

Supporting Statement for Application of Circuit Court Law
20 CFR 404.985 and 416.1485
OMB No. 0960-0581

A. Justification

1. *Section 205(a) of the Social Security Act, 42 U.S.C. 405(a) of the United States Code*, gives the Commissioner of Social Security "full power and authority to make rules and regulations to establish procedures ... in order to establish the right to benefits hereunder." Under our regulations for applying circuit court law, *20 CFR 404.985 and 416.1485 of the Code of Federal Regulations*, we are required to apply a holding of a United States Court of Appeals that we determine conflicts with our interpretation of a provision of the Social Security Act or regulations to other claims within the applicable judicial circuit. To conform with these regulations, we prepare a ruling acquiescing in the court's decision, as appropriate. In situations where it appears that an acquiescence ruling (AR) may be needed, we must develop criteria for our adjudicators to identify claims that may be entitled to readjudication after the AR is published. Identification of such claims begins when our adjudicators receive the criteria and claims are selected to be considered for readjudication. The timeframe for developing and issuing these instructions is limited and, for that reason, our selection of claims will be overly broad. In addition, there is a short period of time from the date we receive the court's decision for review and the date our adjudicators begin identifying claims when we are unable to identify claimants potentially entitled to a readjudication.

Under *20 CFR 404.985(b) and 416.1485(b)*, claimants whose claims are identified or who self-identify will receive a notice providing information about the AR and the right to request readjudication. After reviewing this notice, the individual claimant or the person's authorized representative will be able to determine whether requesting readjudication of the claim is in his or her best interests. Those who do not receive a notice also have the opportunity to request readjudication after they become aware that an AR was published.

2. Requests for readjudication received from claimants will be used to determine whether they are entitled to a readjudication. We will review the individual's claims folder or other available information to determine whether the issue(s) stated in the AR pertain to the claimant's case. If readjudication is appropriate, we will consider only those issue(s) covered by the AR and any new determination or decision will be subject to administrative and judicial review in accordance with our regulations. Individuals who request readjudication are claimants for benefits under the Social Security Act or regulations.
3. Claimants who may be entitled to readjudication receive a notice by mail from SSA which informs them of the AR and provides specific information about their rights. Claimants must decide whether or not to respond to the notice and provide the requested information. The notice indicates that the claimants can request

readjudication only by contacting their local field office or through a written response to the letter. There is currently no electronic means to collect this information. Due to the low volume of respondents for this collection, SSA does not currently have plans to create an electronic submission process for this information, because higher volume collections take priority for electronic implementation.

4. The nature of the information being collected and the manner in which it is collected preclude duplication. There is no other collection instrument used by SSA that collects data similar to that collected here.
5. This collection does not have a significant impact on a substantial number of small businesses or other small entities.
6. If this information is not collected, SSA would not be able to determine if a claimant is eligible for readjudication. Consequently, SSA would be unable to readjudicate cases pursuant to the regulations for applying circuit court law. This collection of information is performed only when we publish an AR and the claimant requests application of the AR to a prior determination, therefore, it cannot be collected less frequently.
7. There are no special circumstances that would cause this information collection to be conducted in a manner that is not consistent with 5 CFR 1320.5.
8. The 60-day advance Federal Register Notice was published on December 15, 2006 at 71 FR 75607, and SSA has received no public comments. The second Notice was published on February 14, 2007, at 72 FR 7107. There have been no outside consultations with members of the public.
9. SSA provides no payment or gifts to the respondents.
10. The information requested is protected and held confidential in accordance with 42 U.S.C. 1306, 20 CFR 401 and 402, 5 U.S.C. 552 (Freedom of Information Act), 5 U.S.C. 552a (Privacy Act of 1974) and OMB Circular No. A-130.
11. The information collection does not contain any questions of a sensitive nature.
12. The estimate of the hour burden is contingent on the number of notices mailed each year. Our experience is that the number of notices mailed will vary greatly depending on the number of ARs published and the issues involved in those ARs. We expect to publish one to two ARs per year on average. Each AR could involve from 0 to 50,000 claimants and total notices could range from 0 to 100,000 annually. Despite the uncertainty in projecting such a burden, our best estimate for the number of notices is 5,000 for each AR and, therefore, 10,000 annually. We calculate an estimated 17 minutes per response for a total annual burden of 2,833 hours. Each respondent needs to request readjudication only once. The public

reporting burden of 17 minutes for each response to a notice is based on our experience with similar field operations. The total burden is reflected as burden hours, and no separate cost burden has been calculated.

13. There is no known cost burden to the respondents.
14. The annual cost to the Federal Government is approximately \$67,905. This estimate is a projection of the costs for printing and distributing the collection instrument (the AR letter) and for collecting the information.
15. SSA reduced the public reporting burden because we reduced our best estimate of the annual number of notices we expect to mail per year. The change in the number of annual notices resulted from our ongoing experience with publishing ARs and identifying claims that may be entitled to readjudication. It also is more consistent with the number of ARs we expect to publish and the annual number of notices we expect to mail during the next few years.
16. The results of the information collection will not be published.
17. SSA is requesting an exemption from the requirement that the expiration date for OMB approval be printed on this notice. These notices are used on an ongoing basis and do not have an expiration date. It would be confusing to the public if they were to inadvertently receive a notice with an OMB expiration date that has passed. In addition, SSA would have to devote its limited resources on updating the notice each time OMB approval is obtained.
18. SSA is not requesting an exception to the certification requirements at 5 CFR 1320.9 and related provisions at 5 CFR 1320.8(b)(3).

B. Collection of Information Employing Statistical Methods

Statistical methods are not used for this information collection