

Employment-based out of status protection for AOS - Section 245(K)


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Submitted by Chief Editor on May 29th 2009

ANSWER:

Pursuant to section 245k of INA, an employment-based applicant and their family can file for an AOS (I-485) if they have been out of status or have worked without authorization for less than 180 days. The protection period is counted since the date of your most recent entry into USA. So if before filing I-485, you leave USA and reenter, you should have no issues. There are other ways to fix this also, but this is the most direct.

See attached USCIS Neufield Memo of 14 July 2008.

Attachment	Size
 Memo_CIS_245(k)_14Jul08.pdf ^[2]	84.11 KB

Green Card:

[Form I-485](#) ^[3]

[General Green Card](#) ^[4]

[AC21 AOS Portability](#) ^[5]

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Unless the context shows otherwise, all answers here were provided by [Rajiv](#) ^[7] and were compiled and reported by our editorial team from comments and blog on immigration.com ^[8]

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Links:

- [1] <https://immigration.com/faq/form-i-485-general-green-card-ac21-aos-portability-adjustment-status-form-i-485-general-green-18>
- [2] https://immigration.com/sites/default/files/Memo_CIS_245%28k%29_14Jul08.pdf
- [3] <https://immigration.com/greencard/green-card/form-i-485>
- [4] <https://immigration.com/greencard/green-card/general-green-card>
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