

**Supporting Statement for PRUCOL**  
**Permanent Residence in the United States Under Color of Law**  
**20 CFR 416.1615 and 416.1618**  
**OMB No. 0960-0451**

**A. Justification**

1. *Sections 1631(e)(1)(A) and (B) of the Social Security Act (the Act) preclude the Commissioner of Social Security from making determinations of eligibility based only on declarations. Section 1614(a)(1)(B) of the Act allows eligibility for aliens who are lawfully admitted for permanent residence or permanently residing in the United States under color of law (PRUCOL) if they meet all other eligibility factors.*

The *Code of Federal Regulations* (CFR) provides in *20 CFR 416.1615* the criteria and documents that result in a finding of lawfully admitted for permanent residence.

*Berger v. Secretary, HHS (Second Circuit, August 26, 1985), which provides categories and criteria for determining PRUCOL, binds the Agency. 20 CFR 416.1618* implements the Berger decision and provides the criteria, categories, and evidentiary requirements that result in a finding of PRUCOL.

Under *Public Law 104-193, Subtitle A, sections 401 and 402*, enacted on August 22, 1996, a noncitizen must be a “qualified alien” and meet certain additional requirements in order to be eligible for Supplemental Security Income (SSI). This law also established an exception to the new “qualified alien” requirements for nonqualified aliens who were receiving SSI as of August 22, 1996. (Nonqualified aliens are noncitizens who do not meet the definition of “qualified alien.”) Under this provision, nonqualified aliens who were receiving SSI on August 22, 1996, could remain eligible for SSI (if they met all other eligibility requirements) until September 30, 1997, at which time benefits would be suspended if the nonqualified alien had not acquired qualified alien status. *Public Law 105-33, section 5301(c)*, extended the effective date of the suspensions for nonqualified aliens to September 30, 1998.

*Public Law 105-306, section 2*, enacted October 28, 1998, provides that nonqualified aliens who were receiving SSI on August 22, 1996, would remain eligible for SSI after September 30, 1998 as long as they met all other eligibility requirements. SSI eligibility for this group of aliens--“grandfathered nonqualified aliens”--will continue to be determined based on the rules governing SSI eligibility for noncitizens in effect prior to August 22, 1996, i.e., the PRUCOL standard. PRUCOL aliens must present evidence of their status at application and periodically thereafter in accordance with the regulations at *20 CFR 416.1618*.

2. The Social Security Administration (SSA) requires the claimant/recipient to submit evidence of his/her alien status. Without this information, SSA would not be able to

determine whether the individual is eligible for SSI payments. When SSA cannot verify evidence of alien status through the regular claimant-interview process, SSA verifies the validity of the evidence of PRUCOL for grandfathered nonqualified aliens with the Department of Homeland Security (DHS) using DHS Form G-845 Supplement, Document Verification Request Supplement (OMB No. 1615-0101). Based on the DHS response, SSA determines whether the individual is PRUCOL.

3. SSA collects the information via personal or telephone interviews during the claimant-interview process. Using the Modernized Claims System, the interview collects information from the individual that SSA uses to determine not only eligibility for SSI, but for other Social Security benefits as well. During this information collection process or through the DHS response, SSA verifies an individual's PRUCOL status.
4. The nature of the information SSA is collecting and the manner in which we are collecting it preclude duplication. We do not have any other collection instrument that collects data similar to that collected here.
5. This collection does not affect small businesses or other small entities.
6. If SSA did not collect this information, we would be unable determine whether a PRUCOL claimant is eligible for SSI benefits. If SSA collected the information less frequently, it could delay a claimant's eligibility determination and might preclude needy individuals from receiving payment. There are no technical or legal obstacles that prevent burden reduction.
7. There are no special circumstances that would cause SSA to collect this information collection in a manner that is not consistent with 5 CFR 1320.5.
8. SSA published the 60-day advance Federal Register Notice on January 15, 2009 at 74 FR 2642, and we received no public comments. We published the 30-day Federal Register Notice on March 19, 2009 at 74 FR 11804. There have been no outside consultations with members of the public.
9. SSA provides no payment or gifts to the respondents.
10. SSA protects and holds confidential the information from this form 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 number of respondents is approximately 1,300 annually. The frequency of response is once a year, and requires approximately 5 minutes. Therefore, we estimate the annual burden at 108 hours. The total burden represents burden hours, and SSA did not calculate a separate cost burden.

The burden has decreased due to the number of PRUCOL aliens who are no longer eligible for SSI benefits or are deceased.

13. There is no known cost burden to the respondents.
14. The annual cost to the Federal government for conducting this collection is approximately \$2,850.
15. There are no changes in the public reporting burden.
16. SSA will not publish the results of this information collection.
17. OMB exempted SSA from publishing the expiration date for OMB approval on its forms. SSA produces millions of public-use forms, many of which have a life cycle longer than that of an OMB clearance. SSA does not periodically revise and reprint its public-use forms, (e.g., on an annual basis). OMB granted this exemption so that SSA would not have to stop using otherwise useable editions of forms with outdated expiration dates. In addition, we avoid government waste because we do not have to destroy and reprint stocks of forms.
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. Collections of Information Employing Statistical Methods**

SSA does not use statistical methods for this information collection.