Rules and Regulations

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DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Parts 214, 245, 248, 274a, and 299

[INS No. 2117–01; AG Order No. 2502–2001]

RIN 1115–AG08

V Nonimmigrant Classification; Spouses and Children of Lawful Permanent Residents

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Interim rule with request for comments.

SUMMARY: This rule implements a new V nonimmigrant classification for certain spouses and children of lawful permanent resident aliens that was added by section 1102 of the Legal Immigration Family Equity Act (LIFE) of 2000, Public Law 106–553, effective on December 21, 2000. To be eligible for this new nonimmigrant category, the alien must be the beneficiary of an immigrant visa petition that has been pending with the Immigration and Naturalization Service (Service) for at least 3 years, or that has been approved and 3 years have passed since the filing date. Eligible aliens may enter and work in the United States, and continue to reside here while they wait for the immigrant visa petition to be approved; their priority date to be reached for filing for adjustment of status or an application for an immigrant visa; and the adjudication of that application. This interim rule sets forth the eligibility standards for V classification and the procedures for changing to V nonimmigrant status while in the United States, and for obtaining employment authorization based on V nonimmigrant status.

DATES: *Effective date.* This rule is effective on September 7, 2001.

Comment date. Comments must be submitted on or before November 6, 2001.

ADDRESSES: Please submit written comments to the Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, 425 I Street NW, Room 4034, Washington, DC 20536, via fax to (202) 305–0143, or via email to *INSREGS@USDOJ.GOV*. To ensure proper handling, please reference the INS No. 2117–01 on your correspondence. Comments are available for public inspection at this location by calling (202) 514–3048 to arrange for an appointment.

FOR FURTHER INFORMATION CONTACT: Michael Valverde, Residence and Status Branch, Immigration and Naturalization Service, 425 I Street, NW, Room 3214, Washington, DC 20536, Telephone (202) 514–4754.

SUPPLEMENTARY INFORMATION:

Background

Section 1102 of the LIFE Act amends the Immigration and Nationality Act, as amended (8 U.S.C. 1101, *et seq.*) (Act), in three ways:

(1) Section 1102 amends section 101(a)(15) of the Act (8 U.S.C. 1101(a)(15)) to add a new nonimmigrant classification, paragraph (V), for certain spouses and children of lawful permanent residents (LPRs), who have waited at least 3 years for the availability of an immigrant visa number in the family-based second (F2A) preference category in accordance with the State Department's monthly Visa Bulletin. Eligible spouses and children (under 21 years old and unmarried) of LPRs outside the United States may apply for a V nonimmigrant visa abroad and for admission to the United States as a V nonimmigrant. If already present in the United States, eligible aliens may obtain V nonimmigrant status while remaining in the United States.

(2) Section 1102 of LIFE also adds section 214(o) to the Act (8 U.S.C. 1184(o)) in order to provide the terms and conditions of V nonimmigrant status and employment authorization.

(3) Section 1102 of LIFE makes conforming amendments to sections 214(b) and 214(h) of the Act (8 U.S.C. 1184(b) and 1184(h)) to include reference to the V nonimmigrant classification.

Who Is Eligible for V Nonimmigrant Status?

To be eligible for V nonimmigrant status, the alien must be the beneficiary of an immigrant visa petition, Form I–130, Petition for Alien Relative, that was filed by the LPR on or before December 21, 2000, under the F2A preference category of section 203(a)(2)(A) of the Act (8 U.S.C. 1153(a)(2)(A)). The child of a petitioned-for spouse or child beneficiary is also eligible for such status if he or she is accompanying or following to join such an alien.

The alien is eligible for V status if the Form I–130 immigrant visa petition has been pending for 3 years or more. In addition, the alien is eligible for V status after the visa petition has been approved and 3 years have passed since the date of filing, in either of the following circumstances:

(1) An immigrant visa number is not yet available to the beneficiary; or

(2) If an immigrant visa number is available to the beneficiary, his or her application for an immigrant visa abroad or application for adjustment of status under section 245 of the Act (8 U.S.C. 1255) is still pending.

An eligible spouse of an LPR will be classified as V–1. An eligible child of an LPR will be classified as V–2. The child of either, if eligible to accompany or follow to join the principal alien under section 203(d) of the Act (8 U.S.C. 1153(d)), will be classified as V–3.

An alien eligible for V nonimmigrant status may apply for a V nonimmigrant visa at a consular office abroad or, if the alien is already in the United States, he or she may apply to the Service for classification as a V nonimmigrant. An alien in V nonimmigrant status in the United States may obtain employment authorization.

What Are the Terms and Conditions of V Nonimmigrant Status?

Aliens in V–1, V–2, or V–3 nonimmigrant status are authorized to remain in the United States until their authorized period of admission expires, or until one of the following is denied: (1) the Form I–130, Petition for Alien Relative, filed by the LPR on behalf of his or her spouse or child; (2) the alien's application for an immigrant visa; or (3) the alien's application for adjustment of status. If the V–1 or V–2 alien's status is terminated for any of these reasons,

the V–3 status of any derivative child will simultaneously be terminated.

Aliens in the United States in V nonimmigrant status must abide by the terms and conditions of that status as set forth in section 214 of the Act (8 U.S.C. 1184). Since V nonimmigrants are admitted to the United States to await the availability of an immigrant visa number in the F2A preference category (spouses and minor children of lawful permanent residents), in accordance with the State Department's monthly Visa Bulletin, they must continue to be eligible for that preference category.

An alien who is no longer eligible for the F2A preference category described in section 203(a)(2)(A) of the Act (8 U.S.C. 1153(a)(2)(A)) is no longer eligible for V nonimmigrant status. For example, an alien would no longer be eligible if the qualifying marriage that forms the basis for the Form I–130 is terminated or the child petitioned for on the Form I–130 reaches the age of 21. If the Form I–130 is withdrawn by the petitioner, or if it is revoked under section 205 of the Act (8 U.S.C. 1155), then the alien is no longer considered to be in valid V classification beginning 30 days after the withdrawal or event that causes the revocation (8 U.S.C. 1184(p)(3)). (However, the Service notes that a spouse or child of an abusive lawful permanent resident may be eligible in certain circumstances to file a self-petition for classification as a preference immigrant, as provided in 8 CFR 204.4, even if the LPR has withdrawn the Form I–130 that was filed on his or her behalf.)

How Can an Eligible Alien Who Is Outside the United States Obtain a V Nonimmigrant Visa?

Eligible aliens who live abroad may obtain a V nonimmigrant visa from the Department of State by applying at a United States consular office. Eligible applicants must demonstrate that they meet the requirements of section 101(a)(15)(V) of the Act (8 U.S.C. 1101(a)(15)(V)).

The Department of State published an interim regulation on April 16, 2001, at 66 FR 19390 (22 CFR 41.86), that sets forth procedures for applying for a V nonimmigrant visa at a consular office abroad.

Waiver of Ground of Inadmissibility

Section 1102(b) of LIFE adds section 214(o) to the Act, (8 U.S.C. 1184(o)) which, among other things, provides that aliens applying for admission to the United States in V nonimmigrant status are exempt from the ground of inadmissibility found at section 212(a)(9)(B) of the Act (8 U.S.C. 1182(a)(9)(B)), relating to unlawful presence. This means that, for the purpose of admission as a V nonimmigrant, aliens who have accrued more than 180 days of unlawful presence in the United States are not subject to the 3- and 10-year bars to admission.

It is important to note that, as discussed in more depth below, section 214(o) of the Act waives this ground of inadmissibility only for V nonimmigrant admissions (or changing to a V nonimmigrant status), and not for purposes of obtaining immigrant status. When a V nonimmigrant applies for adjustment or for an immigrant visa to obtain permanent resident status, he or she is still subject to the ground of inadmissibility under section 212(a)(9)(B) of the Act relating to unlawful presence and the bars to admissibility.

How Can an Eligible Alien Who Is in the United States Obtain V Nonimmigrant Status?

Beginning September 7, 2001, eligible aliens in the United States who wish to obtain V nonimmigrant status must file the Form I–539, Application to Change Nonimmigrant Status, with the Service and pay the application fee, currently $120, required by 8 CFR 103.7(b)(1), or request a waiver of the application fee in accordance with 8 CFR 103.7(c). All aliens 14 to 79 years of age who are filing Form I–539 to obtain V nonimmigrant status must submit a service fee for fingerprinting, currently $25, with their application. In addition to the instructions listed on the Form I–539, all aliens applying for V nonimmigrant status must follow the supplemental instructions found on Supplement A to Form I–539. Applications should be submitted to: U.S. Immigration and Naturalization Service, P.O. Box 7216, Chicago, IL 60680–7216.

Supplement A to Form I–539 includes instructions specific to applicants for V nonimmigrant status in addition to those found on Form I–539.

Although the statute uses the term ''adjust,'' the Service views the conversion to V nonimmigrant status as a ''change'' from one (usually) nonimmigrant status to another nonimmigrant status, rather than an ''adjustment'' of status from nonimmigrant status to lawful permanent resident (LPR) status. This is especially so because V nonimmigrants are required to be pursuing LPR status through the adjustment of status or the immigrant visa process. For these reasons, the Service is planning to use the Form I–539 and the term ''change'' of status.

Medical Examination

An applicant applying for V nonimmigrant status must submit, along with his or her application, the results of a medical examination by a civil surgeon. The alien must submit this information on Form I–693, Medical Examination of Aliens Seeking Adjustment of Status, completed by a civil surgeon. Each Service district office maintains a list of physicians in the area who have been designated as civil surgeons by the Service. An applicant for V nonimmigrant status is not required to submit the vaccination supplement to Form I–693.

Fingerprinting Appointment

After receiving the application and proper fees, the applicant will be scheduled for fingerprinting at an Application Support Center (ASC). An applicant who does not appear for fingerprinting without previously notifying the Service may have his or her application denied under 8 CFR 103.2(b)(13).

Evidence

An alien applying for V nonimmigrant status should submit proof of filing of the immigrant petition that qualifies the alien for V status. Proof of filing may be in the form of Form I–797, Notice of Action, which serves as a receipt of the petition or as a notice of approval, or a receipt for the filed petition or notice of approval issued by a local district office. If the alien does not have such proof, the Service will review other forms of evidence, such as correspondence to or from the Service regarding a pending petition.

If the alien does not have any of the above items, but believes he or she is a beneficiary of a qualifying petition and as such is eligible for V nonimmigrant status, he or she should provide information indicating where and when the petition was filed, the name and alien number of the petitioner, and the names of all the beneficiaries.

Affidavit of Support

Aliens entering as V nonimmigrant aliens are not subject to the legally binding Affidavit of Support requirements of section 213A of the Act (8 U.S.C. 1183a) and 8 CFR part 213A, until they file for adjustment of status to LPR. However, the Service may request that an applicant for V status submit the non-binding Affidavit of Support, Form I–134.

Grounds of Inadmissibility

Aliens applying to the Service for V nonimmigrant status must be eligible for admission to the United States. This means they must not be inadmissible under any of the grounds found at section 212(a) of the Act, except those from which the LIFE Act explicitly exempts them. Section 214(o)(3) of the Act, as added by the LIFE Act, exempts an alien applying to obtain V nonimmigrant status from three grounds of inadmissibility: section 212(a)(6)(A) (aliens present without admission or parole); section 212(a)(7) (aliens not in possession of a valid, unexpired passport or immigrant or nonimmigrant visa); and section 212(a)(9)(B) (aliens unlawfully present). The fact that an alien is inadmissible under one of these three grounds does not make him or her ineligible to obtain the V nonimmigrant status. Thus, the alien need not have been maintaining lawful status at the time of applying to the Service to obtain V nonimmigrant status. An alien who is inadmissible as a nonimmigrant on any other ground under section 212(a) of the Act may apply to the Service for any available nonimmigrant waivers.

It is important to note that while section 214(o) of the Act waives these three grounds of inadmissibility for change to V nonimmigrant status, there is no corresponding exemption of these same grounds of inadmissibility when an alien in the V nonimmigrant status later applies for an immigrant visa or for adjustment of status to LPR. For example, if an alien in V nonimmigrant status, who has accrued more than 1 year of unlawful presence in the United States, travels abroad and is readmitted as a V nonimmigrant, that alien, when he or she departs the United States, triggers the 10-year bar to admission under section 212(a)(9)(B) of the Act. Section 214(o) exempts him or her from this ground of inadmissibility for purposes of obtaining V nonimmigrant status, but does not exempt the alien from that ground of inadmissibility when he or she later applies for an immigrant visa or for adjustment to LPR status. That means that he or she will be unable to adjust status to LPR for 10 years from the date of departure, unless an individual waiver for that ground of inadmissibility is granted.

To the extent that he or she may be eligible, the alien applying to adjust status may apply for the waivers found at section 212(g), (h), (i), and (a)(9)(B)(v) of the Act.

What Will Be the Period of Authorized Stay for V Nonimmigrants?

The Service will give aliens granted admission to the United States in the V nonimmigrant classification a maximum 2-year period of admission. Similarly, the Service will give aliens approved for a change of status to V nonimmigrant status a maximum 2-year period of admission. In either case, the period of V nonimmigrant status may be extended, as discussed below, if the alien continues to remain eligible for V status.

Children in V–2 or V–3 Status Who Reach the Age of 21 or Get Married

If an alien is 19 years old or older and applies for admission to the United States in V–2 or V–3 status, or for change to V–2 or V–3 status in the United States, he or she will be granted a period of admission that will end on the day before the alien turns 21 years of age.

One of the eligibility requirements for V classification is that an alien must be the beneficiary of a petition for status filed under section 203(a)(2)(A) of the Act—the Form I–130 for spouses or children of an LPR. *See* Pub. L. No. 106–553, sec. 1102(a)(3), 114 Stat. At 2762A–142. The term ''child'' is defined in section 101(b)(1) of the Act to mean, with certain qualifications, an unmarried person under 21 years of age. *See* 8 U.S.C. 1101(b)(1). Since the eligibility criteria of section 1102(a) do not include section 203(a)(2)(B) of the Act (unmarried sons or daughters of an LPR), an alien 21 years of age or over who is the son or daughter of an LPR is not eligible for V–2 classification. Likewise, an alien who gets married is no longer eligible for V classification as a ''child.'' Therefore, if the child of an LPR is admitted to the United States as a V–2 nonimmigrant and subsequently turns 21 or gets married, he or she is no longer eligible for that nonimmigrant status. Since the law provides for V–3 status for a derivative child of a principal alien, an alien will no longer be eligible for that nonimmigrant status after turning 21 or getting married.

How Can an Alien Obtain Employment Authorization Based on V Nonimmigrant Status?

An alien in valid V nonimmigrant status is eligible for employment authorization as long as he or she remains in that status. In order to obtain employment authorization, the alien must submit Form I–765, Application for Employment Authorization, with the application fee, currently $100, as required by 8 CFR 103.7(b)(1), or a request for a fee waiver in accordance with 8 CFR 103.7(c). An alien in V nonimmigrant status should submit his or her Form I–765 to: U.S. Immigration and Naturalization Service, P.O. Box 7216, Chicago, IL 60680–7216.

If the alien's application for employment authorization is approved, the Service will grant the alien employment authorization for a period of time to match his or her period of authorized stay as a V nonimmigrant. An alien already in the United States who is applying for V status may file for employment authorization at the same time he or she files Form I–539 and Supplement A to Form I–539.

How Can an Alien Obtain an Extension of His or Her V Nonimmigrant Status?

If an alien's period of admission is about to expire and the alien continues to be eligible for V nonimmigrant status, the alien may apply for an extension, using Form I–539 and Supplement A to Form I–539. Applications for extension of V nonimmigrant status should be submitted with the application fee for Form I–539, currently $120, as required by 8 CFR 103.7(b)(1), or the alien may request a fee waiver in accordance with 8 CFR 103.7(c). Applicants for an extension of V nonimmigrant status do not need to submit the fingerprinting service fee, nor do they need to have a medical examination or submit Form I–693 (medical examination). Applications should be submitted to: U.S. Immigration and Naturalization Service, P.O. Box 7216, Chicago, IL 60680–7216.

An alien granted an extension of V nonimmigrant status will be given a period of authorized stay not to exceed 2 years. A child in V nonimmigrant status who is 19 years old or older will be granted an extension valid until the day before his or her 21st birthday.

A V nonimmigrant who has filed an application for adjustment of status (Form I–485) is still eligible for extension of V nonimmigrant status as long as the adjustment application remains pending. However, any applicant for adjustment of status can obtain many of the same benefits as are provided for in the V status. Applicants for adjustment of status are considered to be in a period of stay authorized by the Attorney General while their application remains pending, and they are eligible to obtain employment authorization and to apply for advance parole to return to the United States after travel abroad.

What if an Alien Has an Approved Petition and a Current Priority Date but Does Not Have a Pending Application for an Immigrant Visa Abroad or an Application for Adjustment of Status?

The V visa classification includes aliens who are the beneficiary of an approved immigrant visa petition that was filed more than 3 years earlier, during the time that an immigrant visa is not available or during the time that an application for an immigrant visa abroad or for adjustment of status under section 245 of the Act is still pending. However, the Service recognizes that there may be limited circumstances in which an eligible spouse or child has an immigrant visa number available, but has not yet applied either for an immigrant visa abroad or for adjustment to LPR status.

In order to provide aliens time to file the appropriate application when their V status is expiring, the Service will grant a one-time 6-month extension of V nonimmigrant status to such aliens if they are otherwise eligible. Similarly, for an alien in this situation who is applying for admission to the United States on the basis of a V visa that is otherwise valid, the Service will admit the alien for a 6-month period in order to provide time to file the appropriate application.

In either case, if the alien has not filed either an application for adjustment of status or for an immigrant visa by the end of the 6-month period, the alien will no longer be able to extend his or her V nonimmigrant status.

May an Alien Travel Abroad While in V Nonimmigrant Status?

An alien who obtained a V nonimmigrant visa from a consular office abroad may be inspected and admitted to the United States in V nonimmigrant status after traveling abroad as long as the alien possesses a valid, unexpired V visa and remains eligible for V nonimmigrant status.

However, as a general matter, an alien who was granted V nonimmigrant status in the United States by the Service will need to obtain a V visa from a consular office abroad in order to be inspected and admitted to the United States as a V nonimmigrant after traveling abroad. (The alien will not need to apply for a V visa abroad in order to be admitted if he or she has traveled to contiguous territories or adjacent islands, has another valid visa, and is eligible for automatic revalidation.) Procedures for obtaining a V nonimmigrant visa abroad are found in the Department of State regulations at 22 CFR 41.86 (66 FR 19390, April 16, 2001). In addition, the alien must remain eligible for admission in V nonimmigrant status.

A V nonimmigrant with a pending Form I–485, Application to Register Permanent Residence or Adjust Status, does not need to obtain advance parole prior to traveling abroad. Section 1102(d) of the LIFE Act amends section 214 of the Act to include V nonimmigrants in the list of nonimmigrant classifications that may have dual intent. This means that an alien in V nonimmigrant status may be considered a nonimmigrant despite the fact that he or she is an intending immigrant with a filed application for adjustment of status or an immigrant visa. Aliens with dual intent, including V nonimmigrants, do not need to obtain advance parole to protect their pending applications for adjustment of status from being considered abandoned when they depart the United States.

When Is an Alien's V Nonimmigrant Status Terminated?

Under section 214(o)(1)(B) of the Act, as added by section 1102 of LIFE, the period of authorized admission as a V nonimmigrant terminates 30 days after any of the following is denied:

- The qualifying Form I–130;
- The alien's application for an immigrant visa pursuant to the approval of such Form I–130; or
- The alien's Form I–485 under section 245 of the Act pursuant to the approval of such Form I–130.

In the case of a derivative child (V–3), the period of admission is terminated when the Form I–130, Application for Immigrant Visa, or Form I–485 filed by the principal alien (V–1 or V–2) is denied.

The Service considers the withdrawal or revocation of an approved Form I–130 to be the equivalent of a denial. In addition, as discussed above, an alien spouse will lose V–1 status upon divorcing the LPR who filed the immigrant visa petition, and an alien child will lose V–2 or V–3 status upon turning 21 or marrying, because he or she will no longer satisfy the statutory definition of a ''child.''

Unless the alien has some other status under the immigration laws, he or she will become removable upon termination of the V status, and unlawful presence will begin to accrue.

What Happens if the Petitioner of the Form I–130 That Qualified the Beneficiaries for V Nonimmigrant Status Naturalizes?

If the LPR petitioner of the Form I–130 that qualified the beneficiaries for V nonimmigrant status becomes a United States citizen, the petitioner's spouse and children (and any derivative child) will no longer qualify for V nonimmigrant status as defined under section 101(a)(15)(V) of the Act. Their V status will expire when the current period of authorized admission ends, and they will not be eligible to renew V status.

However, as the spouse or child of a person who has now become a United States citizen, the principal beneficiaries will be immediate relatives as defined in section 201(b)(2)(A) of the Act (8 U.S.C. 1151(b)(2)(A)). As provided in 8 CFR 204.2(i)(3), the Form I–130 filed by the LPR automatically will be upgraded to an immediate relative petition.

An immediate relative must still be the beneficiary of a Form I–130, but he or she does not need to wait for an immigrant visa number to be available before filing an application for adjustment of status. A V–1 or V–2 alien with a pending or approved Form I–130 who becomes an immediate relative may apply for adjustment of status (Form I–485) immediately if he or she has not already done so. If the V–1 or V–2 alien has already filed a Form I–485 based on an approved Form I–130 at the time the LPR naturalizes, he or she does not need to file any additional forms.

It is important to note that a U.S. citizen must file a new immigrant visa petition (Form I–130) and an application for adjustment of status (Form I–485) on behalf of any child who was in V–3 status, in order for that child to adjust status. Derivative children in V–3 status were not covered by the Form I–130 previously filed by the LPR on behalf of his or her spouse (V–1) and children (V–2).

Each alien who is the beneficiary of a pending Form I–485 will be able to obtain work authorization while his or her adjustment application is pending.

What Happens if an Alien Is Already in Immigration Proceedings?

If an alien is already in immigration proceedings and believes that he or she may be eligible to apply for V nonimmigrant status, he or she should request before the immigration judge or the Board that the proceedings be administratively closed (or, if the alien has a motion pending before the Board, that the motion be indefinitely continued), in order to allow the alien to pursue an application for V nonimmigrant status with the Service. If the alien appears eligible for V nonimmigrant status, the immigration judge or the Board, whichever has jurisdiction, shall administratively close the proceeding or continue the motion indefinitely. In the event that the

Service finds an alien eligible for the V classification, the Service can adjudicate the application for change of status. In the event that the Service finds an alien ineligible for V status, the Service shall recommence proceedings by filing a motion to re-calendar.

If an Alien Is Already the Subject of a Final Order of Removal, Deportation or Exclusion, What Is the Procedure for Moving To Reopen Based on V Eligibility?

The LIFE Act Amendments contain no special provisions for reopening proceedings where an alien is already the subject of a final order of removal, deportation, or exclusion because that alien is now eligible for V nonimmigrant status. Accordingly, motions to reopen will be governed by the Department of Justice's current rules regarding motions to reopen, 8 CFR 3.23 (before the Immigration Judge) and 3.2 (before the Board of Immigration Appeals), which contain time and numerical limitations on the filing of such motions. *See* 8 CFR 3.23(b)(1) and 3.2(c)(2).

The rules, however, do provide for limited exceptions to these time and numerical limitations, among which is a motion to reopen filed jointly by the alien and the Service counsel in the case. Therefore, an alien who is the subject of a final order who alleges eligibility for V nonimmigrant status may contact the Service counsel to request the filing of a joint motion to reopen. The Service will exercise its discretion in considering such requests. The Service's discretion to join in motions to reopen, however, cannot provide or restore eligibility for discretionary relief that is otherwise barred by the statute (such as in the case of aliens whose orders were entered in absentia for failure to appear, or aliens who failed to voluntarily depart the United States within the time period specified).

Good Cause Exception

The Service's implementation of this rule as an interim rule, with provisions for post-promulgation public comments, is based on the ''good cause'' exceptions found at 5 U.S.C. 553(b)(B) and (d)(3). This interim rule establishes the proper rules and filing procedures for the part of the LIFE Act creating a new ''V'' nonimmigrant classification for spouses and children of lawful permanent resident aliens. According to the legislative history, Congress enacted the V visa in order to ameliorate the effects of the long statutory and administrative backlogs inherent in the immigration of alien relatives by providing for expeditious family reunification. The ''Joint Memorandum Concerning the Legal Immigration Family Equity Act of 2000 and the LIFE Act Amendments of 2000,'' submitted in lieu of a committee report, states that:

> [The LIFE Act] sought to provide a new mechanism to address the problem created by the long backlog of immigrant visa applications for spouses and minor children of lawful permanent residents, who are currently having to wait many years for a visa to become available to them. Right now, many of these individuals are even precluded from visiting their spouse or parent in the United States on account of an administrative interpretation that the filing of their petition casts doubt on the bona fides of their applications for visitor visas, indicating that instead they are intending immigrants* * *. The purpose of the V and K visas is to provide a speedy mechanism by which family members may be reunited.

Public Law 106–553 became effective on December 21, 2000, and therefore, immediate implementation of this rule without prior notice and comment is necessary to further the important public interests discussed above in the law's legislative history. Publishing a proposed rule would mean that the rule would not take effect immediately, and because of the necessary comment period, would result, contrary to the public interest, in a lengthy delay in processing for those already eligible for this benefit. In fact, eligible aliens have already filed applications with the Service's local offices while the Service has been in the process of drafting regulations. Many of these applicants are filing on the wrong forms, which do not provide sufficient information for adjudication decisions. The Service has no other recourse but to return the incorrect forms. Therefore, it is of significant importance that the Service publish regulations to establish appropriate procedures as soon as possible. Since further delays with respect to this interim rule are contrary to the public interest, there is good cause under 5 U.S.C. 553 to forgo the prior publication of a proposed rule and to make this rule effective upon the date of publication in the **Federal Register**.

Regulatory Flexibility Act

The Attorney General, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and, by approving it, certifies that this rule will not have a significant economic impact on a substantial number of small entities because this regulation affects family members of lawful permanent residents. It does not have an effect on small entities as that term is defined in 5 U.S.C. 601(6).

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by section 251 of the Small Business Regulatory Enforcement Act of 1996 (5 U.S.C. 804). This rule will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets. The Service estimates that this rule will result in an increase in Service revenue of $35.8 million in Fiscal Year (FY) 2001, $8.8 million in FY 2002, and $1.2 million in FY 2003.

Executive Order 12866

This rule is considered by the Department of Justice to be a significant regulatory action'' under Executive Order 12866, section 3(f), Regulatory Planning and Review. Accordingly, this rule has been submitted to the Office of Management and Budget for review.

Assessment of Regulatory Impact on the Family

This immigration law facilitates reunification of families by according preferences to aliens who are the spouse or children of lawful permanent resident aliens. This regulation implements an additional nonimmigrant classification through which these aliens may be reunified with their family member. For this reason, the Attorney General has determined, as provided by the Omnibus Consolidated and Emergency Supplemental Appropriations Act of 1999, Public Law 105–277, Sec. 654, 112 Stat. 2681, 2681–528–24 (1998) (5 U.S.C. 601, note), that this rule will not have an adverse impact on the strength or stability of the family.

Executive Order 13132

This rule will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the

distribution of power and responsibilities among the various levels of government. Therefore, in accordance with section 6 of Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

Executive Order 12988

This interim rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988.

Paperwork Reduction Act

The information collection requirement contained in this rule (Form I–539, Supplement A) has been submitted to the Office of Management and Budget for emergency review and approval under the provisions of the Paperwork Reduction Act. The emergency clearance is good for 180 days from the date of OMB approval. Prior to its renewal by OMB, INS will publish a notice in the **Federal Register** soliciting comment on the form. The OMB control number for this collection is contained in 8 CFR 299.5, Display of control numbers.

List of Subjects

8 CFR Part 214

Administrative practice and procedure, Aliens, Employment, Foreign officials, Health professions, Reporting and recordkeeping requirements.

8 CFR Part 245

Aliens, Immigration, Reporting and recordkeeping requirements.

8 CFR Part 248

Aliens, Reporting and recordkeeping requirements.

8 CFR Part 274a

Administrative practice and procedure, Aliens, Employment, Penalties, Reporting and recordkeeping requirements.

8 CFR Part 299

Immigration, Reporting and recordkeeping requirements.

Accordingly, chapter I of title 8 of the Code of Federal Regulations is amended as follows:

PART 214—NONIMMIGRANT CLASSES

1. The authority citation for part 214 is revised to read as follows:

Authority: 8 U.S.C. 1101, 1102, 1103, 1182, 1184, 1187, 1282; sec. 643, Pub. L. 104–208, 110 Stat. 3009–708; Section 141 if the Compacts of Free Association with the Federated States of Micronesia and the Republic of the Marshall Islands, and with the Government of Palau, 48 U.S.C. 1901, note, and 1931 note, respectively; 8 CFR part 2.

2. Section 214.1(a)(2) is amended by:

a. Adding the entry for ''101(a)(15)(V)'' in proper sequential order; and

b. Designating the existing note as ''Note 1'' and by adding a ''Note 2'' to read as follows:

§ 214.1 Requirements for admission, extension, and maintenance of status.

(a) * * *

(2) * * *

Section	Designation
* * * * *	
101(a)(15)(V)	V–1, V–2, or V–3
* * * * *	

Note: The classification designation V–1 is for the spouse of a lawful permanent resident; the classification designation V–2 is for the principal beneficiary of an I–130 who is the child of an LPR; the classification V–3 is for the derivative child of a V–1 or V–2 alien.

§ 214.2 [Amended]

3. Section 214.2 is amended by adding and reserving paragraph (u) and by adding paragraph (v), to read as follows:

§ 214.2 Special requirements for admission, extension, and maintenance of status.

* * * * *

(u) [Reserved]

(v) *Certain spouses and children of LPRs.* Section 214.15 of this chapter provides the procedures and requirements pertaining to V nonimmigrant status.

4. Section 214.15 is added to read as follows:

§ 214.15 Certain spouses and children of lawful permanent residents.

(a) *Aliens abroad.* Under section 101(a)(15)(v) of the Act, certain eligible spouses and children of lawful permanent residents may apply for a V nonimmigrant visa at a consular office abroad and be admitted to the United States in V–1 (spouse), V–2 (child), or V–3 (dependent child of the spouse or child who is accompanying or following to join the principal beneficiary) nonimmigrant status to await the approval of:

(1) A relative visa petition;

(2) The availability of an immigrant visa number; or

(3) Lawful permanent resident (LPR) status through adjustment of status or an immigrant visa.

(b) *Aliens already in the United States.* Eligible aliens already in the United States may apply to the Service to obtain V nonimmigrant status for the same purpose. Aliens in the United States in V nonimmigrant status are entitled to reside in the United States as V nonimmigrants and obtain employment authorization.

(c) *Eligibility.* Subject to section 214(o) of the Act, an alien who is the beneficiary (including a child of the principal alien, if eligible to receive a visa under section 203(d) of the Act) of an immigrant visa petition to accord a status under section 203(a)(2)(A) of the Act that was filed with the Service under section 204 of the Act on or before December 21, 2000, may apply for V nonimmigrant status if:

(1) Such immigrant visa petition has been pending for 3 years or more; or

(2) Such petition has been approved, and 3 or more years have passed since such filing date, in either of the following circumstances:

(i) An immigrant visa is not immediately available to the alien because of a waiting list of applicants for visas under section 203(a)(2)(A) of the Act; or

(ii) The alien's application for an immigrant visa, or the alien's application for adjustment of status under section 245 of the Act, pursuant to the approval of such petition, remains pending.

(d) *The definition of ''pending''.* For purposes of this section, a pending petition is defined as a petition to accord a status under section 203(a)(2)(A) of the Act that was filed with the Service under section 204 of the Act on or before December 21, 2000, that has not been adjudicated. In addition, the petition must have been properly filed according to § 103.2(a) of this chapter, and if, subsequent to filing, the Service returns the petition to the applicant for any reason or makes a request for evidence, the petitioner must satisfy the Service request within the time period set forth at § 103.2(b)(8) of this chapter. If the Service denies a petition, but the petitioner appeals that decision, the petition will be considered pending until the administrative appeal is decided by the Service. A petition rejected by the Service as not properly filed is not considered to be pending.

(e) *Classification process for aliens outside the United States.*

(1) *V nonimmigrant visa.* An eligible alien may obtain a V nonimmigrant visa from the Department of State at a

consular office abroad pursuant to the procedures set forth in 22 CFR 41.86.

(2) *Aliens applying for admission to the United States as a V nonimmigrant at a port-of-entry.* Aliens applying under section 235 of the Act for admission to the United States at a port-of-entry as a V nonimmigrant must have a visa in the appropriate category. Such aliens are exempt from the ground of inadmissibility under section 212(a)(9)(B) of the Act.

(f) *Application by aliens in the United States.* An alien described in paragraph (c) of this section who is in the United States may apply to the Service to obtain V nonimmigrant status pursuant to the procedures set forth in this section and 8 CFR part 248. The alien must be admissible to the United States, except that, in determining the alien's admissibility in V nonimmigrant status, sections 212(a)(6)(A), (a)(7), and (a)(9)(B) of the Act do not apply.

(1) *Contents of application.* To apply for V nonimmigrant status, an eligible alien must submit:

(i) Form I–539, Application to Extend/Change Nonimmigrant Status, with the fee required by § 103.7(b)(1) of this chapter;

(ii) The fingerprint fee as required by § 103.2(e)(4) of this chapter;

(iii) Form I–693, Medical Examination of Aliens Seeking Adjustment of Status, without the vaccination supplement; and

(iv) Evidence of eligibility as described by Supplement A to Form I–539 and in paragraph (f)(2) of this section.

(2) *Evidence.* Supplement A to Form I–539 provides instructions regarding the submission of evidence. An alien applying for V nonimmigrant status with the Service should submit proof of filing of the immigrant petition that qualifies the alien for V status. Proof of filing may include Form I–797, Notice of Action, which serves as a receipt of the petition or as a notice of approval, or a receipt for a filed petition or notice of approval issued by a local district office. If the alien does not have such proof, the Service will review other forms of evidence, such as correspondence to or from the Service regarding a pending petition. If the alien does not have any of the items previously mentioned in this paragraph, but believes he or she is eligible for V nonimmigrant status, he or she should state where and when the petition was filed, the name and alien number of the petitioner, and the names of all beneficiaries (if known).

(g) *Period of admission.*

(1) *Spouse of an LPR.* An alien admitted to the United States in V–1 nonimmigrant status (or whose status in the United States is changed to V–1) will be granted a period of admission not to exceed 2 years.

(2) *Child of an LPR or derivative child.* An alien admitted to the United States in V–2 or V–3 nonimmigrant status (or whose status in the United States is changed to V–2 or V–3) will be granted a period of admission not to exceed 2 years or the day before the alien's 21st birthday, whichever comes first.

(3) *Extension of status.* An alien may apply to the Service for an extension of V nonimmigrant status pursuant to this part and 8 CFR part 248. Aliens may apply for the extension of V nonimmigrant status, submitting Form I–539, and the associated filing fee, on or before 120 days before the expiration of their status. If approved, the Service will grant an extension of status to aliens in V nonimmigrant status who remain eligible for V nonimmigrant status for a period not to exceed 2 years, or in the case of a child in V–2 or V–3 status, the day before the alien's 21st birthday, whichever comes first.

(4) *Special rules.* The following special rules apply with respect to aliens who have a current priority date in the United States, but do not have a pending application for an immigrant visa abroad or an application to adjust status.

(i) For an otherwise eligible alien who applies for admission to the United States in a V nonimmigrant category at a designated Port-of-Entry and has a current priority date but does not have a pending immigrant visa abroad or application for adjustment of status in the United States, the Service will admit the alien for a 6-month period (or to the date of the day before the alien's 21st birthday, as appropriate).

(ii) For such an alien in the United States who applies for extension of V nonimmigrant status, the Service will grant a one-time extension not to exceed 6 months.

(iii) If the alien has not filed an application, either for adjustment of status or for an immigrant visa within that 6-month period, the alien cannot extend or be admitted or readmitted to V nonimmigrant status. If the alien does file an application, either for adjustment of status or for an immigrant visa within the time allowed, the alien will continue to be eligible for further extensions of V nonimmigrant status as provided in this section while that application remains pending.

(h) *Employment authorization.* An alien in V nonimmigrant status may apply to the Service for employment authorization pursuant to this section and § 274a.12(a)(15) of this chapter. An alien must file Form I–765, Application for Employment Authorization, with the fee required by 8 CFR 103.7. The Service will grant employment authorization to aliens in V nonimmigrant status who remain eligible for V nonimmigrant status valid for a period equal to the alien's authorized admission as a V nonimmigrant.

(i) *Travel abroad; unlawful presence.*—

(1) *V nonimmigrant status in the United States.* An alien who applies for and obtains V nonimmigrant status in the United States will be issued Form I–797, Notice of Action, indicating the alien's V status in the United States. Form I–797 does not serve as a travel document. If such an alien departs the United States, he or she must obtain a V visa from a consular office abroad in order to be readmitted to the United States as a V nonimmigrant. This visa requirement, however, does not apply if the alien traveled to contiguous territory or adjacent islands, possesses another valid visa, and is eligible for automatic revalidation.

(2) *V nonimmigrants with a pending Form I–485.* An alien in V nonimmigrant status with a pending Form I–485 (Application to Register Permanent Residence or Adjust Status) that was properly filed with the Service does not have to obtain advance parole in order to prevent the abandonment of that application when the alien departs the United States.

(3) *Unlawful presence.*—

(i) *Nonimmigrant admission.* An alien otherwise eligible for admission as a V nonimmigrant is not subject to the ground of inadmissibility under section 212(a)(9)(B) of the Act. This is true even if the alien had accrued more than 180 days of unlawful presence in the United States and is applying for admission as a nonimmigrant after travel abroad.

(ii) *Permanent resident status.* A V nonimmigrant alien is subject to the ground of inadmissibility under section 212(a)(9)(B) of the Act when applying for an immigrant visa or for adjustment of status to that of a lawful permanent resident. Therefore, a departure from the United States at any time after having accrued more than 180 days of unlawful presence will render the alien inadmissible under that section for the purpose of adjustment of status or admission as an immigrant, unless he or she has obtained a waiver under section 212(a)(9)(B)(v) of the Act or falls within one of the exceptions in section 212(a)(9)(B)(iii) of the Act.

(j) *Termination of status.*—

(1) *General.* The status of an alien admitted to the United States as a V nonimmigrant under section 101(a)(15)(V) of the Act shall be automatically terminated 30 days following the occurrence of any of the following:

(i) The denial, withdrawal, or revocation of the Form I–130, Petition for Immediate Relative, filed on behalf of that alien;

(ii) The denial or withdrawal of the immigrant visa application filed by that alien;

(iii) The denial or withdrawal of the alien's application for adjustment of status to that of lawful permanent residence;

(iv) The V–1 spouse's divorce from the LPR becomes final; or

(v) The marriage of an alien in V–2 or V–3 status.

(2) *Dependents.* When a principal alien's V nonimmigrant status is terminated, the V nonimmigrant status of any alien listed as a V–3 dependent or who is seeking derivative benefits is also terminated.

(3) *Appeals.* If the denial of the immigrant visa petition is appealed, the alien's V nonimmigrant status does not terminate until 30 days after the administrative appeal is dismissed.

(4) *Violations of status.* Nothing in this section precludes the Service from immediately initiating removal proceedings for other violations of an alien's V nonimmigrant status.

(k) *Naturalization of the petitioner.* If the lawful permanent resident who filed the qualifying Form I–130 immigrant visa petition subsequently naturalizes, the V nonimmigrant status of the spouse and any children will terminate after his or her current period of admission ends. However, in such a case, the alien spouse or child will be considered an immediate relative of a U.S. citizen as defined in section 201(b) of the Act and will immediately be eligible to apply for adjustment of status and related employment authorization. If the V–1 spouse or V–2 child had already filed an application for adjustment of status by the time the LPR naturalized, a new application for adjustment will not be required.

(l) *Aliens in proceedings.* An alien who is already in immigration proceedings and believes that he or she may have become eligible to apply for V nonimmigrant status should request before the immigration judge or the Board, as appropriate, that the proceedings be administratively closed (or before the Board that a previously-filed motion for reopening or reconsideration be indefinitely continued) in order to allow the alien to pursue an application for V nonimmigrant status with the Service. If the alien appears eligible for V nonimmigrant status, the immigration judge or the Board, whichever has jurisdiction, shall administratively close the proceeding or continue the motion indefinitely. In the event that the Service finds an alien eligible for V nonimmigrant status, the Service can adjudicate the change of status under this section. In the event that the Service finds an alien ineligible for V nonimmigrant status, the Service shall recommence proceedings by filing a motion to re-calendar.

PART 245—ADJUSTMENT OF STATUS TO THAT OF PERSON ADMITTED FOR PERMANENT RESIDENCE

5. The authority citation for part 245 continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1182, 1255; sec. 202, Pub. L. 105–100, 111 Stat. 2160, 2193; sec. 902, Pub. L. 105–277, 112 Stat. 2681; 8 CFR part 2.

6. Section 245.2 is amended by adding a new paragraph (a)(4)(ii)(D), to read as follows:

§ 245.2 Application.

(a) * * *

(4) * * *

(ii) * * *

(D) The travel outside of the United States by an applicant for adjustment of status who is not under exclusion, deportation, or removal proceeding and who is in lawful V status shall not be deemed an abandonment of the application if, upon returning to this country, the alien is admissible as a V nonimmigrant.

* * * * *

PART 248—CHANGE OF NONIMMIGRANT CLASSIFICATION

7. The authority citation for part 248 is revised to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1184, 1258; 8 CFR part 2.

8–9. Section 248.1 is amended by adding a sentence at the end of paragraph (a) and by revising paragraph (b) introductory text to read as follows:

§ 248.1 Eligibility.

(a) * * * An alien defined by section 101(a)(15)(V) of the Act may be accorded nonimmigrant status in the United States by following the procedures set forth in § 214.15(f) of this chapter.

(b) * * * Except in the case of an alien applying to obtain V nonimmigrant status in the United States under § 214.15(f) of this chapter, a change of status may not be approved for an alien who failed to maintain the previously accorded status or whose status expired before the application or petition was filed, except that failure to file before the period of previously authorized status expired may be excused in the discretion of the Service, and without separate application, where it is demonstrated at the time of filing that:

* * * * *

PART 274a—CONTROL OF EMPLOYMENT OF ALIENS

10. The authority citation for part 274a is revised to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1324a; 8 CFR part 2.

11. Section 274a.12 is amended by:

a. Revising the last sentence in paragraph (a) introductory text;

b. Removing the ''or'' at the end of paragraph (a)(13);

c. Removing the period of the end of paragraph (a)(14) and adding ''; or'' in its place; and by

d. Adding paragraph (a)(15).

The revisions and additions read as follows:

§ 274a.12 Classes of aliens authorized to accept employment.

(a) *Aliens authorized employment incident to status.* * * * Any alien who is within a class of aliens described in paragraphs (a)(3) through (a)(8) or (a)(10) through (a)(15) of this section, and who seeks to be employed in the United States, must apply to the Service for a document evidencing such employment.

* * * * *

(15) Any alien in V nonimmigrant status as defined in section 101(a)(15)(V) of the Act and 8 CFR 214.15. An employment authorization document issued under this paragraph will be valid for a period equal to the alien's period of authorized admission as a V nonimmigrant and, in any case, may not exceed 2 years;

* * * * *

PART 299—IMMIGRATION FORMS

12. The authority citation for part 299 continues to read as follows:

Authority: 8 U.S.C. 1101, 1103; 8 CFR part 2.

13. Section 299.1 is amended in the table by adding Form ''I–539, Supplement A'', in proper numerical sequence, to read as follows:

§ 299.1 Prescribed forms.

* * * * *

Form No.	Edition date	Title
* *	*	* *
I–539 Supplement A.	03–27–01	Filing Instructions for V nonimmigrant status.
* *	*	* *

14. Section 299.5 is amended in the table by adding Form ''I–539 Supplement A'' in proper numerical sequence, to read as follows:

§ 299.5 Display of control numbers.

* * * * *

INS form No.	INS form title	Currently assigned OMB Control No.
* *	* *	*
	I–539 Supplement A Filing Instructions for V nonimmigrant status.	1115–0237
* *	* *	*

Dated: August 28, 2001.

Larry D. Thompson,

Acting Attorney General.

[FR Doc. 01–22151 Filed 9–6–01; 8:45 am]

BILLING CODE 4410–10–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 522, 524, and 558

New Animal Drugs; Change of Sponsor

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect a change of sponsor for 56 approved new animal drug applications (NADAs) and 3 approved abbreviated new animal drug applications (ANADAs) from Roche Vitamins, Inc., to Alpharma, Inc.

DATES: This rule is effective September 7, 2001.

FOR FURTHER INFORMATION CONTACT: Lonnie W. Luther, Center for Veterinary Medicine (HFV–102), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0209.

SUPPLEMENTARY INFORMATION: Roche Vitamins, Inc., 45 Waterview Blvd., Parsippany, NJ 07054–1298, has informed FDA that it has transferred ownership of, and all rights and interest in, the following approved NADAs and ANADAs to Alpharma, Inc., One Executive Dr., P.O. Box 1399, Fort Lee, NJ 07024:

NADA No.	Product Name
33–950	Sulfamerazine in Fish Grade
35–688	Aureo SP–250; Aureomix 500
35–805	Aureomix-S 700 Crumbles; Aureomix-S 700
36–361	Amprolium Plus Ethopabate/CTC® Sodium Sulfate
40–209	Rofenaid® 40
41–647	Aureomix-S 700–A
41–648	Aureomix-S 700–D
41–649	Aureomix-S 700–G
41–650	Aureomix-S 700–E
41–651	Aureomix-S 700–F
41–652	Aureomix-S 700–C–2
41–653	Aureomix-S 700–B
41–654	Aureomix-S 700–H
41–984	Rofenaid® Plus Roxarsone
46–920	Baciferm® 10, 25, 40, and 50 Type A Medicated Articles
48–486	Robenz® Type A Medicated Article
48–761	Aureomycin® Type A Medicated Article
49–287	Chlorachel–50
55–040	SF Mix 66
92–507	Robenz® With Aureomycin® 500
95–546	Robenz® Plus Roxarsone
96–298	Avatec® and Bovatec® Premixes
96–933	Robenz® Plus Zn Bacitracin
97–085	Robenz® Plus Bac MD
100–901	Pfichlor 100S Milk Replacer Type A Medicated Article
102–485	Avatec®/3–Nitro®
105–758	Zinc Bacitracin and Amprol HI–E®
107–996	Avatec®/Fortracin® Premix
112–661	Avatec®/Lincomix®/3–Nitro®
112–687	Avatec®/Flavomycin®/3–Nitro®
114–794	Baciferm®/Amprol HI–E® Premix
121–553	Coban®/Aureomycin®
123–154	Coban®/3–Nitro®–10/Baciferm® Premix
125–933	Romet®–30 (Sulfamerazine)
126–052	Avatec®/Baciferm®/3–Nitro®
128–686	Bio-Cox® Type A Medicated Article
131–894	Avatec®/Fortracin®/3–Nitro® Broiler Premix
132–447	Bio-Cox® Plus Roxarsone
134–185	Bio-Cox®/3–Nitro®/Flavomycin®
134–284	Bio-Cox®/Flavomycin®
135–321	Bio-Cox®/3–Nitro®/BMD®
135–746	Bio-Cox®/BMD®
136–484	Carb-O-Sep®/Baciferm®
137–536	Bio-Cox®/3–Nitro® plus Albac®
137–537	Bio-Cox®/Lincomix®
139–075	Cygro® Type A Medicated Article
139–190	Bio-Cox®/3–Nitro®/Baciferm®
139–235	Bio-Cox®/Baciferm®
140–579	Bovatec®/Terramycin®
140–581	Bio-Cox®/3–Nitro®/Lincomix®
140–859	Aureomycin®/Bio-Cox®
140–865	Monteban®/Baciferm®
140–867	Aureomycin®/Bio-Cox®/3–Nitro®
141–025	Cattlyst® Type A Medicated Article
141–109	Avatec®/Baciferm®
141–150	Avatec®/Stafac®
200–140	Aureozol® Type A Medicated Article
200–167	Aureozol® 500 Granular
200–242	Aureomycin®–50, 70, 80, 90, 100/BMD® 25, 30, 40, 50, 60, 75

Accordingly, the agency is amending the regulations in 21 CFR 558.58, 558.76, 558.78, 558.95, 558.120, 558.128, 558.140, 558.145, 558.155, 558.195, 558.305, 558.311, 558.340, 558.355, 558.363, 558.366, 558.515, 558.550, 558.575, 558.582, and 558.600 to reflect the transfer of ownership. Section 558.95 is also being amended to remove paragraph (d)(1)(x), an entry pertaining to NADA 112–687, which is redundant with § 558.311(e)(1)(ii). Other nonsubstantive changes are being made to remove incorrect drug labeler codes.

This rule does not meet the definition of ''rule'' in 5 U.S.C. 804(3)(A) because it is a rule of ''particular applicability.'' Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801–808.

List of Subjects

21 CFR Parts 522 and 524

Animal drugs.

21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR parts 522, 524, and 558 are amended as follows:

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 522 continues to read as follows:

Authority: 21 U.S.C. 360b.

§ 522.575 [Amended]

2. Section 522.575 *Diazepam injection* is amended in paragraph (b) by removing ''000004'' and by adding in its place ''063238''.

PART 524—OPHTHALMIC AND TOPICAL DOSAGE FORM NEW ANIMAL DRUGS

3. The authority citation for 21 CFR part 524 continues to read as follows: