

# Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 9 CFR Parts 160, 161, and 162

[Docket No. APHIS–2006–0093]

RIN 0579–AC04

#### National Veterinary Accreditation Program

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Proposed rule.

**SUMMARY:** We are proposing to amend the regulations regarding the National Veterinary Accreditation Program to establish two accreditation categories in place of the current single category, to add requirements for supplemental training and renewal of accreditation, and to offer accreditation specializations. We are proposing these changes in order to support the Agency’s animal health safeguarding initiatives, to involve accredited veterinarians in integrated surveillance activities, and to make the provisions governing our National Veterinary Accreditation Program more uniform and consistent. These proposed changes would increase the level of training and skill of accredited veterinarians in the areas of disease prevention and preparedness for animal health emergencies in the United States.

**DATES:** We will consider all comments that we receive on or before July 31, 2006.

**ADDRESSES:** You may submit comments by either of the following methods:

- Federal eRulemaking Portal: Go to <http://www.regulations.gov> and, in the lower “Search Regulations and Federal Actions” box, select “Animal and Plant Health Inspection Service” from the agency drop-down menu, then click on “Submit.” In the Docket ID column, select APHIS–2006–0093 to submit or view public comments and to view supporting and related materials

available electronically. Information on using Regulations.gov, including instructions for accessing documents, submitting comments, and viewing the docket after the close of the comment period, is available through the site’s “User Tips” link.

- Postal Mail/Commercial Delivery: Please send four copies of your comment (an original and three copies) to Docket No. APHIS–2006–0093, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. APHIS–2006–0093.

*Reading Room:* You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue, SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

*Other Information:* Additional information about APHIS and its programs is available on the Internet at <http://www.aphis.usda.gov>.

**FOR FURTHER INFORMATION CONTACT:** Dr. Lawrence Miller, Program Manager, National Veterinary Accreditation Program, VS, APHIS, 4700 River Road Unit 200, Riverdale, MD 20737; (301) 734–6188.

#### SUPPLEMENTARY INFORMATION:

##### Background

The regulations in 9 CFR chapter I, subchapter J (parts 160 through 162, referred to below as the regulations), govern the accreditation of veterinarians and the suspension and revocation of such accreditation. These regulations are the foundation for the National Veterinary Accreditation Program (NVAP). Accredited veterinarians are approved by the Administrator of the Animal and Plant Health Inspection Service (APHIS), United States Department of Agriculture (USDA), to perform certain regulatory tasks to control and prevent the spread of animal diseases throughout the United States and internationally.

In this document, we are proposing to amend the regulations to accomplish the following:

- Replace the current single category of accreditation with two categories: Category I, which would be limited in scope to companion animals and related activities, and Category II, which would encompass all animal species and accredited activities. The addition of Category I would allow for the accreditation of veterinarians who can complete certificates for the international movement of companion animals, diagnose exotic animal diseases in companion animals, and perform veterinary tasks during animal disease emergencies.

- Provide for the renewal of accreditation every 3 years and require accredited veterinarians to complete supplemental training units (four for Category I and nine for Category II) during each 3-year renewal period. These changes would increase the rigor of the accredited veterinarian program and provide additional training and knowledge for accredited veterinarians.

- Provide for Category II accredited veterinarians to become qualified to perform certain specialized activities such as trichinae safe herd certification work. This change would allow specialized activities to be performed under the regulatory auspices of the NVAP.

We are also proposing to make several minor changes that would improve the program’s effectiveness. Each of these proposed changes is discussed in detail below. In addition, we are proposing several organizational changes to the regulations to improve their clarity and effectiveness. A derivation table that shows the organizational changes we are proposing is provided below. The organizational changes are discussed in more detail later in this proposal.

TABLE 1.—DERIVATION TABLE FOR PROPOSED CHANGES TO PARTS 161 AND 162

| Proposed new section or paragraph | Based on                      |
|-----------------------------------|-------------------------------|
| 161.1(a) .....                    | No change.                    |
| 161.1(b) .....                    | 161.2(a).                     |
| 161.1(c) .....                    | 161.2(a)(1) and new language. |
| 161.1(d) .....                    | 161.2(d) and new language.    |
| 161.1(e) .....                    | 161.2(a)(2) and new language. |
| 161.1(f) .....                    | New language.                 |
| 161.1(g) .....                    | New language.                 |
| 161.2(a) .....                    | 161.1(b).                     |

TABLE 1.—DERIVATION TABLE FOR PROPOSED CHANGES TO PARTS 161 AND 162—Continued

| Proposed new section or paragraph | Based on                   |
|-----------------------------------|----------------------------|
| 161.2(b) .....                    | 161.1(c).                  |
| 161.2(c) .....                    | New language.              |
| 161.3 .....                       | New language.              |
| 161.4 .....                       | 161.3.                     |
| 161.5 .....                       | New language.              |
| 161.6(a) .....                    | 161.4(a) and new language. |
| 161.6(b) .....                    | 161.2(c).                  |
| 161.6(c) .....                    | 161.2(b) and new language. |
| 161.6(d) .....                    | 161.4(b).                  |
| 161.6(e) .....                    | 161.4(c).                  |
| 161.6(f) .....                    | 161.4(d).                  |
| 161.6(g) .....                    | 161.4(a).                  |
| 161.7 .....                       | New language.              |
| 162.10 .....                      | 162.10 and new language.   |
| 162.12(a) .....                   | No change.                 |
| 162.12(b) .....                   | 162.12(d).                 |
| 162.12(c) .....                   | 162.12(b).                 |
| 162.12(d) .....                   | 162.12(c).                 |

**New Categories of Accreditation**

The current regulations in § 161.2(a) and (d) set out the requirements for initial veterinary accreditation and the tasks that veterinarians must be able to perform in order to be accredited, respectively. We would move these provisions to § 161.1, as shown in the derivation table above, and amend the section heading of § 161.1 to read “Statement of purpose; requirements and application procedures for accreditation” to reflect the movement of those provisions.

The current regulations provide for only one type of accreditation; however, we would revise the current requirements for accreditation to provide for two accreditation categories. The new category we are proposing to add, Category I, would allow for the accreditation of veterinarians who only wish to perform accredited duties relating to companion animals. Under Category I, a veterinarian would be accredited to participate in disease surveillance and issue international health certificates and domestic certificates for interstate movement for companion animals. For this category, routine disease surveillance would only relate to exotic animal diseases (including surveillance for emerging and foreign animal diseases) that occur in companion animals, rather than to diseases exclusively associated with companion animals. Except during animal disease emergencies, Category I veterinarians would not be authorized to perform accredited work activities with horses, food or fiber animal

species, or other livestock or poultry animals. Commensurate with the limited duties that veterinarians accredited under Category I would be authorized to perform, the tasks a veterinarian would have to be able to perform to be accredited under Category I would also be less comprehensive than those for proposed Category II and would only relate to companion animals.

Other countries often require that companion animals moved into those countries be accompanied by an international health certificate stating that those animals are free of certain diseases. The regulations currently do not provide for the accreditation of veterinarians who are competent to perform accredited duties for companion animals but not for livestock or poultry. Establishing Category I as a new accreditation category would give veterinarians for companion animals the option of becoming accredited without having to learn and perform duties relating to livestock and poultry; since most veterinarians practice solely on companion animal species, adding Category I accreditation as an option would enable veterinarians to be accredited to perform duties consistent with their type of practice.

However, Category I veterinarians would be accredited to participate in disease surveillance for diseases relating to livestock and poultry as they occur in companion animals; for example, a Category I veterinarian could participate in surveillance for avian diseases when examining pet birds. In addition, Category I veterinarians could be asked to participate in surveillance in livestock or poultry during an outbreak of a livestock or poultry disease, when finding enough personnel to perform adequate surveillance may become a significant issue; Category I veterinarians would be capable of drawing blood from livestock or poultry for testing, for example. Therefore, adding this category would also increase APHIS’ disease surveillance resources for livestock and poultry.

To clarify the distinction between companion animals and other animals, we would add a definition of *companion animals* to § 160.1. This definition would read: “Animals commonly kept as pets in family households in the United States. Companion animals do not include horses, food or fiber animal species, or other livestock or poultry animals.” Typically, in veterinary medicine, a horse is considered a companion animal; however, the duties that accredited veterinarians perform under the regulations governing the interstate

movement and exportation of horses in 9 CFR chapter I are similar to those that accredited veterinarians perform under the regulations governing the interstate movement and exportation of livestock. Accordingly, we believe it is appropriate to require veterinarians who perform accredited duties with respect to horses to be accredited under Category II.

Accreditation under Category II would be similar to accreditation under the current regulations. Under Category II, a veterinarian would be accredited to issue international animal health certificates, issue animal health certificates for interstate movement, participate in disease surveillance (including surveillance for emerging and foreign animal diseases), perform emergency animal disease management functions, conduct APHIS Veterinary Services program activities, and perform other specialized accreditation activities such as herd health certification work for all animal species.

In § 161.2 of the current regulations, paragraph (d) lists tasks that applicants for accredited status must be able to perform. The tasks that a veterinarian accredited under Category II would have to be able to perform are similar to those currently listed in § 161.2(d). However, we are proposing to make some of the task descriptions more general; for example, a Category II veterinarian would be required to be able to perform a necropsy on all animals, not just on livestock as in the current regulations. We would also update the language used to describe some of these tasks.

We are proposing to replace one of the tasks in the current regulations with a new task that Category II veterinarians would have to be able to perform to be accredited. We would replace “Plan a disease control strategy for a livestock unit task” with “Develop a herd or flock health plan.” “Herd or flock health plan” is a term used elsewhere in 9 CFR chapter I with regard to animal diseases for which we conduct control or eradication efforts, and its meaning is more general than “disease control strategy.” To clarify what this new task entails, we would add a definition of *herd or flock health plan* to § 160.1. This definition would read: “A written herd or flock health management plan, which may include an agreement signed by the owner of a herd or flock, the accredited veterinarian, and a State or APHIS representative, in which each participant agrees to undertake actions specified in the agreement to control a disease or diseases.”

The tasks that accredited veterinarians are required to be able to perform by the current regulations and

the tasks that veterinarians would be required to be able to perform to be accredited under Category I and Category II are compared in Table 2.

TABLE 2.—COMPARISON OF CURRENT ACCREDITED VETERINARIAN TASKS WITH PROPOSED CATEGORY I AND CATEGORY II

| Current regulations in § 161.2(d)  | Category I in proposed § 161.1(d)(i)   | Category II in proposed § 161.1(d)(ii)   |
|--|--|--|
| Perform physical examinations of individual animals, and visually inspect herds or flocks, to determine whether the animals are free from any clinical signs suggestive of communicable disease.<br>Recognize the common breeds of livestock so as to be able to record breed information on official documents. | Perform physical examination of individual companion animals to determine whether they are free from any clinical signs suggestive of communicable disease.<br>Recognize the common breeds of companion animals and accurately record breed information on official documents. | Perform physical examination of individual animals and visually inspect herds or flocks to determine whether the animals are free from any clinical signs suggestive of communicable disease.<br>Recognize the common breeds of companion animals, the types of poultry as defined by the National Poultry Improvement Plan in 9 CFR subchapter G, and the common breeds of livestock, and be able to accurately record breed information on official documents. |
| Recognize brucellosis tattoos and calfhood vaccination tags, and determine the State of origin of eartags, to properly identify animals in interstate commerce.  | .....  | Recognize all USDA animal identification systems.  |
| Estimate the age of livestock using a dental formula.  | .....  | Estimate the age of livestock using a dental formula.  |
| Apply an eartag, tattoo, backtag, and legband ..   | Apply common animal identification for companion animals.  | Apply USDA-recognized identification (e.g., eartag, microchip, tattoo) for the USDA animal identification system.  |
| Certify the disease status of a poultry flock with regard to disease caused by <i>Salmonella enteritidis</i> , chlamydiosis, and exotic Newcastle disease by evaluating records of the flock's participation in and testing by Federal and State poultry health programs.  | .....  | Certify the health status of a poultry flock regarding diseases of domestic or international regulatory concern, and evaluate records pertaining to flock testing and participation in Federal and State poultry health programs and classifications.  |
| Properly complete certificates for domestic and international movement of animals.   | Properly complete certificates for domestic and international movement of companion animals.   | Properly complete certificates for domestic and international movement of animals.   |
| Apply and remove official seals .....  | .....  | Apply and remove official seals.   |
| Perform a necropsy on livestock .....  | Perform necropsies on companion animals ....   | Perform necropsies on animals.   |
| Recognize clinical signs and lesions of exotic animal diseases.  | Recognize and report clinical signs and lesions of exotic animal diseases that occur in companion animals.   | Recognize and report clinical signs and lesions of exotic animal diseases.   |
| Plan a disease control strategy for a livestock unit.  | .....  | Develop a herd or flock health plan.   |
| Vaccinate for brucellosis and fill out the vaccination certificate.  | Vaccinate companion animals and accurately complete the vaccination certificate.   | Vaccinate for USDA program diseases and accurately complete the vaccination certificate.   |
| Draw and ship blood for testing .....  | Properly collect and ship specimen samples to appropriate laboratory for testing with complete and accurate paperwork.   | Properly collect and ship sample specimens to an appropriate laboratory for testing with complete and accurate paperwork.  |
| Perform a caudal fold test for tuberculosis .....  | .....  | Properly perform testing for tuberculosis (e.g., caudal fold test).  |
| Develop appropriate cleaning and disinfection plans to control communicable livestock disease spread.  | Develop appropriate biosecurity protocols, as well as cleaning and disinfection protocols, to control communicable disease spread in companion animals.  | Develop appropriate biosecurity protocols, as well as cleaning and disinfection protocols, to control communicable disease spread.   |
| Explain basic principles for control of diseases for which APHIS or APHIS-State cooperative programs exist, such as brucellosis, pseudorabies, and tuberculosis.   | .....  | Explain basic principles for control of diseases for which APHIS or APHIS-State cooperative programs presently exist.  |

The conditions under which the Administrator could accredit a veterinarian, presently listed in § 161.2(a)(2), would be moved to § 161.1(e) under this proposal. We are proposing to make two changes to these conditions. The regulations currently require that, to be accredited, a veterinarian must complete an orientation program approved by the

Veterinarian-in-Charge for the State in which the veterinarian wishes to practice, which includes several topics mandated by the regulations. To this list of topics, we are proposing to add two new topics: Foreign animal disease awareness and animal health emergency management. Adding these topics would ensure that accredited veterinarians are familiar with these

topics, which are becoming increasingly important as the volume of imported animals and animal products increases.

The orientation program described above is typically conducted at veterinary medical schools prior to graduation, meaning that most veterinarians fulfill the requirement as part of their general veterinary medical education. The orientation program

would be all the training that would be required for initial accreditation under Category I. However, proposed § 161.1(e)(4) would require that a veterinarian complete five supplemental training units approved by APHIS before being accredited under Category II. The supplemental training units we would require would either address topics that are not covered in the orientation program described above or provide more specific detail on topics of special current relevance. This requirement would ensure that a veterinarian seeking initial accreditation under Category II is fully prepared to perform accredited duties. We are not proposing a similar requirement for veterinarians seeking accreditation under Category I because we believe the current orientation program is adequate to acquaint Category I veterinarians with their comparatively limited duties. (Supplemental training units would be part of another new feature we are proposing to add to the regulations, a process for renewal of accreditation. This part of our proposal is discussed in detail under the heading "Renewal of Accreditation" below. However, the proposed provision described here would require pre-accreditation training, rather than pre-renewal training.)

Proposed § 161.1(f) describes a process by which veterinarians accredited under Category I would be able to become accredited under Category II and vice versa. A veterinarian who is accredited under one category would be able to become accredited under the other category if the veterinarian reapplies for accreditation, states that he or she can perform all the tasks which applicants would have to be able to perform under the new category, and has fulfilled the training requirements associated with renewal of accreditation under the new category. Therefore, a Category II veterinarian who did not wish to take all of the training necessary to retain Category II accreditation could become a Category I veterinarian by completing only the training necessary for Category I and continuing to comply with the proposed requirements for renewal of accreditation.

Finally, we would add in proposed § 161.1(g) a new requirement that an accredited veterinarian may not perform accredited duties in a State until after receiving written authorization from APHIS. Similarly, if a Category I accredited veterinarian completed the necessary training requirements and became a Category II accredited veterinarian, the veterinarian would not be allowed to perform Category II

accredited duties in a State until after receiving written authorization from APHIS. Currently, the regulations do not contain any provision for a written notification that a veterinarian has been granted accredited status. Adding this requirement will ensure that both APHIS and the accredited veterinarian have a record that accredited status has been granted, or, in the case of veterinarians newly accredited under Category II, that Category II accredited status has been granted.

#### *Performing Accredited Duties in Different States*

The regulations in current § 161.1(b) and (c) set out the requirements that must be fulfilled if an accredited veterinarian wishes to perform accredited duties in a State other than the State for which the veterinarian has completed an orientation in accordance with § 161.2(a)(4). We would move these requirements to § 161.2 and amend the section heading to read "Performance of accredited duties in different States" to reflect this change. Placing the requirements for performing accredited duties in different States after the requirements for initial accreditation would reflect the fact that veterinarians must first be accredited in one specific State before they can apply to perform accredited duties in other States.

We are proposing to amend the requirements for performing duties in different States to include a requirement that the accredited veterinarian may not perform accredited duties in a State other than the one in which the veterinarian was initially accredited until after he or she received written authorization from APHIS to perform accredited duties in the new State. Currently, the regulations do not contain any provision for a written notification that a veterinarian has been approved to perform accredited duties in a new State. Adding this requirement would ensure that the authority of the veterinarian is properly documented and that both APHIS and the accredited veterinarian have a record that approval to perform accredited duties in a new State has been granted.

We would also amend these requirements by referring specifically to Form 1-36B, "Application for Veterinary Accreditation in Another State." This would make these regulations consistent with the other veterinary accreditation regulations, which refer to forms by their title and form number.

#### *Renewal of Accreditation*

Section 161.3 of the regulations currently contains standards for the

performance of accredited veterinarian duties. In this proposal, we would redesignate § 161.3 as § 161.4 and add a new § 161.3 to set out provisions under which accredited veterinarians would be required to renew their accreditation every 3 years. Accredited veterinarians would be required to complete supplemental training as a condition of renewal. The section heading for proposed § 161.3 would, accordingly, read "Renewal of accreditation."

Under the current regulations, after an initial orientation to the accreditation duties, accredited veterinarians are not required to complete any additional education to remain accredited. However, several potential problems have led us to believe that a renewal system for veterinary accreditation is necessary.

First, accredited veterinarians need to be aware of the most up-to-date information regarding foreign animal diseases and the risks associated with them. The diversity of regions from which animals and animal products are exported means that the international animal disease profile, including emerging diseases that may be relevant to accredited veterinary practice within the United States, are continually changing. The import and export requirements that are placed on the trade of animals and animal products by countries also change frequently, and any deficiencies in knowledge of these requirements on the part of accredited veterinarians could pose a risk. Because of the potential adverse impact for U.S. entities posed by foreign animal diseases and emerging diseases, which includes the loss of significant export markets due to the presence of a foreign animal disease or an emerging disease in the United States, it is imperative that our accredited veterinarians possess the latest knowledge on topics relevant to foreign animal disease prevention and control.

In addition, duties performed by accredited veterinarians in the United States are typically performed by government-employed veterinarians in other countries. Some U.S. trading partners have expressed concern regarding the fact that our veterinary accreditation program does not require supplemental training. The additional training associated with renewal of accreditation would, we believe, increase the rigor of the program and thus address this concern.

Renewing accredited status would also formally indicate that the accredited veterinarian intends to remain active as an accredited veterinarian for an additional 3 years and ensures that the renewing

veterinarian will have completed the requisite training units necessary to maintain his or her category accreditation. By renewing, the veterinarian would affirm his or her continued willingness and availability to, if called upon, perform official accredited duties. In addition, periodic renewal would also provide an effective means for APHIS to update accredited veterinarian records, thus maximizing the accuracy of our database of accredited veterinarians and APHIS' ability to efficiently run the NVAP. This would be particularly important in the event of an outbreak of a fast-moving animal disease such as exotic Newcastle disease, for which accredited veterinarians would need to be contacted and mobilized as quickly as possible.

The renewal provisions we are proposing would require the following:

- Accredited veterinarians who wish to continue participating in the NVAP would have to renew their accreditation every 3 years by completing the Application for Renewal of Veterinary Accreditation form, Form 1-36C, and submitting it to APHIS. (We would require that renewal forms be submitted to APHIS rather than to the Veterinarian-in-Charge because, as described above, a veterinarian may be accredited in several States; requiring submission to APHIS ensures that accredited veterinarians will only have to submit one renewal form.)

- Accredited veterinarians who wish to renew their accreditation under Category I would have to complete four supplemental training units approved by APHIS by the end of their 3-year tenure as an accredited veterinarian. Accredited veterinarians who wish to renew their accreditation under Category II would have to complete nine supplemental training units approved by APHIS by the end of their 3-year tenure as an accredited veterinarian. The majority of the supplemental training units would be delivered through the World Wide Web. (APHIS would also make the training available by mail for those who lack Internet access. We also anticipate approving some classroom training conducted at the State level, which could then be used to fulfill part of the renewal requirement.) The content of the training units would be regularly updated and revised to ensure that accredited veterinarians remain informed about current domestic and international animal disease problems and foreign trade requirements.

- Accredited veterinarians who do not complete the required training within 3 years would have their

accredited status expire. Veterinarians whose accreditation status has expired would not be allowed to perform accredited duties until they receive notification of their reinstatement from APHIS. Veterinarians who perform duties that only accredited veterinarians are authorized to perform while their accredited status has expired would be subject to such criminal and civil penalties as are provided by the Animal Health Protection Act (7 U.S.C. 8301-8317) or other applicable Federal statutes or regulations. To be reinstated, the veterinarian would need to complete the necessary supplemental training units for the appropriate category and submit the Application for Veterinary Accreditation Renewal form to APHIS.

- A veterinarian who allows his or her accredited status to expire would have to have completed the required number of supplemental training units within 3 years of his or her application for renewal in order to be approved for renewal. Supplemental training units completed since the veterinarian's last renewal but more than 3 years before the veterinarian's application for renewal would not count towards his or her training requirement. This requirement would ensure that a veterinarian whose accredited status had expired prior to his or her application for renewal has received current training.

Because the required training program would be administered by APHIS, we would have a record of completion of training units for every accredited veterinarian. This record would be used to review applications for renewal.

As noted earlier, the veterinary accreditation regulations currently do not contain renewal provisions of any kind. In proposed § 161.3(d), we would provide that currently accredited veterinarians may continue to perform accredited duties between the effective date of the final rule following this proposal and the date of their first renewal. APHIS would contact currently accredited veterinarians, by postal mail, fax, or e-mail, to notify them that they must elect to participate in the NVAP as Category I or Category II veterinarians. Veterinarians would not be required to complete any additional training to continue their participation in the NVAP, but they would be required to notify APHIS that they elect to participate within 3 months of this notification; otherwise, their accreditation would expire. After APHIS receives notice from a currently accredited veterinarian that he or she elects to continue to participate in the program as a Category I or Category II veterinarian, APHIS would notify the

veterinarian of his or her initial renewal date. The accredited veterinarian would then have to complete all the training requirements for renewal by the initial renewal date.

We would contact currently accredited veterinarians over a period of time to determine whether they wish to continue participating in the NVAP. We anticipate that we would issue three batches of notifications, approximately one year apart, to three equal-sized groups of currently accredited veterinarians; the first batch of notifications would be issued soon after the effective date of a final rule following this proposal. We are requesting comments and suggestions from the public on approaches to dividing currently accredited veterinarians into groups for the initial notification and renewal process.

We acknowledge that spreading the notifications out over a period of time would result in some veterinarians not having to fulfill the training requirements for renewal of accreditation for 5 years after the effective date of a final rule following this proposal. Ideally, we would be able to process renewals and provide training for all currently accredited veterinarians within 3 years of the effective date of such a final rule. However, there are about 66,000 veterinarians who are accredited under the current regulations. Setting the initial renewal dates for all these veterinarians at 3 years after the effective date of the final rule following this proposal would result in an unmanageable load on the information technology infrastructure used to provide renewal training and process the renewals. Such a renewal plan would also not give us time to find out how to contact accredited veterinarians for whom we lack current contact information and determine whether they wish to continue to participate in the NVAP as Category I or Category II veterinarians. By sending out the election forms and setting initial renewal dates for currently accredited veterinarians across a period of time, we would ensure that the renewal process functions as smoothly as possible for currently accredited veterinarians.

After the initial renewal date, currently accredited veterinarians would have to renew their accreditation every 3 years, in accordance with the previously described provisions of this proposal.

#### *Accreditation Specializations*

The regulations currently allow accredited veterinarians to perform all types of accreditation activities on all

species. Certain APHIS disease programs have additional training requirements that accredited veterinarians must fulfill in order to perform certain activities, because performing these activities requires specialized technical knowledge. These training programs are known as accreditation specialization programs. Currently, APHIS is developing accreditation specialization programs for herd certification in the trichinae program for swine and for testing in the tuberculosis program for cervidae and in the scrapie program for ovines. When such programs are established, the NVAP would document which accredited veterinarians have earned accreditation specializations and, if renewal requirements exist, when renewal is due. However, the NVAP regulations presently do not explicitly provide requirements for accreditation specializations.

Therefore, we are proposing to add a new section in § 161.5 with the heading "Accreditation specializations," which would provide general requirements for the voluntary qualification of accredited veterinarians in areas of special interest. Participants in these accreditation specialization programs would be qualified in a particular area or specialty. Accreditation specializations would be developed by APHIS as needed to help protect U.S. agriculture, decrease the risk of the introduction and spread of animal disease, and increase the health and welfare of U.S. animals and animal products. In addition to those mentioned above, APHIS may consider developing accreditation specializations for topics like aquaculture and emergency management.

An accreditation specialization recognized by the Administrator would be granted to a veterinarian accredited under Category II upon completion of an additional orientation or training program approved by APHIS that focuses on the specific area of specialization for which the veterinarian is seeking accreditation specialization. (Veterinarians accredited under Category I would not be eligible to earn accreditation specializations.) In addition to Category II training, qualification for an accredited specialization would include additional specialized training, which may include periodic training updates. For certain accreditation specializations, the cost of orientation or training may be borne by the accredited veterinarian. An accredited veterinarian granted an accreditation specialization would be referred to as a qualified accredited veterinarian, or QAV. A QAV would be

authorized to perform those accredited duties related to the specialization he or she has earned; Category II accredited veterinarians not granted accredited specializations would not be permitted to perform the specified accredited duties related to that particular specialization.

If a veterinarian is qualified for an accreditation specialization but allows his or her Category II accreditation to expire, the veterinarian's accreditation specialization would expire as well, and the QAV would have to become qualified for the accreditation specialization again in accordance with the proposed requirements. However, depending on the requirements of the accreditation specialization, a QAV may not be required to complete any training other than that required to renew the Category II accreditation in order to maintain his or her accreditation specialization. As mentioned previously, APHIS would require training updates as needed in order to maintain the accreditation specialization, but the required training updates would vary depending on the needs of the disease program for which the accreditation specialization was required.

#### *Suspension or Revocation of Veterinary Accreditation*

The regulations in § 161.4 provide for the suspension or revocation of veterinary accreditation as well as civil and criminal penalties. We are proposing to move current § 161.4 into a new section § 161.6, as shown in the derivation table above. In addition, we are proposing to move paragraphs (b) and (c) of § 161.2 into proposed § 161.6. Those paragraphs deal with reaccreditation after accreditation has been revoked and reinstatement of accreditation after suspension, respectively, and we believe it would be better to have all the information relating to these subjects in a separate section. To accommodate these changes, we would revise the current section heading of § 161.4 in proposed § 161.6 to read "Suspension or revocation of veterinary accreditation and reaccreditation; criminal and civil penalties."

We are proposing to make some changes to the current language in § 161.4(a) as part of moving it to § 161.6(a). The regulations currently state that the Administrator is authorized to suspend for a given period of time, or to revoke, the accreditation of a veterinarian when he or she determines that the accredited veterinarian has not complied with the "Standards for Accredited Veterinarian

Duties" as set forth in § 161.3. We would update this citation to refer to § 161.4, which is where we are proposing to move those standards. We would further add that the Administrator is authorized to suspend or revoke accreditation if a veterinarian does not comply with the regulations in 9 CFR part I, subchapter J, or is otherwise found to be unfit to be accredited. This change would expand the circumstances for which we can suspend or revoke accreditation.

In addition, the regulations currently do not explicitly indicate that accredited veterinarians may not perform accredited duties while their accredited status has been suspended or revoked. We would add a sentence to the end of paragraph (a) to read as follows: "Veterinarians who perform duties that only accredited veterinarians are authorized to perform while their accredited status is suspended or revoked will be subject to such criminal and civil penalties as are provided by the Animal Health Protection Act (7 U.S.C. 8301–8317) or other applicable Federal statutes." This sentence would enhance the integrity and clarity of the regulations. We would further indicate that performing accredited duties while accreditation status is suspended or revoked would be considered grounds for the Administrator to suspend accreditation, revoke accreditation, or deny application for reaccreditation as circumstances warrant.

We would also add a sentence indicating that a veterinarian whose accredited status has been suspended or revoked may request a hearing under § 162.13 to challenge the Administrator's decision. Such veterinarians have always had the option to request a hearing under § 162.13; we believe that explicitly indicating that the option is available would improve clarity of the regulations and the process itself.

Finally, § 161.4(a) currently indicates that the Administrator may issue a written notice of warning to an accredited veterinarian when the Administrator determines a notice of warning will be adequate to attain compliance with the standards for accredited veterinarians. As part of moving this paragraph to proposed § 161.6, we would move this statement to a new paragraph (g) at the end of the section. Because the rest of proposed § 161.6 only discusses suspension and revocation of accredited status, it could be confusing to mention written notices of warning in the first paragraph of the section.

We are also proposing to change the current language in § 161.2(b) as part of

moving it to § 161.6(c). Paragraph § 161.2(b) describes the process by which a veterinarian whose accreditation has been revoked may apply for reaccreditation. The introductory text in § 161.2(b) currently states that a veterinarian whose accreditation has been revoked may apply for reaccreditation when the revocation has been in effect for 2 years. We would add a provision stating that the revocation order may specify that the veterinarian whose accreditation has been revoked may not submit an application for reaccreditation until the revocation has been in effect for a specific period of time longer than 2 years. For some veterinarians whose accreditation is revoked, it may be appropriate to specify a period longer than 2 years until they can apply for reaccreditation, depending on the circumstances that led us to revoke accreditation.

Paragraph § 161.2(b)(2)(iii)(A) states that, when judging the professional integrity and reputation of the applicant for reaccreditation, the Administrator shall consider any criminal conviction records adversely reflecting on the honesty or integrity of the applicant with regard to the performance or nonperformance of veterinary medical duties. As part of moving this paragraph to § 161.6(c)(2)(iii)(A), we are proposing to revise the paragraph to state that the Administrator would consider any criminal conviction records indicating that the applicant may lack the honesty, integrity, and reliability to appropriately and effectively perform accredited duties and to uphold the integrity of the NVAP. We believe it is important for the Administrator to be able to consider any criminal records relating to the honesty, integrity, and reliability of a veterinarian applying for reaccreditation as they relate to performing accredited duties and upholding the integrity of the NVAP. We would also add honesty and reliability as criteria to be evaluated in proposed § 161.6(b)(2)(iii)(C), which discusses judicial determinations in civil litigation, and in proposed § 161.6(b)(2)(iii)(D), which allows the Administrator to consider any other relevant evidence.

Paragraph § 161.2(b) does not presently explain what happens after the Administrator reaches a decision on whether to reaccredit a veterinarian whose accreditation has been revoked. In proposed § 161.6(c), we would add two new paragraphs to explicitly state the possible outcomes. Proposed paragraph (c)(3)(i) would state that if the Administrator reaccredits a veterinarian under paragraph (c)(2), the veterinarian may begin performing accredited duties

again upon receipt of notification from the Administrator that he or she is eligible to do so. Proposed paragraph (c)(3)(ii) would state that if the Administrator determines that an application for reaccreditation should be denied, the veterinarian may apply for reaccreditation in accordance with proposed § 161.6(c) not less than 2 years after the Administrator last denied an application by the veterinarian for reinstatement, unless the Administrator's decision specifies that the veterinarian whose accreditation has been revoked may not reapply for reaccreditation until a specific period of time longer than 2 years has passed. We are also proposing to amend the introductory text of proposed paragraph (c)(2) to indicate that the Administrator may either approve or deny an application for reaccreditation.

#### *Activities Performed by Non-Accredited Veterinarians*

We are proposing to add a new section 161.7 that would describe the accredited duties that may be performed by veterinarians who are not federally accredited.

- Full-time Federal (including military) and State employed veterinarians would be authorized to perform Category II accredited duties, pursuant to delegation of authority by the Administrator or cooperative agreements, without specific accreditation under the provisions of the regulations. However, in order to perform duties for which an accreditation specialization is required, they would need to be qualified under proposed § 161.5.
- Except for Full-time Federal (including military) and State employed veterinarians, however, veterinarians who are not federally accredited and who attempt to perform accredited duties would be subject to such criminal and civil penalties as are provided by the Animal Health Protection Act (7 U.S.C. 8301–8317) or other applicable Federal statutes or regulations.

Currently, Federal (including military) and State veterinarians are authorized to perform accredited duties pursuant to delegation of authority by the Administrator without specific accreditation under the provisions of the regulations. This authorization is contained in a footnote to the definition of *accredited veterinarian* in § 160.1. We would remove this footnote. We believe that the placement of the authorization for Federal (including military) and State veterinarians to perform Category II accredited duties under certain conditions in the body of the regulations would be more appropriate.

The current regulations do not explicitly prohibit veterinarians who are not accredited from performing accredited duties. Such a prohibition is fundamental to the integrity of the NVAP. Making such a prohibition explicit in the regulations is essential to ensure that only properly accredited veterinarians perform accredited duties and to make the NVAP more robust.

We would also include a provision that performing accredited duties without having been accredited would be considered grounds for the Administrator to deny an application for accreditation. This provision is also fundamental to the integrity of the NVAP, and we believe the regulations should make explicit that such information will be taken into account when evaluating applications for reaccreditation.

#### *Integrity of Accreditation Program as Reason for Summary Suspension*

The regulations in § 162.10 set out, in part, the circumstances under which the Administrator may summarily suspend the accreditation of veterinarians.

Currently, that section states that the Administrator may take such action if he or she deems it necessary in order to prevent the introduction into the United States or the spread from one State to another of a contagious, infectious, or communicable disease of animals or to ensure that animals intended or offered for export to foreign countries are free from disease. We are proposing to amend § 162.10 to provide that the Administrator may also consider the integrity of the NVAP in determining whether to impose a summary suspension. We would include this additional consideration because any threat to the integrity of the NVAP would jeopardize the activities of the National Animal Health Program. In addition, as mentioned above, the credibility of the United States as an international trading partner depends on the integrity of our accreditation program, as the United States uses private veterinarians accredited by APHIS rather than Federal or State veterinarians to accomplish many important and significant tasks; any threat to the integrity of the NVAP could have serious consequences including, for example, the loss of foreign markets for animals and animal products. We would also make minor edits to this paragraph to indicate that the type of suspension it refers to is summary suspension and to update the language.

Finally, we are proposing to amend § 162.12, which addresses informal conferences held regarding revocation or suspension of accreditation, by

reordering paragraphs (b), (c), and (d) of that section. Specifically, we would redesignate paragraph (b) as paragraph (c), paragraph (c) as paragraph (d), and paragraph (d) as paragraph (b). The text of those paragraphs would not change. We believe that reordering those three paragraphs would increase the clarity of the regulations in § 162.12 by presenting the information in a more logical order.

#### **Executive Order 12866 and Regulatory Flexibility Act**

This proposed rule has been reviewed under Executive Order 12866. The rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

Authority for the Secretary of Agriculture to create a veterinary accreditation program is provided in the Animal Health Protection Act (7 U.S.C. 8309). Participation by private veterinarians in the NVAP is voluntary. However, accredited veterinarians participating in the NVAP must carry out their duties in compliance with the regulations in 9 CFR part 161 and in compliance with all other regulations issued under the Animal Health Protection Act.

APHIS is proposing to establish two accreditation categories (Category I and Category II) in place of the current single category, to add requirements for supplemental training and renewal of accreditation every 3 years, and to provide for accreditation specializations.

Category I accreditation would require the completion of four supplemental training units in order to renew accreditation and would allow the veterinarians who choose it to perform accredited duties only for companion animals (*i.e.*, animals that are not food animals, horses, or livestock). Category II accreditation, however, would require the completion of five supplemental training units prior to accreditation and the completion of nine supplemental training units every 3 years in order to renew accreditation; veterinarians who select it would be able to perform the full spectrum of accredited duties that do not require an accreditation specialization. For both categories, the majority of the supplemental training would be delivered through the World Wide Web, with no charge to the participating veterinarians. The Internet-based training would eliminate the need for additional costs for travel and accommodations for these veterinarians taking the training. We also anticipate approving some classroom training conducted at the

State level, which could then be used to fulfill part of the renewal requirement. Thus, there would be no additional costs associated with the new aspects of the NVAP apart from the time spent taking the training.

The accreditation specialization component that APHIS is proposing for the NVAP could involve some cost to the accredited veterinarians who choose to voluntarily participate in these specializations.

The primary cost of changes to the program would be the new training requirements, and these costs would be borne primarily by APHIS. If an accredited veterinarian wanted to be qualified in an accreditation specialization, some costs may be borne by the accredited veterinarian.

#### **Impact on Small Entities**

The Regulatory Flexibility Act requires that agencies consider the economic effects of their rules on small entities. According to the Small Business Administration's (SBA's) Office of Advocacy, regulations create economic disparities based on size when they have a significant economic impact on a substantial number of small entities.

This action would change a continuing program. Entities that would be affected as a result of the proposed changes in the regulations would be the participating veterinarians who enter into the new NVAP program. Under the North American Industrial Classification System (NAICS), Veterinary Services (NAICS 541940) is included under the Professional, Scientific and Technical Services subsector.

The veterinary services industry comprises establishments of licensed veterinary practitioners primarily engaged in the practice of veterinary medicine, dentistry, or surgery for animals (*i.e.*, animal hospitals, veterinary clinics, and veterinarians' offices); and establishments primarily engaged in providing testing services for licensed veterinary practitioners (*i.e.*, veterinary testing laboratories). Veterinary services entities that have less than \$5 million in annual revenues are considered small according to the SBA's standards.

The number of U.S. veterinary establishments was reported to be 24,510 in 2000; they employed 219,868 people with an annual payroll of \$4.82 billion (2000 County Business Patterns, NAICS, U.S. Economic Census 2000).

We do not know how many of these establishments are considered small entities under the SBA's standards. However, the proposed changes are not

expected to have any significant economic effect on any of these 24,510 establishments whether they are small or large, since the vast majority of program costs will be borne by the Agency.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action would not have a significant economic impact on a substantial number of small entities.

#### **Executive Order 12372**

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

#### **Executive Order 12988**

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. If this proposed rule is adopted: (1) All State and local laws and regulations that are in conflict with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) administrative proceedings will not be required before parties may file suit in court challenging this rule.

#### **Paperwork Reduction Act**

In accordance with section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB). Please send written comments to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for APHIS, Washington, DC 20503. Please state that your comments refer to Docket No. APHIS-2006-0093. Please send a copy of your comments to: (1) Docket No. APHIS-2006-0093, Regulatory Analysis and Development, PPD, APHIS, Station 3A-03.8, 4700 River Road Unit 118, Riverdale, MD 20737-1238, and (2) Clearance Officer, OCIO, USDA, room 404-W, 14th Street and Independence Avenue SW., Washington, DC 20250. A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication of this proposed rule.

This proposed rule would amend the regulations to establish two accreditation categories in place of the current single category, to require accredited veterinarians to complete supplemental training units, to require accredited veterinarians to receive written approval from APHIS prior to performing accredited duties in a



different State, and to require renewal of accreditation every 3 years. These proposed changes would increase the level of training and skill of accredited veterinarians in the areas of disease surveillance, disease prevention, and preparedness for animal health emergencies in the United States.

Enhancing the NVAP in this way will necessitate revisions to the Application for Veterinary Accreditation, as well as the introduction of two additional forms: An Application to Perform Accredited Duties in Another State, and an Application for Renewal of Accreditation.

We are soliciting comments from the public (as well as affected agencies) concerning our proposed information collection and recordkeeping requirements. These comments will help us:

(1) Evaluate whether the proposed information collection is necessary for the proper performance of our agency's functions, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the information collection on those who are to respond (such as through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology; e.g., permitting electronic submission of responses).

*Estimate of burden:* Public reporting burden for this collection of information is estimated to average 30 minutes per response.

*Respondents:* Accredited veterinarians and veterinarians applying for accredited status.

*Estimated annual number of respondents:* 30,000.

*Estimated annual number of responses per respondent:* 1.

*Estimated annual number of responses:* 30,000.

*Estimated total annual burden on respondents:* 15,000 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

Copies of this information collection can be obtained from Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 734-7477.

## Government Paperwork Elimination Act Compliance

The Animal and Plant Health Inspection Service is committed to compliance with the Government Paperwork Elimination Act (GPEA), which requires Government agencies in general to provide the public the option of submitting information or transacting business electronically to the maximum extent possible. For information pertinent to GPEA compliance related to this proposed rule, please contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 734-7477.

### Lists of Subjects

9 CFR Part 160

Veterinarians.

9 CFR Part 161

Reporting and recordkeeping requirements, Veterinarians.

9 CFR Part 162

Administrative practice and procedures, veterinarians.

Accordingly, we propose to amend 9 CFR parts 160, 161, and 162 as follows:

## PART 160—DEFINITION OF TERMS

1. The authority citation for part 160 would continue to read as follows:

**Authority:** 7 U.S.C. 8301-8317; 15 U.S.C. 1828; 7 CFR 2.22, 2.80, and 371.4.

2. In § 160.1, the definition of *accredited veterinarian* would be amended by removing footnote 1 and definitions of *companion animals* and *herd or flock health plan* would be added in alphabetical order, to read as set forth below.

### § 160.1 Definitions.

\* \* \* \* \*

*Companion animals.* Animals commonly kept as pets in family households in the United States. Companion animals do not include horses, food or fiber animal species, or other livestock or poultry animals.

\* \* \* \* \*

*Herd or flock health plan.* A written herd or flock health management plan, which may include an agreement signed by the owner of a herd or flock, the accredited veterinarian, and a State or APHIS representative, in which each participant agrees to undertake actions specified in the agreement to control a disease or diseases.

\* \* \* \* \*

## PART 161—REQUIREMENTS AND STANDARDS FOR ACCREDITED VETERINARIANS AND SUSPENSION OR REVOCATION OF SUCH ACCREDITATION

3. The authority citation for part 161 would continue to read as follows:

**Authority:** 7 U.S.C. 8301-8317; 15 U.S.C. 1828; 7 CFR 2.22, 2.80, and 371.4.

4. Section 161.1 would be amended by revising the section heading and paragraphs (b) and (c) and adding paragraphs (d), (e), (f), and (g) to read as follows:

### § 161.1 Statement of purpose; requirements and application procedures for accreditation.

\* \* \* \* \*

(b) *Application for initial accreditation.* A veterinarian may apply for accreditation by completing an application for accreditation on Form 1-36A, "Application for Veterinary Accreditation," including certification that the applicant is able to perform the tasks listed in either paragraph (d)(1) or (d)(2) of this section, and submitting it to the Veterinarian-in-Charge in the State where he or she wishes to perform accredited duties. In completing the application, the veterinarian will choose one of the accreditation activity categories, either Category I or Category II. Under Category I, a veterinarian will be accredited to participate in disease surveillance (including surveillance for emerging and foreign animal diseases) and issue international health certificates and domestic certificates for interstate movement for companion animals. Under Category II, a veterinarian will be accredited to issue international animal health certificates, issue animal health certificates for interstate movement, participate in emerging and foreign animal disease surveillance, perform emergency animal disease management functions, conduct APHIS Veterinary Services program activities, and perform other specialized accreditation activities such as herd health certification work. An accredited veterinarian must not perform duties requiring an accreditation specialization unless he or she is accredited under Category II and qualified to perform such duties in accordance with § 161.5 of this part.

(c) *Review of application.* Completed Forms 1-36A received by a Veterinarian-in-Charge shall be forwarded to the State Animal Health Official for the State in which the veterinarian wishes to perform accredited duties for approval. Within 14 days after receiving an application, a State Animal Health Official shall either

endorse the application or send a written statement to the Administrator explaining why it was not endorsed; but if the State Animal Health Official fails to take one of these actions within 14 days, the Veterinarian-in-Charge shall proceed to review the application. The Administrator will review the application and the written statement, if any, and determine whether the applicant meets the requirements for accreditation contained in this part.

(d) *Tasks which applicants for accredited status must be able to perform.* Applicants for accredited status must be able to:

(1) *Category I.* (i) Perform physical examination of individual companion animals to determine whether they are free from any clinical signs suggestive of communicable disease.

(ii) Recognize the common breeds of companion animals and accurately record breed information on official documents.

(iii) Apply common animal identification for companion animals.

(iv) Properly complete certificates for domestic and international movement of companion animals.

(v) Perform necropsies on companion animals.

(vi) Recognize and report clinical signs and lesions of exotic animal diseases that occur in companion animals.

(vii) Vaccinate companion animals and accurately complete the vaccination certificate.

(viii) Properly collect and ship specimen samples to appropriate laboratory for testing with complete and accurate paperwork.

(ix) Develop appropriate biosecurity protocols, as well as cleaning and disinfection protocols, to control communicable disease spread in companion animals.

(2) *Category II.* (i) Perform physical examination of individual animals and visually inspect herds or flocks to determine whether the animals are free from any clinical signs suggestive of communicable disease.

(ii) Recognize the common breeds of companion animals, the types of poultry as defined by the National Poultry Improvement Plan in subchapter G of this chapter, and the common breeds of livestock, and be able to accurately record breed information on official documents.

(iii) Recognize all USDA animal identification systems.

(iv) Estimate the age of livestock using a dental formula.

(v) Apply USDA-recognized identification (e.g., eartag, microchip,

tattoo) for the USDA animal identification system.

(vi) Certify the health status of a poultry flock regarding diseases of domestic or international regulatory concern, and evaluate records pertaining to flock testing and participation in Federal and State poultry health programs and classifications.

(vii) Properly complete certificates for domestic and international movement of animals.

(viii) Apply and remove official seals.

(ix) Perform necropsies on animals.

(x) Recognize and report clinical signs and lesions of exotic animal diseases.

(xi) Develop a herd or flock health plan.

(xii) Vaccinate for USDA program diseases and accurately complete the vaccination certificate.

(xiii) Properly collect and ship sample specimens to an appropriate laboratory for testing with complete and accurate paperwork.

(xiv) Properly perform testing for tuberculosis (e.g., caudal fold test).

(xv) Develop appropriate biosecurity protocols, as well as cleaning and disinfection protocols, to control communicable disease spread.

(xvi) Explain basic principles for control of diseases for which APHIS or APHIS-State cooperative programs presently exist.

(e) *Accreditation requirements.* The Administrator is hereby authorized to accredit a veterinarian when he or she determines that:

(1) The veterinarian is a graduate with a Doctorate of Veterinary Medicine or an equivalent degree (any degree that qualifies the holder to be licensed by a State to practice veterinary medicine) from a college of veterinary medicine;

(2) The veterinarian is licensed or legally able to practice veterinary medicine in the State in which the veterinarian wishes to perform accredited duties. APHIS will confirm the licensing status of the applicant by contacting the State board of veterinary medical examiners or any similar State organization that maintains records of veterinarians licensed in a State; and

(3) The veterinarian has completed an orientation program approved by the Veterinarian-in-Charge for the State in which the veterinarian wishes to practice, and upon completion of the orientation, has signed a written statement listing the date and place of orientation, the subjects covered in the orientation, and any written materials provided to the veterinarian at the orientation. The Veterinarian-in-Charge shall also give the State Animal Health Official an opportunity to review the

contents of the orientation, and invite him or her to participate in developing orientation materials and conducting the orientation. The core orientation program shall include the following topics:

(i) Federal animal health laws, regulations, and rules;

(ii) Interstate movement requirements for animals;

(iii) Import and export requirements for animals;

(iv) USDA animal disease eradication and control programs;

(v) Laboratory support in confirming disease diagnoses;

(vi) Ethical and professional responsibilities of an accredited veterinarian;

(vii) Foreign animal disease awareness;

(viii) Animal health emergency management; and

(ix) Animal health procedures, issues, and information resources relevant to the State in which the veterinarian wishes to perform accredited duties.

(4) If seeking initial accreditation under Category II, the veterinarian has completed five supplemental training units approved by APHIS in addition to the core orientation.

(f) *Change in accreditation category.* A veterinarian who is accredited under Category I may become accredited under Category II if the veterinarian applies for accreditation under Category II in accordance with the requirements of this section and has fulfilled the training requirements in § 161.3 that are associated with renewal of accreditation under Category II. A veterinarian who is accredited under Category II may become accredited under Category I if the veterinarian applies for accreditation under Category I in accordance with the requirements of this section and has fulfilled the training requirements in § 161.3 that are associated with renewal of accreditation under Category I.

(g) *Authorization to perform duties.*

An accredited veterinarian may not perform accredited duties in a State until after receiving written authorization from APHIS. If a Category I accredited veterinarian completes the necessary training requirements and becomes a Category II accredited veterinarian, the veterinarian may not perform Category II accredited duties in a State until after receiving written authorization from APHIS.

5. Section 161.2 would be revised to read as follows:

**§ 161.2 Performance of accredited duties in different States.**

(a) If an accredited veterinarian wishes to perform accredited duties in

a State other than the State in which the veterinarian was initially accredited in accordance with § 161.1(e), the accredited veterinarian must complete Form 1-36B, "Application for Veterinary Accreditation in Another State," to request authorization to perform accredited duties in the new State from the Veterinarian-in-Charge of that State. The Veterinarian-in-Charge of the new State may require the accredited veterinarian to complete, prior to performing any accredited duties in the new State, an orientation in animal health procedures and issues relevant to the new State. The Veterinarian-in-Charge shall review the content of each such orientation and shall approve its use after determining that it includes adequate information about animal health agencies, regulatory requirements, administrative procedures, and animal disease issues in the new State, to prepare an accredited veterinarian from another State to perform accredited duties in the new State. The Veterinarian-in-Charge shall also give the State Animal Health Official of the new State an opportunity to review the contents of the orientation, and invite him or her to participate in developing orientation materials and conducting the orientation.

(b) An accredited veterinarian may not perform accredited duties in a State in which the accredited veterinarian is not licensed or legally able to practice veterinary medicine.

(c) An accredited veterinarian may not perform accredited duties in a State other than the one in which the veterinarian was initially accredited until after receiving written authorization from APHIS to perform accredited duties in the new State.

#### **§§ 161.3 and 161.4 [Redesignated]**

6. Section 161.4 would be redesignated as § 161.6 and § 161.3 would be redesignated as § 161.4.

7. A new § 161.3 would be added to read as follows:

#### **§ 161.3 Renewal of accreditation.**

(a) Accredited veterinarians who wish to continue participating in the National Veterinary Accreditation Program must renew their accreditation every 3 years by completing an application for accreditation renewal on Form 1-36C, "Application for Renewal of Veterinary Accreditation," and submitting it to APHIS.

(b) Accredited veterinarians who wish to renew their accreditation under Category I must complete four supplemental training units approved by APHIS by the end of their 3-year tenure as an accredited veterinarian.

Accredited veterinarians who wish to renew their accreditation under Category II must complete nine supplemental training units approved by APHIS by the end of their 3-year tenure as an accredited veterinarian.

(c) Accredited veterinarians who do not complete the required training within 3 years as specified in paragraph (a) of this section will have their accredited status expire. Veterinarians whose accreditation has expired will not be allowed to perform accredited duties until they receive notification of their reinstatement from APHIS. Veterinarians who perform duties that only accredited veterinarians are authorized to perform while their accredited status has expired will be subject to such criminal and civil penalties as are provided by the Animal Health Protection Act (7 U.S.C. 8301-8317) or other applicable Federal statutes or regulations. To be reinstated, the veterinarian must complete the necessary supplemental training units for the appropriate category and submit Form 1-36C, "Application for Renewal of Veterinary Accreditation," to APHIS. A veterinarian who allows his or her accredited status to expire must have completed the required number of supplemental training units within 3 years of his or her application for renewal. Supplemental training units completed since the veterinarian's last renewal but more than 3 years before the veterinarian's application for renewal will not count towards his or her training requirement.

(d) Veterinarians who are accredited as of [effective date of final rule] may continue to perform accredited duties between [effective date of final rule] and the date of their first renewal. APHIS will contact accredited veterinarians who are accredited as of [effective date of final rule] to notify them that they must elect to participate in the NVAP as a Category I or Category II veterinarian. Veterinarians must elect to continue to participate within three months of this notification, or their accredited status will expire. When APHIS receives notice from an accredited veterinarian that he or she elects to participate, APHIS will notify the accredited veterinarian of his or her initial renewal date. The accredited veterinarian must then complete all the training requirements for renewal, as described in this section, by the initial renewal date. After initial renewal, veterinarians who are accredited as of [effective date of final rule] must renew their accreditation every 3 years in accordance with the requirements of this section.

8. A new § 161.5 would be added to read as follows:

#### **§ 161.5 Accreditation specializations.**

An accreditation specialization recognized by the Administrator may be granted to an accredited veterinarian in Category II upon completion of an additional orientation or training program approved by APHIS that focuses on the specific area of specialization for which the veterinarian is seeking accreditation specialization. Veterinarians accredited under Category I are not eligible to earn accreditation specializations. Accredited veterinarians may elect to participate in an accreditation specialization program on a voluntary basis. Participants in these accreditation specialization programs will be qualified in a particular area or specialty. In addition to Category II training, qualification for an accredited specialization will include additional specialized training, which may include periodic training updates. For certain accredited specializations, the cost of orientation or training may be borne by the accredited veterinarian. An accredited veterinarian granted an accreditation specialization will be referred to as a qualified accredited veterinarian or QAV. A QAV will be authorized to perform those accredited duties related to the specialization he or she has earned; accredited veterinarians not granted accredited specializations will not be permitted to perform accredited duties related to that particular specialization. If a QAV allows his or her Category II accreditation to expire, the QAV's accreditation specialization expires as well, and the QAV must be qualified for the accreditation specialization again in accordance with this section.

9. Newly redesignated § 161.6 would be amended as follows:

a. The section heading would be revised to read as set forth below.

b. Paragraph (a) would be revised to read as set forth below.

c. Paragraphs (b), (c), and (d) would be redesignated as paragraphs (d), (e), and (f), respectively.

d. New paragraphs (b), (c), and (g) would be added to read as set forth below.

#### **§ 161.6 Suspension or revocation of veterinary accreditation and reaccreditation; criminal and civil penalties.**

(a) The Administrator is authorized to suspend for a given period of time, or to revoke, the accreditation of a veterinarian when he or she determines that the accredited veterinarian has not complied with the "Standards for Accredited Veterinarian Duties" as set

forth in § 161.4 of this part or with any of the other regulations in this subchapter, or is otherwise found to be unfit to be accredited. Veterinarians who perform duties that only accredited veterinarians are authorized to perform while their accredited status is suspended or revoked will be subject to such criminal and civil penalties as are provided by the Animal Health Protection Act (7 U.S.C. 8301–8317) or other applicable Federal statutes or regulations. Performing accredited duties while accreditation status is suspended or revoked will be considered grounds for the Administrator to suspend accreditation, revoke accreditation, or deny application for reaccreditation as circumstances warrant. A veterinarian whose accreditation has been suspended or revoked or whose application for reaccreditation has been denied may request a hearing under § 162.13 to challenge the Administrator's decision.

(b) *Reinstatement after suspension.* A veterinarian whose accreditation has been suspended for less than 6 months (other than a summary suspension that is changed to a revocation as a result of an adjudicatory proceeding) will be automatically reinstated as an accredited veterinarian upon completion of the suspension. A veterinarian whose accreditation has been suspended for 6 months or more must complete a reaccreditation orientation program in accordance with paragraph (c)(2)(ii) of this section before accreditation will be reinstated.

(c) *Reaccreditation after revocation.* A veterinarian whose accreditation has been revoked may apply for reaccreditation by completing an application for reaccreditation on Form 1–36A, “Application for Veterinary Accreditation,” and submitting it to the Veterinarian-in-Charge of the State or area where he or she wishes to perform accredited work. The application may be submitted when the revocation has been in effect for not less than 2 years, unless the revocation order specifies that the veterinarian whose accreditation has been revoked may not submit an application for reaccreditation until the revocation has been in effect for a period of time longer than 2 years.

(1) Completed Forms 1–36A for reaccreditation received by a Veterinarian-in-Charge shall be reviewed by the State Animal Health Official for the State in which the veterinarian wishes to perform accredited duties. Within 14 days after receiving an application, the State Animal Health Official shall either

endorse the application or send a written statement to the Administrator explaining why it was not endorsed; but if the State Animal Health Official fails to take one of these actions within 14 days, the Veterinarian-in-Charge shall proceed to review the application. The Administrator will review the application and the written statement, if any, and determine whether the applicant meets the requirements for reaccreditation contained in this part.

(2) Once a veterinarian whose accreditation has been revoked has correctly applied for reaccreditation in accordance with the requirements of paragraph (c) of this section, the Administrator will determine whether to reaccredit or to deny reaccreditation. This determination will be based on whether the veterinarian has fulfilled the following conditions:

(i) The veterinarian is licensed or legally able to practice veterinary medicine in the State in which the veterinarian wishes to perform accredited duties;

(ii) The veterinarian has completed a reaccreditation orientation program approved by the Veterinarian-in-Charge for the State in which the veterinarian wishes to perform accredited work, and upon completion of the orientation, has signed a written statement listing the date and place of orientation, the subjects covered in the orientation, and any written materials provided to the veterinarian at the orientation. The Veterinarian-in-Charge shall also give the State Animal Health Official an opportunity to review the contents of the reaccreditation orientation, and invite him or her to participate in developing orientation materials and conducting the orientation. The orientation program shall include topics addressing the subject areas which led to loss of accreditation for the applicant, and subject areas which have changed since the applicant lost accreditation; and

(iii) The professional integrity and reputation of the applicant support a conclusion that the applicant will faithfully fulfill the duties of an accredited veterinarian in the future. In making this conclusion, the Administrator shall review all available information about the applicant, including recommendations of the State Animal Health Official, and shall consider:

(A) Any criminal conviction records indicating that the applicant may lack the honesty, integrity, and reliability to appropriately and effectively perform accredited duties and to uphold the integrity of the National Veterinary Accreditation Program;

(B) Official records of the applicant's actions participating in Federal, State, or local veterinary programs;

(C) Judicial determinations in civil litigation adversely reflecting on the honesty, integrity, and reliability of the applicant; and

(D) Any other evidence reflecting on the honesty, professional integrity, reliability and reputation of the applicant.

(3)(i) If a veterinarian is reaccredited under paragraph (c)(2) of this section, the veterinarian may begin performing accredited duties again upon receipt of notification from the Administrator that he or she is eligible to do so.

(ii) If an application for reaccreditation is denied under paragraph (c)(2) of this section, the veterinarian may apply for reaccreditation in accordance with this paragraph (c) not less than 2 years after the application was last denied, unless the decision specifies that the veterinarian may not reapply for reaccreditation until a period of time longer than 2 years has passed.

\* \* \* \* \*

(g) *Notice of warning.* In lieu of suspension or revocation, the Administrator is authorized to issue a written notice of warning to an accredited veterinarian when the Administrator determines a notice of warning will be adequate to attain compliance with the Standards for Accredited Veterinarian Duties in § 161.4 of this part.

\* \* \* \* \*

10. A new § 161.7 would be added to read as follows:

**§ 161.7 Activities performed by non-accredited veterinarians.**

(a) Full-time Federal (including military) and State employed veterinarians are authorized to perform Category II accredited duties, pursuant to delegation of authority by the Administrator or cooperative agreements, without specific accreditation under the provisions of this subchapter. However, in order to perform duties for which an accreditation specialization is required, these veterinarians must be qualified under § 161.5 of this part.

(b) Except as provided by paragraph (a) of this section, veterinarians who are not federally accredited who perform accredited duties will be subject to such criminal and civil penalties as are provided by the Animal Health Protection Act (7 U.S.C. 8301–8317) or other applicable Federal statutes or regulations. Performing accredited duties without having been accredited will be considered grounds for the

Administrator to deny an application for accreditation.

**PART 162—RULES OF PRACTICE GOVERNING REVOCATION OR SUSPENSION OF VETERINARIANS' ACCREDITATION**

11. The authority citation for part 162 would continue to read as follows:

**Authority:** 7 U.S.C. 8301–8317; 15 U.S.C. 1828; 7 CFR 2.22, 2.80, and 371.4.

12. Section 162.10 would be revised to read as follows:

**§ 162.10 Summary suspension of accreditation of veterinarians.**

In any situation where the Administrator has reason to believe that any veterinarian accredited under the provisions of parts 160 and 161 of this subchapter has not complied with the “Standards for Accredited Veterinarian Duties” set forth in § 161.3 of this subchapter, the Administrator may summarily suspend the accreditation of such veterinarian pending final determination in the proceeding, effective upon oral or written notification, whichever is earlier. In the event of oral notification, a written confirmation thereof shall be given to such veterinarian as promptly as circumstances permit. The Administrator may take such action if he or she deems it necessary in order to prevent the introduction into the United States or the spread from one State to another of a contagious, infectious, or communicable disease of animals, or to ensure that animals intended or offered for export to foreign countries are free from disease, or to maintain the integrity of the National Veterinary Accreditation Program.

**§ 162.12 [Amended]**

13. In § 162.12, paragraphs (b), (c), and (d) would be redesignated as paragraphs (c), (d), and (b), respectively.

Done in Washington, DC, this 25th day of May 2006.

**Ron DeHaven,**

*Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. E6–8493 Filed 5–31–06; 8:45 am]

**BILLING CODE 3410–34–P**

**DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

**Office of Federal Housing Enterprise Oversight**

**12 CFR Part 1732**

**RIN 2550-AA34**

**Record Retention**

**AGENCY:** Office of Federal Housing Enterprise Oversight, HUD.

**ACTION:** Proposed regulation.

**SUMMARY:** The Office of Federal Housing Enterprise Oversight (OFHEO) is issuing a proposed regulation that would set forth record retention requirements with respect to the record management programs of the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation (collectively, the Enterprises) consistent with the safety and soundness responsibilities of OFHEO under the Federal Housing Enterprises Financial Safety and Soundness Act of 1992.

**DATES:** Written comments on the proposed regulation must be received by no later than July 31, 2006.

**ADDRESSES:** You may submit your comments on the proposed regulation, identified by regulatory information number (RIN) 2550-AA34, by any of the following methods:

- U.S. Mail, United Parcel Post, Federal Express, or Other Mail Service: The mailing address for comments is: Alfred M. Pollard, General Counsel, Attention: Comments/RIN 2550-AA34, Office of Federal Housing Enterprise Oversight, Fourth Floor, 1700 G Street, NW., Washington, DC 20552.

- Hand Delivered/Courier: The hand delivery address is: Alfred M. Pollard, General Counsel, Attention: Comments/RIN 2550-AA34, Office of Federal Housing Enterprise Oversight, Fourth Floor, 1700 G Street, NW., Washington, DC 20552. The package should be logged at the Guard Desk, First Floor, on business days between 9 a.m. and 5 p.m.

- E-mail: [RegComments@OFHEO.gov](mailto:RegComments@OFHEO.gov). Comments to Alfred M. Pollard, General Counsel, may be sent by e-mail at [RegComments@OFHEO.gov](mailto:RegComments@OFHEO.gov). Please include RIN 2550-AA34 in the subject line of the message.

**FOR FURTHER INFORMATION CONTACT:** Tina Dion, Associate General Counsel, telephone (202) 414-3838 (not a toll-free number); Office of Federal Housing Enterprise Oversight, Fourth Floor, 1700 G Street, NW., Washington, DC 20552. The telephone number for the Telecommunications Device for the Deaf is (800) 877-8339.

**SUPPLEMENTARY INFORMATION:**

**I. Comments**

The Office of Federal Housing Enterprise Oversight (OFHEO) invites comments on all aspects of the proposed regulation, including legal and policy considerations, and will take all comments into consideration before issuing the final regulation. OFHEO requests that comments submitted in hard copy also be accompanied by the electronic version in Microsoft® Word or in portable document format (PDF) on 3.5" disk or CD-ROM.

Copies of all comments will be posted on the OFHEO Internet Web site at <http://www.ofheo.gov>. In addition, copies of all comments received will be available for examination by the public on business days between the hours of 10 a.m. and 3 p.m., at the Office of Federal Housing Enterprise Oversight, Fourth Floor, 1700 G Street, NW., Washington, DC 20552. To make an appointment to inspect comments, please call the Office of General Counsel at (202) 414-6924.

**II. Background**

**A. Introduction**

Title XIII of the Housing and Community Development Act of 1992, Pub. L. 102-550, titled the “Federal Housing Enterprises Financial Safety and Soundness Act of 1992” (Act) (12 U.S.C. 4501 *et seq.*), established OFHEO as an independent office within the Department of Housing and Urban Development. OFHEO is statutorily mandated to ensure that the Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac) (collectively, the Enterprises) are capitalized adequately and operate in a safe and sound manner and in compliance with applicable laws, rules, and regulations.

The Act provides that the Director of OFHEO (the Director) is authorized to make such determinations, take such actions, and perform such functions as the Director determines are necessary regarding his supervisory authorities, which include examinations of the Enterprises.<sup>1</sup> Under the Act, the Director is authorized to conduct on-site examinations of the Enterprises each year, and any other examinations that the Director determines are necessary to ensure their safety and soundness.<sup>2</sup>

<sup>1</sup> 12 U.S.C. 4513(b)(2).

<sup>2</sup> 12 U.S.C. 4517(a) and (b).