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This is a Comment on the **U.S. Citizenship and Immigration Services** (USCIS) Notice: Agency Information Collection Activities: Application To Register Permanent Residence or Adjust Status, Form I–485, and Adjustment of Status Under Section 245(i), Supplement A to Form I–485; Revision of a Currently Approved Collection

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Comment

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The proposed changes for the form I-485 would both be practical for the agency and those seeking to adjust status under INA 245(i). Under INA 245(i) an applicant may adjust to LPR status for various reasons that preclude him from adjusting under INA 245(a). While INA 245(a) is the more common statute to adjust status, INA 245(i) allows those who are precluded under INA 245(a) to adjust status.

Currently, form I-485 contains vague instructions that do not explain to those who wish to adjust status why they are filing under INA 245(i) rather than INA 245(a). This can be confusing to those who wish to adjust status without the assistance of an attorney,

causing applicants to file under the wrong statute and further lengthen their immigration process. Separately, the mistaken adjustment of status applications cause a large backlog at USCIS, which forces USCIS to spend precious time rejecting applications simply because the applicant is mistaken on his application.

Rather than referring the applicant to the INA, the proposed changes on form I-485 make a pro se application easier to handle. This is because the proposed changes spell out the categories where a person may adjust status using I-485. These proposed changes allow the applicant to maintain a stronger sense of whether he is filing under the correct form. Further, this allows both USCIS and and attorneys to quickly decipher which form should be used for more complex factual situations, rather than forcing them to do legal research and determine precedent that is not directed stated in INA 245(i) (See, e.g., Section 4. "Other Immigrant Categories").

While it can be argued that the plain language on the form may deter those who believe they do not qualify for adjustment of status from seeking status, the proposed changes will likely allow more to seek status. This is because those who qualify under INA 245(i) and INA 245(a) will have a plain language explanation in the form itself under the proposed changes. The applicants who truthfully wish to gain legal status in the United States but are unsure of or do not believe they qualify for adjustment of status will seek assistance from counsel or do further research. Those who are indifferent toward gaining status will likely not be any less deterred by plain language on the form that may allude to preclusion from adjusting status. In conclusion, the proposed changes should be adopted.
