

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

A. Justification

1. Introduction/Authoring Laws and Regulations

Sections 1631(e)(1)(A) and (B) of the *Social Security Act (Act)* preclude the Commissioner of the Social Security Administration (SSA) from making determinations of eligibility for Supplemental Security Income (SSI) payments based solely on declarations. Section 1614(a)(1)(B) of the *Act* allows eligibility for SSI payments for aliens who are PRUCOL, are lawfully admitted for permanent residence, and meet all other eligibility factors.

20 CFR 416.1615 of the *Code of Federal Regulations (CFR)* provides the criteria and documents that result in a finding of being lawfully admitted for permanent residence. In addition, *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 (A)(401) and (402)*, a noncitizen must be a “qualified alien” and meet certain additional requirements to be eligible for SSI. This law also establishes an exception to the “qualified alien” requirement 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, SSA would suspend benefits 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, will remain eligible for SSI after September 30, 1998 as long as they met all other eligibility requirements. We determine SSI eligibility for this group of aliens – “grandfathered nonqualified aliens” – per 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. Description of Collection**
SSA requires a claimant or recipient to submit evidence of their alien status. Without this information, SSA would not be able to determine whether the individuals are 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. SSA does not maintain any forms or applications for respondents to use, rather, the regulations listed in *20 CFR 416.1615* and *416.1618* specify the information respondents need to submit to SSA to show evidence of PRUCOL. Respondents are qualified and unqualified aliens who apply for SSI payments under PRUCOL.
- 3. Use of Information Technology to Collect the Information**
SSA collects the information via a personal or telephone interview during the claimant interview process. Using the SSI Claims System, the interview collects information from the individual that SSA uses to determine eligibility for SSI payments. During this information collection process, or through the DHS response, SSA verifies an individual's PRUCOL status.
- 4. Why We Cannot Use Duplicate Information**
The nature of the information we collect and the manner in which we collect it preclude duplication. SSA does not use another collection instrument to obtain similar data.
- 5. Minimizing Burden on Small Respondents**
This collection does not affect small businesses or other small entities.
- 6. Consequence of Not Collecting Information or Collecting it Less Frequently**
If SSA did not collect this information, we would be unable determine whether a PRUCOL claimant is eligible for SSI payments. If SSA collected the information less frequently, it could delay a claimant's eligibility determination and might prevent needy individuals from receiving payment. There are no technical or legal obstacles to burden reduction.
- 7. Special Circumstances**
There are no special circumstances that would cause SSA to conduct this information collection in a manner inconsistent with *5 CFR 1320.5*.
- 8. Solicitation of Public Comment and Other Consultations with the Public**
The 60-day advance Federal Register Notice published on March 21, 2018, at 83 FR 12455, and we received no public comments. The 30-day FRN published on June 8, 2018 at 83 FR 26736. If we receive any comments in response to this Notice, we will forward them to OMB.

9. Payment or Gifts to Respondents

SSA does not provide payments or gifts to the respondents.

10. Assurances of Confidentiality

SSA protects and holds confidential the information it collects 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. Justification for Sensitive Questions

The information collection does not contain any questions of a sensitive nature.

12. Estimates of Public Reporting Burden

Modality of Completion	Number of Responses	Frequency of Response	Average Burden Per Response (minutes)	Estimated Total Annual Burden (hours)
Personal or Telephone Interview	1,049	1	5	87

The total burden for this ICR is **87** hours. We based these figures on current management information data. We did not calculate a separate cost burden.

13. Annual Cost to the Respondents (Other)

This collection does not impose a known cost burden on the respondents.

14. Annual Cost To Federal Government

The annual cost to the Federal Government is approximately \$2,850. This estimate accounts for costs from the following areas: (1) SSA employee (e.g., field office, 800 number, DDS staff) information collection and processing time; and (2) systems development, updating, and maintenance costs.

15. Program Changes or Adjustments to the Information Collection Request

There are no changes to the public reporting burden.

16. Plans for Publication Information Collection Results

SSA will not publish the results of the information collection.

17. Displaying the OMB Approval Expiration Date

SSA is not requesting an exception to the requirement to display an expiration date.

18. Exceptions to Certification Statement

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.