTE:** The deemed C/C provision ([FOM1 225.45](#)) cannot be used for eligibility for an occupational disability annuity.

225.15.2 Survivor Benefits

An employee must have a C/C to be insured under the RRA for the payment of all survivor benefits other than the residual lump sum. If the employee does not have a C/C, the SSA has jurisdiction for the payment of survivor benefits.

Special deeming rules apply if the deceased employee was not fully insured under the SS Act (see [FOMI 230.160](#)).

225.20 C/C Requirements

- A. In life or at death, an employee permanently has a C/C with the railroad industry if:
1. He was in railroad service in at least 12 of the 30 consecutive calendar months immediately preceding the earlier of the month in which his annuity begins or month of his death; or
 2. He was in railroad service in at least 12 months in any period of 30 consecutive calendar months preceding the earlier of the month in which his annuity begins or month of his death, and he did not work in regular non-railroad employment in the interval between the end of the 30-month period and the ABD month or death month.
- B. Deemed C/C - An employee with at least 25 years of RR service, who left RR service involuntarily and without fault, may be deemed to have a C/C even though he had non-railroad employment in the interval after the 30-month period (see [FOMI 225.45](#)).

225.25 Making the C/C Test

When a retirement application is filed, RASI compares the work history on the APPLE APMU 080 Employee Work screen with earnings on EDM and makes the C/C determination. If too many C/C variables are present, RASI refers the claim for examiner decision. F/O's make preliminary C/C determinations using the same rules as examiners.

The following steps are used to test if a C/C is maintained or broken.

NOTE: If the regular C/C is broken, but the employee had at least 25 years of creditable RR service, see the deemed C/C provisions in [FOMI 225.45](#).

STEP 1: Decide if employee meets the "12 in 30" test.

In making the C/C test, first see whether the employee has railroad service in 12 of the 30 consecutive calendar months immediately before the earlier of his ABD month or death month. If at least 12 service months are credited, the employee has a C/C and no further action is needed. If fewer than 12 months are credited in the last 30 months prior to the ABD month or death month, **go to Step 2**.

EXAMPLE: An employee's ABD is 3/1/2009; his RRDLW was in December 2007; and he worked all 12 months in 2007. The 30 months just prior to his ABD month are September 2006 through February 2009. Since his last 12 service months were within the 30 months immediately before his annuity began, he has a C/C, whether or not he had non-railroad work after his RRDLW.

STEP 2: Identify the 30-Month Period and Following Interval

If 12 months of railroad service were not performed in the 30-month period just prior to the annuity beginning date or month of death, if earlier, find the latest 12 months of RR service that are within a period of 30 consecutive calendar months. Count 12 RR service months back from the RRDLW, then count the 30-month period beginning with the first of those 12 months of RR service.

If the final 12 service months do not fall within 30 consecutive calendar months because there is a gap in service, it may be necessary to begin counting from an earlier service month (see Example 2).

The employee may perform any type of work without breaking his C/C during that 30 month period.

If the employee has non-railroad employment in the interval of months after the end of the 30-month period, and before his ABD or month of death, if earlier, that non-railroad employment can break a C/C. If no work is performed, the C/C is maintained.

If work after the RRDLW continues into the interval, or if new work begins during the interval, the earnings can break the C/C. **Go to Step 3.**

EXAMPLE 1: The employee's ABD is in June 2010. His RR DLW was in January 2009. He had RR service only in April 2008 through August 2008, plus December 2008. In the 30 months just prior to his ABD month (December 2007 through May 2010) he had only 8 months of RR work. His last 12 months of RR service were August 2007 through January 2009. His 30-month period is August 2007 through January 2010. Any type of employment before February 2010 may not be used to break his C/C. If he has non-RR regular employment during February 2010 through May 2010, it may break his C/C.

EXAMPLE 2: The employee's ABD is 1/1/2013. His RRDLW was 12/31/2011. He had RR work all months through June 2009; had no RR work July 2009 through July 2011; and returned to RR work August 2011 through December 2011. His last 12 credited RR months include December 2008 through December 2011. However, these 12 RR months are in a 37-month, not a 30-month period.

The months of July 2008 through June 2009 provide the most recent 12 RR months in a 30-month period, which ends with December 2010. Non-RR work performed in the interval from January 2011 through December 2012 may break his C/C, even though the interval includes 5 credited RR months,.

STEP 3: Decide if EE performed "regular employment."

When the AA-1 shows non-railroad work after the 30-month period, or earnings appear on EDM in the interval, decide if the work meets the "regular employment" definition explained in [FOMI 225.30](#), or if the work is excepted from the rule according to [FOMI 225.35](#).

If all of the employee's work qualifies for exception, his C/C is maintained. If any part of the work is considered regular employment, **go to Step 4.**

EXAMPLE: The employee's ABD is October 2009. His RR DLW was August 2004. His 30-month period was September 2003 through February 2006. He worked for the Federal Highway Administration from September 2004 through September 2009. Although the employee began a new career after his RR service, work for that federal government agency did not break his C/C (see [FOM1 225.35](#)).

STEP 4: Decide if earnings break the C/C.

Compare the end of the 30-month period to the ABD month to see if the interval involves less than two calendar years (short interval) or if the interval occurs in more than two calendar years (long interval). Examine all regular employment earnings in the interval, and apply the rules in [FOMI 225.40](#) to determine the earnings requirements.

EXAMPLE 1: An employee died in July 2009. His last 12 months of RR service in a 30-month period were April 2006 through December 2007. His 30-month period ended with September 2008. The interval is October 2008 through June 2009. The short interval earnings test applies in this case. He worked as a school crossing guard from January 2008 through January 2009, earning \$400.00 monthly. His C/C is broken because he earned over \$200.00 in at least 3 of the months in the interval.

EXAMPLE 2: An employee's ABD is 03-01-11; he had 31 years of continuous RR service; and his RRDLW was 07-14-2005. His 30-month period is August 2004 through January 2007. Non-RR regular employment February 2007 through February 2011 could break his C/C. He has been self-employed, repairing lawn equipment, in all of the months since his RRDLW. He also worked at a garden center from May through August of 2007. The long interval rules apply. Because SEI income is not used in C/C testing, and he did not perform regular employment in two consecutive calendar years of the interval, his C/C is maintained.

225.30 C/C Regular Employment Definition

- A. Regular employment for C/C purposes means the employee's full or part-time work for pay for a person on a continuing or recurring basis. An employee performing work for pay, whether or not it is under a contract, is deemed to be in the employ of a person unless such work is performed as his independently established trade, business or occupation (SEI).

"Person" means an individual, company, trust, estate, partnership, association, joint stock company, corporation or institution.

- B. If the employee is serving for pay in an appointed or an elected public office, those earnings are considered regular employment that can break a C/C.

- C. Foreign employment is also considered regular employment in retirement cases. But when foreign employment is involved in survivor cases, a C/C may be deemed if the conditions in [FOMI 225.45.1](#) are met.

225.35 Regular Employment Exceptions

When making a C/C determination, certain types of work are not considered to be regular employment and will not break a C/C.

If the employee works in one or more of the excepted employment types during the interval, and in other regular employment, the other non-railroad work and earnings can break his C/C.

225.35.1 General Types of Employment That Are Allowed

1. Self-Employment (S/E) will not break a C/C. Use the rules in [FOM1 330.30](#) to determine if the work is considered S/E or LPE for annuity purposes, and then make the C/C test.

NOTE: Self-employment taxes paid to SSA will not guarantee the employment is S/E under the RRA.

For survivor cases without a previous C/C decision in file, an investigation to verify S/E in the interval is only required when the claim of S/E conflicts with the earnings record on EDM, Form G-90, or other documentation. When necessary, the examiner will ask the F/O to obtain a statement from the applicant to resolve the discrepancy.

2. Work that is temporary or "tide-over" that a Federal, State, or local government program provides as a means of economic relief.
3. Public service employment funded under subchapter VI of the Comprehensive Employment and Training Act (CETA) is not considered regular employment, but employment obtained through other programs funded by CETA or its successor, the Job Training Partnership Act (JTPA) is regular employment, which could break a C/C.

See [FOMI 225.70](#) for a list of questions that contact representatives ask regarding CETA or JTPA employment. Refer difficult cases to P&S-RAC, if necessary.

4. Service outside the U.S. for a covered employer that is not conducting the principal part of its business in the U.S.
5. Railroad service performed in Canada for a U.S. employer by a Canadian citizen or permanent resident of Canada - even though the service is not creditable under the RRA.

6. Involuntary MS that is required by regulation, order, proclamation or call of the President or Congress that is not creditable as RR service under the RRA.
7. Service for the Alaska Railroad. This former employer was part of the Federal Railroad Administration until ownership transferred to the State of Alaska on January 5, 1985.

225.35.2 Government Employment that Is Allowed

Work for specific federal government employers, related to the railroad industry, that does not break a C/C.

Work for the following employers will not break a C/C:

1. Interstate Commerce Commission or its successor for railroad issues, the Surface Transportation Board. (See Department of Transportation # 5 below)
2. National Mediation Board.
3. Railroad Retirement Board.
4. National Transportation Safety Board

HISTORICAL NOTE: The NTSB was a part of the Dept. of Transportation from 4-1-67 until 4-1-75 when it became an independent agency. After 04-01-75, employment with that agency would break a C/C, until the 1981 RR Act Amendments were enacted. For C/C decisions made 10-01-81 or later, retroactive to 1-1-75, employment with the National Transportation Safety Board will not break a C/C.

5. The Department of Transportation, including the Office of the Secretary, and the following agencies. Dates show when each agency became part of the Department of Transportation:

- U.S. Coast Guard (4-1-67 thru 2-28-03)

NOTE: Effective 03-01-03, the U. S. Coast Guard was transferred to the Department of Homeland Security. Legal Opinion L-2006-24, dated 12-30-06, provides that employment with a former component of the Department of Transportation that is transferred to the Department of Homeland Security will not break a C/C. Therefore, any employment with the U.S. coast Guard will not break a C/C, regardless of when it began.

- Federal Aviation Administration (4-1-67)
- Federal Highway Administration (4-1-67)
- Federal Railroad Administration (4-1-67)

- St Lawrence Seaway Development Corporation (4-1-67)
- Federal Transportation Administration (7-1-68)
- Urban Mass Transportation Administration (7-1-68)
- National Highway Traffic Safety Administration (1-1-70)
- Materials Transportation Bureau (7-1-75)
- Research and Special Programs Administration (9-23-77)
- Office of Inspector General (10-1-78)
- Maritime Administration (6-6-81)
- Surface Transportation Board (1-1-96)
- Bureau of Transportation Statistics (1-1-92)
- Federal Motor Carrier Safety Administration (1-1-2000)
- Transportation Security Administration (11-19-01 thru 2-28-03)

NOTE: Effective 3-1-03 the Transportation Security Administration (TSA) was transferred to the Department of Homeland Security. Legal Opinion L-2006-24, dated 12-06-06, provides that employment with a former component of the Department of Transportation that is transferred to the Department of Homeland security will not break a C/C. Therefore, any employment with the Transportation Security Administration will not break a C/C, regardless of when it occurred.

IMPORTANT NOTE: The presence or absence of SSA credits on a G-90 or EDM record is not an indication that government work is involved. All federal service initiated 1-1-84 or later is covered under SSA, and most temporary federal employment before 1-1-84 is also credited as wages that may be displayed on a G-90. A DEQY will be used to verify the name of the employer when government work after a RRDLW is a C/C factor.

Effective January 10, 2003 the Office of Management and Budget (OMB) consolidated the payroll processing for the civilian Federal workforce. As a result the entire Federal civilian payroll is processed by the following four agencies:

- Department of Defense Finance and Accounting Service
- General Services Administration
- Department of Agriculture National Finance Center

- Department of Interior National Business Center

Due to the consolidation of payroll processing for the Federal civilian workforce, the Employer Identification Number (EIN) appearing for a civilian Federal employee may not show the agency the employee worked for, but will show the agency that processes the payroll.

Legal opinion L-2007-07 advises that when there is a decision on whether federal civilian employment breaks a current connection, the agency or agencies the employee worked for should be considered, not the agency or agency that processed the payroll. Therefore, federal civilian employment must be verified for a current connection determination. This can be done by securing a letter from the last employer verifying the dates of employment and the name of the agency the employee worked for.

225.40 C/C Earnings Tests

There are two separate tests to determine if the employee's non-railroad work is regular employment that will break his C/C. Determining which test applies depends on the length of the interval after the 30-month period.

Exclude work and earnings from any of the employment exceptions listed in [FOM1 225.35](#) before applying either of the two following tests.

NOTE: If an employee's C/C is broken by one of the regular employment tests described below, determine if a C/C may be deemed to exist according to the rules in [FOM1 225.45](#).

225.40.1 Long Interval Test (also called General Test)

1. This test applies when the 30-month period ends more than one year before the ABD year (or the employee's death year if earlier).

EXAMPLE: An employee's 30-month period ends September 2010 and his ABD is May 10, 2012. The long interval test applies because his ABD month was not in 2010 or 2011, the same or the next calendar year after the last month of the 30-month period.

2. For the long interval test, the employee is in regular employment which will break his regular C/C if he:
 - Performed any non-railroad work in any two consecutive calendar years wholly or partially within the prescribed interval

AND

- Earned at least \$1000 in wages in any one year wholly or partially within the interval. The year in which \$1,000 is earned does not have to be one of the 2 consecutive years of work.

3. The chart below illustrates identifying the interval. The end of the 30-month period is April 2006. The employee's ABD month is June 2009. The interval (underlined months) is May 2006 thru May 2009. 2006 and 2009 are partially within the interval. 2007 and 2008 are wholly within the interval.

200	JA	FE	MA	AP	<u>MA</u>	<u>JU</u>	<u>JU</u>	<u>AU</u>	<u>SE</u>	<u>OC</u>	<u>NO</u>	<u>DE</u>
6	N	B	R	R	<u>Y</u>	<u>N</u>	<u>L</u>	<u>G</u>	<u>P</u>	<u>I</u>	<u>V</u>	<u>C</u>
200	<u>JA</u>	<u>FE</u>	<u>MA</u>	<u>AP</u>	<u>MA</u>	<u>JU</u>	<u>JU</u>	<u>AU</u>	<u>SE</u>	<u>OC</u>	<u>NO</u>	<u>DE</u>
7	<u>N</u>	<u>B</u>	<u>R</u>	<u>R</u>	<u>Y</u>	<u>N</u>	<u>L</u>	<u>G</u>	<u>P</u>	<u>I</u>	<u>V</u>	<u>C</u>
200	<u>JA</u>	<u>FE</u>	<u>MA</u>	<u>AP</u>	<u>MA</u>	<u>JU</u>	<u>JU</u>	<u>AU</u>	<u>SE</u>	<u>OC</u>	<u>NO</u>	<u>DE</u>
8	<u>N</u>	<u>B</u>	<u>R</u>	<u>R</u>	<u>Y</u>	<u>N</u>	<u>L</u>	<u>G</u>	<u>P</u>	<u>I</u>	<u>V</u>	<u>C</u>
200	<u>JA</u>	<u>FE</u>	<u>MA</u>	<u>AP</u>	<u>MA</u>	JU	JU	AU	SE	OC	NO	DE
9	<u>N</u>	<u>B</u>	<u>R</u>	<u>R</u>	<u>Y</u>	N	L	G	P	T	V	C

4. Isolating Earnings That Are in the Interval

- a. Include only the years in which the interval begins and ends (partial years) and the whole years in between.
- b. Do not include:
 - Non-railroad earnings acquired before the end of the 30-month period; or
 - Earnings in or after the ABD month; or
 - Earnings in the month the employee died.
- c. If the only year with earnings of \$1,000 or more is a year partially within the interval, headquarters examiners will request that a F/O supply a monthly earnings breakdown.

5. Examples of Long Interval Determinations

- a. The employee's ABD is May 28 2008, and the 30-month period ended June 2005. He worked in regular non-railroad employment in December 2005, earning \$370; January 2006, earning \$260; and March and April 1998, earning \$600 each month. His C/C is broken because he worked in two consecutive calendar years within the interval (December 2005 and January 2006) and he earned over \$1000 in one calendar year (2008).
- b. The employee's ABD is October 1, 2004, and the 30-month period ends February 2000. He worked in regular non-railroad employment from March 2000 through October 2001, earning \$600 each year, and in September 2004, earning \$1300. The employee does not have a C/C because he worked in 2 consecutive years wholly or partially within the interval (2000

and 2001), and he earned at least \$1,000 in 1 calendar year wholly or partially within the interval (\$1300 in 2004).

- c. The employee's ABD is January 15, 2012, and the 30-month period ends July 2009. He worked in non-railroad employment in 2009, 2011 and 2012, earning \$10,000 each year. The employee does have a C/C, because he did not work in 2 consecutive years wholly or partially within the interval. Since his ABD is January 15, 2012, the interval ends December 2011, and 2012 earnings are not considered.
- d. The employee's DOD is December 19, 2010, and the 30-month period ends January 2009. The long interval test does not apply, because the end of the 30-month period, 2009, is not more than 1 year before the year in which the employee died. The short interval test must be used.
- e. The employee's ABD is July 12 2009, and the 30-month period ended August 2006. He worked in regular non-railroad employment in November and December 2007, earning \$350 a month; November and December 2008, earning \$400 a month; and November and December 1999, earning \$700 a month. His C/C is not broken, because earnings in or after the ABD month are not counted. Therefore, he did not earn at least \$1000 in any one calendar year wholly or partially within the interval.
- f. The employee's ABD is April 2009, and the 30-month period ended September 2006. He worked in non-railroad employment in November and December 1998, earning \$800 a month; and in November and December 1999, earning \$900 a month. The employee did not work in two consecutive calendar years wholly or partly within the interval, so his C/C is not broken. Earnings in November and December 2009 are excluded because those months are after the ABD and.

225.40.2 Short Interval Test (Also Called Special Test)

1. When the ABD is in the same calendar year as the end of the 30-month period or is in the following calendar year, the interval may be too short for all earnings to be posted on EDM and G-90s. In this type of claim, apply the following rules. The C/C is broken if the employee:
 - Performed any non-railroad work in every month in the interval (the amount of earnings and the number of months does not matter)

OR

 - Earned at least \$200 a month, for non-railroad work, in any 3 separate months within the interval. The 3 months do not have to be consecutive.
2. Field Office Action - Application Development

When the C/C interval is short, a monthly breakdown of work and earnings must be secured. Some months for which wage information is needed will be in SSA's lag period when an earnings report is not yet posted on EDM.

It is important that LPE earnings information on the application be detailed and complete for short interval C/C cases. Add details in Remarks when appropriate.

3. Headquarters Requests Action

If additional information is required, RBD will request that the F/O contact one or more employers to determine the earnings amounts for months the employee worked in a given period.

A written statement from the employer is not required. You may obtain the information by telephone or by facsimile of payroll records.

4. Examples of Short Interval Determination

- a. The employee's ABD is July 9, 2009. His 30-month period ended February 2009. Since that period ends in the same calendar year as the ABD month, work in all months from March 2009 through June 2009 or earnings exceeding \$200.00 in at least 3 of those 4 months, can break the C/C.
- b. The employee's ABD is May 28, 2008, and the end of the 30-month period is November 2007. He worked in non-railroad employment January, February, and March 2008, earning \$420 a month. The employee's C/C is broken because he earned over \$200 in each of three months in the interval.
- c. The employee's ABD is September 1, 2011, and the 30-month period ends in March 2011. The employee earned \$175 in wages in each month from January 2011 through December 2011. Because the employee performed non-railroad work in every month in the interval (April through August) he does not have a C/C. The amount of his monthly earnings is not a factor.
- d. The employee's ABD is April 7, 2012, and the 30-month period ends March 2011. The employee earned \$150 in wages each month in May 2011 through September 2011. He earned \$200 in wages each month in April 2011, February 2012, and March 2012. He does not have a C/C, because he earned at least \$200 a month in 3 separate months in the interval. His C/C is broken even though he did not work in every month in the interval.
- e. The employee's DOD is November 1, 2011, and the 30-month period ends February 2011. The employee earned \$150 in wages each month from March 2011 through July 2011, and \$300 each month in September 2011

and October 1991. He has a C/C because he did not work in every month in the interval, and did not earn at least \$200 a month in each of 3 separate months in the interval.

- f. The employee died in August 2011, and the 30-month period ends June 2011. He worked in July 2011, earning \$50. He does not have a C/C because he worked in every month in the interval, even though the interval was only 1 month.

225.40.3 Allocation of Agricultural Wages (AG)

1. Retirement Claims

Care must be taken in considering AG due to the sometime seasonal nature of the employment. If the C/C determination depends on a period of AG, which is not fully explained by information on the AA-1 application, assist the employee in completing an earnings breakdown for the interval year(s) in question.

2. Survivor Claims

- a. If a C/C decision was not made prior to the employee's death, and the C/C depends on a period of AG wages, assume the employee had equal amounts of AG wages in each month of the agricultural employment. This assumed allocation of AG wages applies only to survivor cases.

If a survivor beneficiary questions a C/C denial based on an assumed allocation, develop a monthly breakdown of AG wages from each employer and retest the C/C.

- b. If the employee had both regular wages and AG wages in a month or year, add the deemed monthly AG wages to the regular wages for the C/C determination.

225.40.4 Employment Reporting

The employee's own statements on applications and other claims material are the first consideration of a C/C determination.

1. Employee report breaks C/C

If an employee states on his application, or otherwise reports, that he has had non-railroad employment that would break his C/C, determine that the C/C has been broken. No further development is needed.

2. Employee's Report Indicates He May Have a C/C

When the employee's reported work indicates that he may have a C/C, confirm his report with online or folder earnings data to determine whether the employee worked in regular employment in the interval.

3. No Work Reported After RRDLW

Use online RRB and SSA wage records to verify no contradicting earnings are posted if an applicant does not report employment and the interval is 1 year or more, with no indication of physical or mental inability to work, and no excepted work (see [FOM1 225.35](#)).

In such cases, the C/R will use the application Remarks section to explain the employee's activities since he left the railroad industry (e. g. received sick benefits; lived on income from property rents or investments; or was supported by a family member). The examiners will ask the F/O to secure additional information if needed.

225.40.5 Investigation of Employment in Survivor Cases

1. If available employment data indicates a C/C would not exist, make no investigation of employment.
2. If online RRB and SSA records, or folder data, do not clearly show if the deceased employee's C/C was broken, secure a statement from the survivor applicant to explain the employee's work history for the period in question. See [FOM1 225.40.3](#) if agricultural (AG) wages are involved.
3. If employment occurred during the interval, but it is not covered by the SS Act, do not investigate the employment when:
 - The employee has no wage QC's, or yearly earnings, or
 - The SS Act insured status is less than the RR Act insured status.

Under these two conditions, an employee is deemed to have a C/C for survivor benefits. (See [FOMI 225.45.1](#).)

225.45 Deemed Current

Although work before an employee's ABD may break his C/C under regular rules, effective October 1981 an employee who does not have a regular C/C will be deemed to have a C/C for supplemental annuity and survivor annuity purposes, but not for an occupational disability annuity, if he meets all the requirements listed in this section.

225.45.1 Deeming Requirements

A C/C is deemed to exist, when the employee works in regular employment after the 30-month period, if the employee:

- Was alive on October 1, 1981; and
- Has at least 25 years of service; and
- Stopped work in the RR industry "involuntarily and without fault" on or after October 1, 1975; and
- Did not decline an offer to return to work in the same class or craft as his most recent railroad service.

225.45.2 Definitions for Deeming

1. "Involuntarily and Without Fault":

A RR worker is separated without fault if he is displaced from his job for reasons other than medical conditions, poor job performance, misconduct, or other actions on his part.

Separation from railroad service is involuntary if the employee loses his railroad job and cannot use his seniority rights to remain in the same class or craft as his most recent regular railroad occupation.

EXAMPLE 1: An employer operating a car repair shop buys another railroad with a larger similar facility in another city and closes the small repair location. All mechanics are offered their same job at the new location. An employee who quits, rather than move with the job, has not left service involuntarily and without fault.

EXAMPLE 2: An employer buys an additional railroad and consolidates the accounting functions. The new organization eliminates 50 accounting clerks, and their positions are all abolished. The terminated clerks are separated involuntarily and without fault.

2. "Did Not Decline an Offer"

When a railroad worker's job is terminated, an employer may offer a like position for the same company or elsewhere in the railroad industry. The job offer must be in the same class or craft as the worker's previous regular work. If the employee does not accept the offered job, regardless of the number of miles he would have to move to accept that job, a deemed C/C cannot be considered.

EXAMPLE 1: A newly expanded facility 75 miles away will assume the function of a train yard that is closing, and half the employees will be terminated. The most senior workers are offered their same jobs at the new location. Those who could transfer to the new job site, but decline the offer, are not eligible for deemed C/C consideration.

Employees of the closed facility without enough seniority to obtain a position at the new location will be terminated and thereby will be eligible for a deemed C/C. Additionally, if more employees accept transfer than there are positions at the new facility, some less senior workers there will be "bumped out". With no same class or craft offer available, they too will be eligible for a deemed C/C.

EXAMPLE 2: Some terminated employees described in Example 1 are recalled to work at their same jobs when the train yard is expanded again three years later. Workers who break their C/C by non-railroad employment, and decline the offer to return to those railroad jobs, are not eligible for a deemed C/C.

3. "Same Class or Craft"

When employees whose positions are protected by labor agreements are displaced, they are required to accept only specifically classified jobs involving similar skills to those of the jobs that they lost. Any replacement position offered to them may be for a different employer, have a cut in salary, or have less desirable working conditions, but it must be essentially the same work. In addition, the job **must** be for a covered railroad employer. If the job offered is covered under the Social Security Act, it is not considered to be in the "same class or craft".

For management employees who are not covered by labor contracts, the "same class or craft" concept includes the additional requirement that the offered position be "suitable employment" after considering the duties and pay of both positions.

EXAMPLE 1: An employer terminates service on a local freight line and all employees from that service will be reassigned to a nearby line or terminated. A 4-year engineer was also a conductor for 18 years, but does not have enough seniority as an engineer to be reassigned in that job class. Although he has rights to a conductor job, he does not have to accept an offer in that class of work to be eligible for a deemed C/C.

EXAMPLE 2: A railroad abolishes one of three Safety Dept. Manager positions. The least senior manager has rights to his former position of safety inspector, so he could "bump" someone else from that job. The inspector job involves extensive travel, and the pay rate is 20% lower than the employee's current salary. The safety inspector job would not, therefore, be "suitable employment," and the employee could not be required to accept such an offer.

225.45.3 Deemed C/C Evidence

When the employee has regular non-railroad employment that breaks a C/C (see [FOMI 225.40](#)), determine eligibility for a deemed C/C by evidence on RRB records and material provided by the applicant. Do not solicit supporting documentation from employers or other third party sources when information supporting a deemed C/C is already available from EDM or other on line RRB sources.

1. Application Information

Applications filed before 5-1-84 require the employee to submit proof that (s)he stopped working in the railroad involuntarily and without fault and proof that (s)he did not decline an offer to return to work in the same class or craft. If this information is not obtained while the employee is alive, the survivor must submit proof.

Note: Railway Express Agency employees or their survivors do not have to submit proof that the railroad employees stopped working in the RR industry involuntarily and without fault or proof that the employee did not decline an offer to return to work in the same class or craft as his most recent railroad service.

Applications filed May 1, 1984 or later include entries regarding a deemed C/C for employees with 25 years of railroad service and subsequent non-railroad work. Accept the employee's AA-1 statement that he did not decline a same class or craft railroad job offer after his involuntary separation from railroad employment. Unless conflicting evidence is presented, no further documentation regarding job offers is needed.

2. RRB Records

- PREH will carry the C/C determination if there is a prior claim for the same railroad worker.
- Use EDM to verify railroad service and non-railroad work history.
- Former RR employers' coverage status is available on the intranet BFO document "[Employer Historical File](#)". (**Note:** The termination date on the EHF may be after the employer actually ceased operations. For example, REA ceased operations 11/07/75 but the termination date on the EHF is 4/25/88.)
- Headquarters examiners may obtain detailed identification of non-railroad employers by requesting a DEQY record from SSA.

3. Applicant's Documents

The applicant must provide proof that the employee left the railroad industry involuntarily and without fault when RRB records do not establish the reason for the termination of his railroad service.

Preferred documentation is the employee's notice of separation from the employer. The separation notice describes the reason the job ended and any alternative employment options the employee was offered.

Other detailed personnel, payroll, insurance or labor organization documents may also be acceptable evidence.

Such documentation may be submitted to the RRB as advance proof, at any time, to be imaged or otherwise recorded and stored at headquarters until an employee or survivor annuity application is filed.

EXAMPLE 1: Evidence is an employer letter that shows RRDLW of 01-01-95 due to worksite closed down. The letter gives no option that a transfer to another location or "bumping" to another job is possible, and the applicant states no offer was made after his separation, so he had to take an outside job. The information is consistent with the F/O experience with other displaced railroad workers from the same employer in 1995. The F/O submits a copy of the letter to HQ for imaging, and marks the G-230 that deemed C/C will apply.

EXAMPLE 2: Same information as above, but EDM has 6 months service in 1995. This may indicate the jobsite did not close in January, or that employee was not involuntarily terminated at that time. The applicant explains that the extra months were his earned vacation days, parceled out to get him an extra service anniversary date. Low earnings shown on EDM for those 1995 months support the worker's explanation, and a deemed C/C applies.

Note: Refer to [FOM1 225.45.4](#) if RR no longer exists.

4. Affidavits:

When no acceptable documents or RRB records are available to support a deemed C/C claim, request that the applicant secure signed statements, from at least two of the employee's former co-workers, who have knowledge of the employment termination circumstances, and who can be identified by the RRB as railroad employees, to verify the claimant's involuntary separation from railroad employment.

NOTE: If the claims representative cannot make a deemed C/C determination once evidence has been received, the application should be referred to headquarters.

225.45.4 RR Employer No Longer Covered under the RRA

An employee with at least 25 years of RR service is eligible for a deemed c/c if his separation occurred because his employer is no longer in business or has changed the business to SS Act coverage.

Identify changes of employer status on the listing available on the Intranet as the "[Employer Historical File](#)" (EHF).

For employers who switch from coverage under the RRA to coverage under the SSA, the EDM record will show railroad compensation through the last date the employer was a covered railroad under the RRA and wages from the date the employer is covered under Social Security.

Employers who have ceased operations entirely and later declared bankruptcy may have a coverage termination date that differs from the date that they actually ceased operations. For example, the Railway Express Agency ceased operations on November 7, 1975. However, their coverage termination date is April 25, 1988, which coincides with the date that liquidation activities were completed.

225.45.5 Separation Allowance

1. If a displaced employee, who meets the deemed C/C requirements explained in [FOMI 225.45](#), has no option but separation, his acceptance of a separation allowance does not impact his deemed C/C determination.
2. If an employee has a choice of another same class or craft position or termination with a separation allowance, accepting the separation allowance is a part of his voluntary termination, and he is not eligible for a deemed C/C determination.
3. An employee who did not accept a separation allowance does not automatically have a deemed C/C. If an employee does not qualify for a deemed C/C, and he has broken his regular C/C by earnings after his 30-month period, his C/C is still broken, regardless of whether or not he accepted a separation allowance.

225.45.6 Employee Accepts Another Railroad Job

For the deemed C/C provision to apply, an employee must be terminated involuntarily from all railroad service. If the employee acquires another railroad job for the same, or for a different railroad employer, he must meet the regular C/C test at retirement or death, or he must be involuntarily terminated from his latest RR employer to be considered for a deemed C/C.

225.46 Special Survivor Benefits Deemed C/C Provisions

- A. The RRB has jurisdiction of survivor benefits payment if an RR employee has a C/C or a deemed C/C at death. When an employee has no C/C at death, the RRB loses jurisdiction of survivor benefits to the SSA.

If the transferred railroad credits provide an SSA insured status, SSA has jurisdiction of the survivor benefit.

When the employee's total earnings record fails to provide an insured status at SSA, for an otherwise eligible survivor applicant, the employee may be deemed to have an RRB C/C for survivor benefit purposes only.

NOTE: Investigate for possible the employee's use of multiple social security numbers before applying this special type of deeming.

- B. To qualify under this provision, one of the following two conditions must occur:

1. The employee was insured in all respects under the RR Act but would not be fully insured under the SS Act if his railroad service were treated as SS wages.

This condition can occur because a quarter of coverage under the SS Act is based on annually specified minimum earnings requirements, but \$1.00 of compensation in a month allows a railroad service credit. Thus, an employee may have performed railroad work in 12 months of a year, but his earnings may have been too low to yield four (or any) wage quarter credits that year under SSA rules.

OR

2. The employee has no wage credits under the SS Act.

This circumstance may be the result of several possible employment experiences in addition to recorded railroad work.

- Civil service employment may or may not be covered under the SS Act
- Foreign employment does not usually provide SS wage quarters
- Very low wages do not provide coverage quarters.
- The employer and employee failed to pay FICA taxes for casual employment.

It is therefore possible for a C/C to be broken, under normal rules, by the employee's known non-railroad employment that gave him no SSA wage quarters. Granting a deemed C/C in such a case is necessary to provide a survivor benefit.

NOTE: Even one credited wage quarter at SSA, before or after the employee's RRB ABD disallows this special C/C deeming provision, and is cause for transfer to SSA.

225.50 Redetermination of C/C

Procedures prior to 1979 allowed C/C determinations to change for various benefit entitlements. The following standard provisions, in force since May 1979, basically eliminate re-determinations.

A. Retirement Cases

If an employee has a C/C at his ABD, he has a C/C with the RR industry for life and at death. This means that his C/C is maintained for any new regular annuity for which he may later qualify and for survivor benefits at death.

EXAMPLE: An employee had a C/C when his disability annuity began. He recovered from that disability and the annuity ceased, but he could not return to railroad work. His C/C is maintained when he later applies for another annuity.

B. Survivor Cases

If an employee did not have a C/C or deemed C/C when his annuity began, he cannot later be determined to have a C/C at death even though, while the annuity was in effect, he returned to railroad service.

EXCEPTION: If we determined that an employee had no C/C, in life, for his annuity that began before May 31, 1979, and an initial survivor eligibility decision is made after May 1979, use current C/C rules to test the C/C for the survivor benefit.

Do not make another new determination if a survivor annuity application was previously denied for no C/C under the old rules.

NOTE: The special survivor benefit C/C deeming described in [FOMI 225.46](#), when a survivor application cannot be transferred to SSA, is not considered to be a re-determination of a prior C/C decision.

C. Supplemental Annuity

If an employee had a disability annuity that terminated; and he returned to railroad service prior to July 1955, regardless of the duration of such service; and he was awarded a new annuity after June 1966, he has a C/C for a regular annuity at his later ABD.

In such cases, the employee's C/C for a SUPP ANN only, must be re-determined at the time his later annuity begins. Make the C/C decision for the SUPP ANN as though there was no previous annuity awarded, and no previous C/C determination. Non-railroad employment performed after the latest 30-month period may break the C/C for the SUPP ANN eligibility, but cannot be used to break a C/C once established for regular annuity eligibility.

D. Erroneous C/C Determination

If a C/C determination made while the EE is/was still alive is found to be in error, or a determination for a survivor benefit is found to be in error, changing that decision is not a re-determination. Correcting a previous decision can only be made if the annuity is formally reopened.

225.55 Reopening a C/C Decision

Always use current C/C rules when reopening a claim.

A. Retirement Cases

Reopening is appropriate if an erroneous decision caused denial of an employee claim in whole or in part because the employee did not have a C/C for an occupational disability annuity, supplemental annuity, or vested dual benefit.

The date of reopening for a claim previously denied for no C/C is the date the specific request from an individual is received by an RRB office, or the date the claims examiner finds that a C/C exists.

Benefits resulting from a favorable C/C reopening decision may retroact one year from the reopening date.

B. Survivor Cases

Reopening is appropriate when an erroneous C/C decision caused the denial of a survivor application and/or the erroneous transfer of RR credits to the SSA.

The date of reopening, in a survivor claim previously denied for "no C/C" is the date that the original decision is determined to be incorrect. There is no retroactivity restriction for a survivor claim reopened based on a corrected C/C determination.

225.60 Effect of Canadian Service on a C/C

A. Work For a Canadian Employer

Service in Canada for a covered RR employer whose principal operation is in Canada will not break a C/C even though the service performed there is not creditable under the RR Act. But, only service performed in the U.S. will provide RR service months for the 12-in-30 test. Regular non-railroad employment concurrent with or subsequent to Canadian service after the 30-month period and before the employee's ABD month or date of death, if earlier, may break the C/C under the earnings rules in [FOM1 225.40](#).

B. Service in the United States

Service in the United States for a Canadian railroad employer by any U.S. or Canadian employee is fully creditable under the Railroad Retirement Act and will not break a C/C.

C. U.S. Citizen Working in Canada For U.S. Employer

Service in Canada by a United States citizen for a covered employer whose principal operation is in the United States is fully creditable under the RRA and will not break a C/C.

D. Canadian Working in Canada For U.S. Employer:

Service in Canada for a covered employer whose principal operation is in the United States will not break a C/C even though that service is not creditable under the RR Act effective 1-1-1983 or later. BUT, only service performed in the U.S. will provide RR service months used in the 12-in-30 test. Regular non-railroad employment, concurrent with or subsequent to Canadian railroad service, after the 30-month exempt period and before the employee's ABD month or date of death, if earlier, may break the C/C under the provisions in [FOM1 225.30](#).

225.65 Effect of MS on a C/C

A. MS That May Create a C/C

MS months which are creditable under the RR Act will serve to establish or preserve a C/C in the same manner as if it were creditable employer service.

B. MS, Which Will Neither Create, Nor Break a C/C

Some types of MS have no effect on a C/C. When making the test for a C/C or deemed C/C, disregard:

1. Creditable MS after 1956, which is used as wages instead of compensation in annuity calculation.
2. Non-creditable involuntary MS.
3. Non-creditable voluntary MS before 1-1957 performed wholly within a war service period.

C. MS That May Break a C/C

Although MS is not last person service, it may be regular employment for C/C decisions. Non-creditable voluntary MS in the interval may break a C/C if the MS was performed:

1. After 1956.
2. Before 1957 but entered outside a war service period.
3. After a war service period when continued MS was no longer required.

225.70 CETA & JTPA Employment Questions

When CETA or JTPA work is material to the C/C determination and the work was not under a CETA Title VI program, or the program title is not known, obtain as much of the following information from the employee as possible:

- A. Under what subchapter, title, or program was the person employed?

- B. What type of work did the employee perform?
- C. Was this work similar to that performed with the railroad?
- D. Did the employee receive special training for this job?
- E. How long was the employee employed under CETA or JTPA?
- F. Did the employee pay FICA taxes?
- G. Was the employee determined to be "place able" when his job under the program expired?

For retirement applications, code the APPLE Summary Screen for MANUAL REVIEW when CETA or JTPA earnings are involved.