of its final transitional worker classification rule.

Please visit *http://www.regulations.gov* to view the rule and all supporting documents.

Alejandro N. Mayorkas,

Director, U.S. Citizenship and Immigration Services.

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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Parts 149, 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: Final rule.

SUMMARY: We are amending the regulations regarding the National Veterinary Accreditation Program to establish two accreditation categories in place of the former single category, to add requirements for supplemental training and renewal of accreditation, and to offer program certifications. We are making 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 changes will 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.

EFFECTIVE DATE: February 1, 2010.

FOR FURTHER INFORMATION CONTACT: Dr. Todd Behre, National Veterinary Accreditation Program, VS, APHIS, 4700 River Road Unit 200, Riverdale, MD 20737; (301) 734-0853.

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.

We published a proposal to amend the regulations in the **Federal Register** on June 1, 2006 (71 FR 31109-31121, Docket No. APHIS-2006-0093). We proposed 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.

We solicited comments concerning our proposal for 60 days ending July 31, 2006. We received 23 comments by that date. They were from State departments of agriculture, veterinary medical associations, universities, and individual veterinarians.

In the process of considering the comments we received, we identified four changes that we believed would improve the June 2006 proposed rule. On February 27, 2007, we published a supplemental proposed rule [1] in order to take public comment on these four changes (72 FR 8634-8639). We amended the June 2006 proposal by changing the scope of Category I and Category II accreditation; requiring initial accreditation training for all veterinarians seeking accreditation; requiring newly accredited veterinarians to renew their accreditation within 3 years of the initial accreditation training; and reducing the amount of training required for renewal of accreditation.

We solicited comments concerning the supplemental proposal for 60 days ending April 30, 2007. We received 15 comments by that date. They were from a State department of agriculture, a veterinary medical association, and individual veterinarians.

The comments on both the June 2006 proposal and the February 2007 supplemental proposal are discussed below by topic.

General Comments

One commenter stated that safeguarding the health of animals would best be done through owner education and training, not through regulations. Another commenter stated that education of veterinarians should be performed by the Department of Education, rather than APHIS.

APHIS has been given the authority to establish the NVAP under the Animal Health Protection Act (7 U.S.C. 8301 *et seq.*). The NVAP is necessary to ensure that tasks associated with the health of livestock, such as participating in disease surveillance, issuing animal health certificates, and conducting APHIS-Veterinary Services program activities, are performed by qualified individuals. Owner education and training, while important to overall veterinary health, cannot provide assurance that qualified individuals perform such tasks.

One commenter asked us to include specific language in the regulations stating that the accreditation program will be implemented, maintained, and amended in cooperation with State animal health officials.

The regulations provide for consultation with State animal health officials in developing orientation materials and reviewing applications for accreditation. We did not propose to change those provisions; they are included in paragraphs (e)(4) and (d), respectively, of § 161.1 in this final rule. We consult with State animal health officials routinely on matters affecting the NVAP; it would be impossible to administer the program without their cooperation. We do not believe it is necessary to add a specific statement about that cooperation to the regulations.

One commenter stated that accreditation should be a national program; once a veterinarian is authorized to perform accredited duties in one State, that veterinarian should be authorized in every State in which the veterinarian is eligible to practice veterinary medicine.

Every State has a different orientation program that addresses animal disease issues unique to that State; as mentioned earlier, State animal health officials are invited to contribute to the development of this orientation program. We consider providing State-specific information in the orientation to be important to the success of the NVAP. We are making no changes in response to this comment.

One commenter recommended that we consider streamlining the process for authorizing the performance of accredited duties in a new State in a disease emergency situation, assuming the veterinarians are licensed to practice veterinary medicine in the new State.

We agree with the commenter that it is important to ensure the availability of accredited veterinarians to respond to disease emergencies. The new

[1] To view the June 2006 proposed rule, the February 2007 supplemental proposal, and the comments we received on both rules, go to (*http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=APHIS-2006-0093*).

accreditation process we are developing will allow for rapid accreditation of veterinarians to perform accredited duties in new States when necessary. In addition, when veterinarians are hired on a full-time, temporary basis by APHIS or by a State to participate in disease response efforts, those veterinarians may perform accredited duties in any State without being accredited in that State, as full-time Federal and State veterinarians may perform accredited duties without being accredited under 9 CFR part 161.

Category I and Category II Accreditation

In the June 2006 proposal, we proposed to establish two categories for accreditation: Category I, which was limited in scope to companion animals and related activities, and Category II, which encompassed all animal species and accredited activities. The addition of Category I was intended to 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.

We received several comments on our June 2006 proposal that asked for clarification regarding various aspects of the scope of duties that Category I and Category II accredited veterinarians would be authorized to perform, as well as comments on what tasks Category I and Category II veterinarians should be able to perform. Two commenters noted that the phrase ''commonly kept as pets'' in our proposed definition of *companion animals* appeared to exclude exotic animals and nontraditional pets, such as hedgehogs, falcons, or primates, that are sometimes brought to veterinarians for health certificates; it was not clear which category of veterinarians would have been authorized to perform accredited duties on such species. One commenter asked which category of accreditation would be appropriate for zoo veterinarians. Regarding the tasks Category I and Category II veterinarians would have been required to be able to perform, one commenter recommended that Category I veterinarians be able to develop flock health plans for bird flocks, a task that we had only proposed to require for Category II veterinarians.

These comments led us to reconsider the division between Category I and Category II. In the February 2007 supplemental proposal, we amended the June 2006 proposal so that Category I veterinarians would be authorized to perform accredited duties only on animals other than food and fiber animals, horses, farm-raised fish, poultry, all other livestock, birds, and zoo animals that could transmit exotic animal diseases to livestock. The listed animals are susceptible to animal diseases that can infect livestock and that are subject to APHIS control or eradication programs. Requiring that veterinarians performing accredited duties on those animals be accredited under Category II would ensure that the veterinarians have the necessary training to recognize symptoms of those diseases and the necessary knowledge and skills to take appropriate action.

The February 2007 supplemental proposal referred to the animals on which Category I veterinarians would have been able to perform accredited duties as nonregulated animals; that document proposed to add a definition of *nonregulated animals* in § 160.1 and replaced all the references to companion animals in the June 2006 proposed rule with references to nonregulated animals. Our definition of *nonregulated animals* indicated that dogs and cats were examples of nonregulated animals. The February 2007 proposal also indicated that Category II accredited veterinarians would be authorized to perform accredited duties on all animals, both regulated and nonregulated.

These changes addressed the comments on the June 2006 proposal. Hedgehogs and primates were now clearly classified as Category I animals, while falcons, being birds, were classified as Category II animals. Zoo veterinarians who work with animals that could transmit exotic animal diseases to livestock would have to be accredited under Category II; other zoo veterinarians could be accredited under Category I. A veterinarian who worked with birds would have to be accredited under Category II, and thus would have to be able to develop a flock health plan under proposed § 161.1(g)(2)(xi).

We received several comments on the changes in the February 2007 supplemental proposal. In response to these comments, we now include definitions of ''Category I animals'' and ''Category II animals'' rather than regulated animals and nonregulated animals, to avoid any confusion about the meaning of the term ''regulated.'' We have replaced references to regulated animals and nonregulated animals with references to Category I and Category II animals, respectively, in the regulatory text.

We have also further refined the distinction between Category I and Category II animals. This final rule includes a definition of *Category II animals* that reads as follows: ''Food and fiber animal species; horses; birds; farm-raised aquatic animals; all other livestock species; and zoo animals that can transmit exotic animal diseases to livestock.'' The definition of *Category I animals* in this final rule reads: ''Any animals other than Category II animals, *e.g.*, cats and dogs.''

This final rule indicates that Category I veterinarians may perform accredited duties on Category I animals, while Category II veterinarians may perform accredited duties on both Category I and Category II animals.

The comments we received on this issue in response to the supplemental proposal are addressed below.

Two commenters questioned whether *nonregulated animals* was the most appropriate term that could be used to refer to this class of animals. One commenter stated that the fact that these animals are not included in an APHIS-Veterinary Services regulatory program does not necessarily mean that the animals are ''unregulated.'' If these animals were imported, the commenter stated, they most likely had to comply with regulations in order to get into the country. If they are native, they may not be covered by an APHIS program, but they may be included in a State animal health or public health program. Using the term ''nonregulated animals,'' this commenter stated, will result in a significant level of confusion and misunderstanding by accredited veterinarians, animal owners and producers, and USDA and State animal health officials. The commenter suggested using some other term to differentiate these animals from livestock or carefully specifying that ''nonregulated'' applies only to regulation by USDA and that there may be regulation on some of these species at the State level and the international level.

The second commenter stated that it will cause confusion if APHIS tells veterinarians, animal owners, and the public that APHIS is promulgating rules for nonregulated animals. The commenter also stated that defining nonregulated animals through exclusion (''other than'') and the same time by inclusion (''all other livestock, birds, …'') is confusing.

We agree with these commenters. Thus, we have changed the terms we use in this final rule to *Category I animals* and *Category II animals*, as described earlier. In addition we agree with the second point made by the second commenter, which is why we have added definitions of both *Category I animals* and *Category II animals* in this final rule and defined *Category I*

animals as animals other than Category II animals.

One commenter addressed the distinction between livestock and other animals. The commenter was concerned that many animals are bred, grown, or otherwise ''cultured,'' and thus could conceivably be considered ''livestock,'' but are not kept for food, feed, or fiber; rather, they are used as pet, ornamental, display, or companion animals. The commenter recommended that we indicate in the regulations that Category I veterinarians would be allowed to perform accredited duties on pet, ornamental, display, or companion animals.

Another commenter noted that the supplemental proposal stated that the term ''livestock'' refers to all farm-raised animals. The commenter stated that many thousands of producers of various species of native and exotic hoofstock and other wildlife species do not consider themselves to be farmers and do not consider their animals to be farm-raised animals. Likewise, these animals are not considered to be zoo animals, since they are not raised in zoos or animal parks. The commenter stated that while APHIS may have an understanding that all of these animals come under the loose definition of ''livestock'' in the Animal Health Protection Act, the persons who would have to comply with the regulations may not have that understanding. The commenter urged that the proposed regulations be amended to clarify the definition of nonregulated animals relative to native and non-native hoofstock, other wildlife species that are housed on farms, ranches or other facilities, and zoo animals that are not housed on zoos or zoological parks.

The Animal Health Protection Act defines livestock as ''all farm-raised animals.'' We recognize that it will be difficult to clearly define what is and is not a farm in some circumstances. In general, a typical farm is one on which food and fiber species are raised for agricultural purposes. We would not consider a canine breeding facility to be a farm, for example. By emphasizing food and fiber species, we believe the definition of *Category II animals* helps to clarify our intent.

However, it would be inappropriate to revise the definition of *Category I animals* to refer to pet, ornamental, display, or companion animals. For example, pet birds are not bred for food or fiber, but they can transmit avian diseases such as avian influenza or exotic Newcastle disease to poultry. Similarly, pot-bellied pigs are susceptible to the same diseases as farm-raised swine, such as pseudorabies. Because of this, we believe that veterinarians performing accredited duties on pet birds, and livestock species that are raised for purposes other than food or fiber, should be required to be accredited under Category II.

In response to the second commenter, wildlife species that are raised for food or fiber, such as captive cervids, are included in the definition of *Category II animals*. Similarly, zoo animals that are imported under the regulations in 9 CFR 93.404(c) pose a risk of transmitting foot-and-mouth disease or rinderpest to U.S. livestock, and in fact are only allowed to be exhibited at specific approved zoos. We believe the definition of *Category II animals* is clear on these points. We will communicate to accredited veterinarians that the definition of *Category II animals* includes non-traditional food and fiber species such as cervids.

One commenter stated that Category I veterinarians should be able to issue certificates of veterinary inspection for pet birds, rabbits, pocket pet rodents, and other ''minor species.''

The February 2007 supplemental proposal specifically indicated that veterinarians would need Category II accreditation to perform accredited duties on pet birds, because of the potential for avian diseases to spread from pet birds to poultry. The commenter did not give any reasons why Category I accreditation would be sufficient for performing accredited duties on pet birds. Rabbits and pocket pet rodents would both be types of animals on which a Category I accredited veterinarian could perform accredited duties. We have made no changes to the proposed regulations in response to this comment.

One commenter stated that Category I veterinarians should be able to perform accredited duties on horses. The commenter, a companion animal veterinarian, stated that she commonly writes health certificates for horses as well as dogs and cats, and draws blood samples for Coggins tests for horses. The commenter stated that she does not inspect exotic animals or food animals. The commenter further stated that horses were treated as companion animals in her veterinary school education, meaning that many other veterinarians also consider horses to be companion animals. Finally, the commenter stated, zoonotic disease potential in horses is similar to that in dogs and cats; horses are not, under most circumstances, a threat to our food supply.

It would be inappropriate to categorize horses as Category I animals in this final rule because APHIS-Veterinary Services recognizes horses as livestock and regulates their importation and interstate movement to prevent the introduction and spread of equine diseases. For example, the regulations in § 75.4 regulate the interstate movement of horses that are reactors to equine infectious anemia. In addition, the regulations in 9 CFR part 93, subpart C, set out requirements for the importation of horses, and APHIS recently undertook an emergency disease response when contagious equine metritis was found in Wisconsin. For this reason, we have determined that it is necessary for veterinarians who perform accredited duties on horses to be accredited under Category II.

One commenter, responding to the term ''farm-raised fish'' that was used in the definition of *nonregulated animals* in the February 2007 supplemental proposal, stated that ''aquatic animals'' was a more inclusive term and thus more appropriate.

We agree, and we refer to ''farm-raised aquatic animals'' in the definition of *Category II animals* in this final rule.

We also received some general comments about our proposal to establish two accreditation categories.

One commenter objected to the proposed accreditation categories, stating that no other country in the world has two classes of veterinarians. Another commenter, a veterinarian, stated that he only writes health certificates for cats and dogs because that is what he sees in his practice; the new accreditation category would not be necessary to indicate that he cannot do accreditation work for other species.

We have determined that the accreditation structure we proposed maximizes our resources and makes the best possible use of the time of U.S. accredited veterinarians. The establishment of categories of accreditation is related to our separate requirement that accredited veterinarians complete training for renewal of accreditation. Veterinarians who are not performing accredited duties on livestock do not need as much training in livestock disease issues as veterinarians who are. Our intent is to allow veterinarians such as the second commenter to continue participating in the NVAP while completing less training than is required to maintain Category II accreditation.

The first commenter is incorrect in stating that no other country in the world has two classes of veterinarians. For example, Canada has two classes for government accreditation.

One commenter stated that restricting the types of animals a veterinarian is

allowed to treat would be incredibly detrimental to all animals. The commenter noted that there are many veterinarians that have a mixed practice and treat both small and large animals simply because they are the only ones available to perform these services.

The new accreditation categories do not restrict the animals a veterinarian is allowed to treat. Rather, they restrict the animals on which a veterinarian can perform accredited duties, such as endorsing certificates of veterinary inspection. A veterinarian accredited under Category I will be free to perform general veterinary care for any animal.

The June 2006 proposal did not clearly state that veterinarians with Category II accreditation would be allowed to perform accredited duties on all animals, not just those for which Category II accreditation is necessary to perform accredited duties. The February 2007 supplemental proposal and this final rule have added a statement to that effect in § 161.1(b).

Four commenters requested that the accreditation categories be more specific to certain types of animals. One requested a separate accreditation category for avian species, and another requested a separate category for equines. Two commenters stated that there should be separate categories for all types of species, or at the least that there should be separate training for different species; the latter point was echoed by another commenter.

We will provide a number of training options from which veterinarians can choose in order to fulfill the training requirement for renewal of accreditation under Category II. Some training units that apply across all species—for example, general training regarding the NVAP, or training regarding foreign animal diseases—will be required training for all Category II veterinarians. However, there will be some species-specific training courses that accredited veterinarians can elect to take—for example, training on exotic avian diseases or international equine health certificates. We believe that this method of organizing the training addresses the commenters' concerns and makes establishing separate, species-specific accreditation categories unnecessary.

In the preamble to the June 2006 proposal, we stated that 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; for example, Category I veterinarians would be capable of drawing blood for testing from poultry or livestock in the event of a disease outbreak. One commenter stated that APHIS should not assume that a veterinarian accredited under Category I is necessarily qualified to draw blood for livestock testing.

We agree with the commenter. Before allowing Category I veterinarians to participate in surveillance during a disease outbreak, we would ensure that they had adequate training to perform the tasks that we would need them to perform. We continue to believe that Category I veterinarians, in general, could serve as a valuable resource during disease outbreaks.

One commenter stated that, while APHIS clearly intends to include performing accredited duties on dogs and cats as Category I work, the full extent of what would be required of Category I veterinarians is unclear.

We are requiring that Category I veterinarians complete initial accreditation training and an initial orientation program before becoming accredited; that they be able to perform the tasks listed in § 161.1(g)(1) in the February 2007 supplemental proposal and in this final rule; that they comply with the standards for accredited veterinarian duties, listed in § 161.4 under this final rule; and that they complete three supplemental training units every 3 years for renewal of their accreditation.

Requirements and Application Processes for Accreditation

In the June 2006 proposal, we proposed to revise § 161.1 to set out requirements and application processes for initial accreditation. In the February 2007 supplemental proposal, we amended some of these requirements and moved other requirements to new paragraphs. Because we are using the organization in the February 2007 supplemental proposal in this final rule, we will refer to the paragraph citations in the February 2007 supplemental proposal in the discussion below.

The regulations at § 161.1(a)(2)(iii) have required that veterinarians seeking initial accreditation complete an orientation program approved by the Veterinarian-in-Charge for the State in which the veterinarian wishes to practice. We proposed to move this requirement to § 161.1(e)(4) and add two new topics to the list of topics the orientation program must address: Foreign animal disease awareness and animal health emergency management.

One commenter stated that core and State-modified orientation programs should be continued to ensure that State-specific regulations, requirements, and animal-related issues are adequately presented and updated for veterinary accreditation.

We agree with the commenter; we did not propose to change the orientation program, other than by adding the two topics mentioned earlier.

The June 2006 proposal contained a list of tasks that applicants for accredited status would have to be able to perform. The February 2007 supplemental proposal moved these tasks to § 161.1(g), but otherwise did not amend the June 2006 proposal. We received some comments on these tasks.

Proposed paragraph (g)(1)(i) of § 161.1 indicated that Category I veterinarians would be required to be able to perform physical examinations of individual nonregulated animals to determine whether they are free from any clinical signs suggestive of communicable disease. Paragraph (g)(2)(i) indicated that Category II veterinarians would be required to be able to perform physical examinations of individual animals and visually inspect herds or flocks for clinical signs suggestive of communicable disease.

One commenter recommended that we change ''disease'' to ''condition,'' on the basis that there is some disagreement regarding whether things like mange, coccidiosis, and ringworm are diseases, although they are certainly communicable. Changing ''disease'' to ''condition,'' the commenter suggested, would preclude any arguments over the matter.

Our regulations in 9 CFR chapter I commonly refer to communicable diseases of livestock or poultry. For example, the regulations in 9 CFR 71.2 provide that the Secretary of Agriculture may determine that animals are affected with any contagious, infectious, or communicable disease for which a quarantine should be established. To ensure that the regulations are consistent, we continue to refer to ''disease'' in this final rule.

Proposed paragraph (g)(2)(vi) indicated that Category II veterinarians would be required to be able to develop a herd or flock health plan. One commenter stated that a Category I veterinarian should be able to develop a disease control plan which addresses situations where nonregulated animal species aggregate or congregate.

We understand this comment as suggesting that Category I veterinarians should be able to develop a plan to control diseases among Category I animal species, such as a plan to control kennel cough or distemper at a dog breeding premises. The Animal Health Protection Act does not give us the authority to require Category I veterinarians to be able to address

diseases that occur in and affect only Category I animals. (A facility covered by the Animal Welfare Act would be required to provide veterinary care for the animals in the facility.) Therefore, requiring Category I veterinarians to be able to develop disease control plans for these animals would be inappropriate.

Proposed paragraph (g)(2)(xii) indicated that Category II veterinarians would be required to be able to vaccinate for USDA program diseases and accurately complete the vaccination certificate. One commenter recommended that this task be expanded to include a more general description of vaccination. Category II accredited veterinarians, the commenter stated, are not only involved in vaccinating for USDA program diseases, but they are also involved in disease control by vaccinating for the general health of livestock, equines, and poultry. Vaccinating animals appropriately and being able to certify their vaccination status can also be important for interstate and international movements.

We can only require that accredited veterinarians have the skills necessary to perform accredited veterinarian duties, which relate to diseases for which APHIS has a control or eradication program. We are making no changes in response to this comment.

Proposed paragraph (g)(2)(xiv) indicated that Category II veterinarians would be required to be able to properly perform testing for tuberculosis (*e.g.*, caudal fold test). One commenter asked whether the requirement that a Category II veterinarian be able to perform the caudal fold test would include comparative cervical testing as well.

The only veterinarians authorized to perform comparative cervical testing are Federal and State veterinary medical officers. Therefore, it is not appropriate to include comparative cervical testing in the list of tasks a Category II veterinarian must be able to perform.

We are making two changes to the list of tasks a Category II veterinarian must be able to perform in this final rule. Proposed paragraph (g)(2)(vi) indicated that Category II veterinarians would be required to be able to 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. Because the definition of *Category II animals* in this final rule indicates that all birds, not just poultry, are regulated animals, we are amending this task to refer to certifying the health status of an avian flock. Ongoing Federal and State programs, however, only address poultry diseases, so we have not amended the other references to poultry in this paragraph.

In addition, proposed paragraph (g)(2)(ii) had referred to recognizing the common breeds of nonregulated animals and the common breeds of poultry and livestock; in this final rule, paragraph (g)(2)(ii) instead refers to recognizing the common breeds of Category I and Category II animals, including poultry and livestock.

We proposed to require in § 161.1(h) that an accredited veterinarian may not perform accredited duties in a State until after receiving written authorization from APHIS. In addition, we proposed to require that, 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. One commenter was concerned that APHIS might not be able to provide this written authorization in a timely manner. Failure to do so, the commenter stated, could have a potentially significant impact on the veterinary care at a zoo or aquarium or on an individual veterinarian's ability to perform the necessary duties of the profession. The commenter strongly encouraged APHIS to employ an electronic approval process for this authorization.

It is important to note that the NVAP does not regulate general veterinary practice, but rather the performance of specific accredited duties; veterinarians who are not accredited may still provide general veterinary care to any animal.

We plan to employ an electronic approval process for providing written authorization. Under this system, accredited veterinarians with e-mail access will receive an e-mail authorizing them to perform accredited duties. The authorization process for performing accredited duties in another State will continue to require the completion of the requirements in § 161.2.

Required Training for Renewal of Accreditation

We proposed to add new requirements for renewal of accreditation. Under the June 2006 proposal, accredited veterinarians who wish to continue participating in the NVAP would have to renew their accreditation every 3 years. Accredited veterinarians who wish to renew their accreditation under Category I would have had to complete 4 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 had to complete 9 supplemental training units approved by APHIS by the end of their 3-year tenure as an accredited veterinarian.

Based on comments we received on the amount of supplemental training we were requiring, in the February 2007 supplemental proposal, we reduced the amount of training required for renewal of Category II accreditation from nine supplemental training units to six, and the amount of training required for the renewal of Category I accreditation from four units to three.

We received several comments stating that there should be no supplemental training required for accredited veterinarians. Some commenters stated that their experience provides a sufficient body of knowledge and that additional training is unnecessary.

As we stated in the June 2006 proposal, we are requiring that veterinarians complete supplemental training to renew their accreditation for several reasons. 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 to U.S. animal health. The fast pace of change in these areas can mean that the personal experience of accredited veterinarians may not provide enough knowledge to allow them to best contribute to APHIS efforts to deal with emerging issues.

Other commenters stated that the additional training we provide would simply review the regulations for the interstate or international movement of animals whose requirements accredited veterinarians satisfy, and that such information could be provided without having to administer supplemental training. One commenter stated that licensed veterinarians are already familiar with their State's laws governing the performance of veterinary tasks, whether in an emergency or not.

The idea that the supplemental training would focus only on regulatory requirements is incorrect. For example,

the training provided for renewal of accreditation will include units on ''Foreign Animal Diseases, Program Diseases, and Reportable Diseases''; ''Preventing Disease Introduction and Spread''; and ''Disease Eradication and Lab Diagnosis.'' Accredited veterinarians would not be able to learn everything they need to know about these topics by simply reading Federal, State, and foreign animal disease laws and regulations.

Several commenters (mostly veterinarians themselves) stated that any increase in the amount of work required to be an accredited veterinarian will encourage veterinarians to give up their accreditation; some of these commenters suggested that, given predicted shortages in large-animal veterinarians in general, this could prove detrimental to animal health. One of these commenters indicated that there was not enough money in performing accredited duties to justify continuing to do so with the supplemental training requirement in place.

For the reasons stated earlier, we believe it is crucial to the NVAP to ensure that our accredited veterinarians have up-to-date disease control and prevention education. Such training ensures that our accredited veterinarians serve as an effective disease control force in the United States and that certificates signed by them are accepted by our trading partners. The February 2007 supplemental proposal did reduce the amount of supplemental training required for renewal of accreditation, thus making it easier for currently accredited veterinarians to continue to participate. With regard to a possible shortage of accredited veterinarians, we believe that as long as there is a market for services for which accreditation is required, an adequate number of veterinarians will maintain accreditation in order to provide those services.

Two commenters stated that APHIS should offer the supplemental training on a voluntary basis only.

As we noted in the June 2006 proposal, 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. Requiring training is necessary to increase the rigor of the program and thus address this concern.

Another commenter stated that if there must be a renewal period, it should be much longer than 3 years.

As noted earlier, the international animal disease profile, including emerging diseases that may be relevant to accredited veterinary practice within the United States, is continually changing, and the import and export requirements that are placed on the trade of animals and animal products by countries also change frequently. We believe 3 years is an appropriate interval that balances the need for up-to-date training for accredited veterinarians with other demands on their time.

One commenter asked whether the Government requires medical doctors to be tested routinely on their knowledge of infectious or communicable diseases.

We are not aware of any Federal Government programs that require testing for knowledge of infectious or communicable diseases, although State medical boards often test medical doctors. To address the commenter's implied concern, there is no testing requirement associated with the supplemental training. APHIS is requiring that veterinarians complete the supplemental training, but we will not test them on it.

One commenter stated that the supplemental training should address animal welfare issues.

Animal welfare issues are handled within APHIS by our Animal Care program. Consistent with the statutory authority under which it is established, the NVAP focuses on animal disease issues.

We received several comments that mentioned State continuing education requirements in the context of the supplemental training requirement. Three commenters stated that 3 supplemental training units every 3 years would be sufficient to ensure that Category II accredited veterinarians are adequately informed on animal disease issues. One of these commenters stated that the six-unit requirement in the February 2007 supplemental proposal was excessive when compared to continuing education requirements in the commenter's State. Six units every 3 years represented more than 10 percent of that State's total continuing education requirement; this commenter stated that most veterinarians spend less than 10 percent of their time doing accreditation work, meaning that the supplemental training requirement should be reduced.

One commenter stated that the supplemental training requirement was unnecessary due to the State continuing education requirements that are already in place.

Two commenters suggested that APHIS require that State veterinary licensing authorities accept the supplemental training units to fulfill the States' requirements. Another commenter stated that the commenter would support the supplemental training requirement if the training was not in addition to the training already required for the commenter's State license renewal.

Given the diversity of topics on which accredited veterinarians must be informed in order to perform their duties effectively, we believe that it is necessary to require six units of supplemental training for the renewal of Category II accreditation. Since each unit of training is expected to take 1 hour to complete, this requirement works out to 2 hours per year of supplemental training. We do not believe this requirement is excessive.

We could accept State-required continuing education towards the supplemental training requirement if the State courses addressed topics relevant to the NVAP. We would have to review the State content and approve it to be used to fulfill the supplemental training requirement. States that believe their content can be used in such a way are welcome to discuss it with us.

In order to reduce the training burden on accredited veterinarians and encourage their participation in the NVAP, we are working with State veterinary licensing authorities to have our supplemental training accepted as fulfilling their continuing education requirements. Iowa's veterinary licensing authority has already indicated that it will do so. We expect that we will be able to secure approval for use of the supplemental training to fulfill continuing education requirements in other States as well. However, we have no authority to require that States accept our supplemental training.

Costs and Logistics of Supplemental Training

In the June 2006 proposal, we stated that the majority of the supplemental training units would be delivered through the World Wide Web and that we would also make the training available by mail for those who lack Internet access. In the section of the proposal headed ''Executive Order 12866 and Regulatory Flexibility Act,'' we further stated that the Web-based training would be provided at no cost to accredited veterinarians.

We received several comments on the cost and logistics of supplemental training. One asked how much the training, tests, and accreditation

certificate would cost. Six commenters stated that training should be provided at no charge. Another noted that additional training requirements may create an economic hardship for some veterinarians. One commenter noted that the June 2006 proposal did not address the cost of non-Web-based training and stated that many veterinarians in rural practice do not have computer access and could not participate in Web-based training.

We will make the supplemental training available through the Web at no charge. For veterinarians without Internet access, we will make the training available in other media (*e.g.*, CD-ROM or paper) at a minimal cost to cover the costs of production and of any necessary shipping and handling. There are no tests associated with the supplemental training. The accreditation certificate will continue to be provided at no cost.

One commenter stated that APHIS should pay veterinarians to complete the supplemental training.

We do not believe this would be an appropriate use of APHIS' resources.

One commenter suspected that the new regulations would be followed in a couple of years with a user fee, which the commenter opposed.

We have no plans to establish a user fee for the supplemental training. It is in our interest to encourage widespread participation in the supplemental training, which is why we are making the training available free through the Web or at minimal cost through other media.

One commenter stated that Web-based training is subject to problems like technical difficulties, lack of resources to keep up the training sites, and lack of technical staff to provide assistance. Another commenter asked us to make sure that technical support would be available.

We agree with these commenters. We are using a modern Web-based training interface through AgLearn (*(http://www.aglearn.usda.gov*)), and we are working to provide the best possible support for it.

One commenter suggested that we provide the training as a course at regional or State veterinary continuing education meetings as well as through the Web. Another commenter agreed and added national, regional, and State annual meetings of veterinary medical associations as possible venues.

We agree with the commenters. We are planning to offer the training through these venues as well.

One commenter was concerned that the training requirements may create extra work in surveillance and monitoring that will not be compensated. The commenter stated that APHIS does not pay accredited veterinarians enough for the services they render.

When APHIS pays accredited veterinarians for performing their duties, the individual disease control programs decide how much to pay. The veterinary accreditation program exists simply to provide a structure and requirements for the accreditation of veterinarians and to keep track of which veterinarians are accredited. The training requirements themselves will not create any surveillance or monitoring work for accredited veterinarians.

One commenter stated that the renewal process should involve minimal paperwork and logistics that might deter veterinarians from participation in the program. Another commenter was concerned that APHIS may not have the financial and human resources to review and renew licenses and to develop and administer supplemental training units to veterinarians every 3 years.

We agree with the first commenter. We anticipate that the new NVAP Web site, plus the associated database of accredited veterinarians, will centralize access to information and training for accredited veterinarians, reducing the amount of time necessary to fill out paperwork. We also expect that the Web site and the database of accredited veterinarians will help us to provide timely service to our customers.

One commenter suggested that we grant eligibility for developing supplemental training units to industry organizations. Another suggested that we grant the same eligibility to State animal health authorities.

If industry organizations or State animal health authorities are willing to work with us to develop training that addresses NVAP issues, we would welcome and support their efforts. Final approval of the training would rest with APHIS. We are already working with Iowa State University to develop the training that will be initially offered to accredited veterinarians.

One commenter stated that, even with the 3-year renewal period, a veterinarian could lack appropriate knowledge of emerging diseases. The commenter suggested that APHIS develop a method for rapid information dissemination to accredited veterinarians regarding emerging diseases or disease outbreaks.

We agree. The updated contact information in the database of accredited veterinarians and our Web site will allow us to communicate information to accredited veterinarians rapidly when we need to.

One commenter, the Association of Zoos and Aquariums, asked for information regarding waivers from the supplemental training requirements for institutions accredited by that association.

Accreditation by the Association of Zoos and Aquariums does not address all the issues that arise in the performance of NVAP accredited duties. Therefore, we would not provide waivers for institutions accredited by that association. The same would apply to other such industry organizations.

One commenter asked whether the cost of supplemental training units or training for accreditation specializations would be tax deductible.

The supplemental training will be provided free of charge through the Web. We recommend that veterinarians consult with their tax preparers regarding whether costs associated with training are tax deductible.

One commenter asked whether accredited veterinarians would be compensated by APHIS for work performed during a disease emergency.

APHIS compensates accredited veterinarians for any work they perform on behalf of the agency.

One commenter asked what topics would be addressed in the training.

Some of the topics have been mentioned earlier in this document. In general, the topics are a mix of general disease control and prevention topics and species-specific information. Some other topics addressed in the training modules include: ''Vesicular Diseases,'' ''Small Ruminant Health Certificates and Scrapie,'' and ''Federal Animal Health Laws.'' A complete list of topics is available on the NVAP Web site at (*http://www.aphis.usda.gov/animal_health/vet_accreditation/*).

One commenter asked how long each supplemental training unit will take to complete.

Each supplemental training unit will take approximately 1 hour to complete.

One commenter asked how effective online veterinary training programs are.

APHIS has experience delivering Web-based training through the AgLearn site at (*http://www.aglearn.usda.gov*). We have found it to be effective.

Notification and Procedures for Renewal

We received several comments regarding the process APHIS will use to notify accredited veterinarians that they need to renew their accreditation and regarding the procedures for renewal.

In the June 2006 proposed rule, proposed paragraph (d) of § 161.3 outlined the process we would use to

notify accredited veterinarians that they need to renew their accreditation. We stated in the Background section of the proposed rule that 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 received 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.

One commenter stated that procedures should be implemented to ensure and verify that all currently accredited veterinarians have been contacted with the information necessary for their continuation of accreditation activities and that they have responded to APHIS. The elimination of veterinarians from the list of accredited veterinarians without verification that they have been contacted and made aware of the changes, the commenter stated, could create problems if an individual not aware of the changes in the regulations continues to issue health certificates.

Since the publication of the June 2006 proposed rule, we have developed a new plan for ensuring that accredited veterinarians are aware of the need to elect to continue to participate in the accreditation program. We no longer anticipate that we will contact veterinarians individually. Instead, we plan to publish announcements of the new accreditation regulations and veterinarians' resultant obligations in veterinary list serves, veterinary medical association newsletters, State regulatory organization publications, and industry publications. These media all have high visibility in the veterinary medicine community and are effective ways to reach the highest number of accredited veterinarians possible. We will also announce the new renewal requirements at State veterinary medical association meetings. These announcements will include a link to the NVAP Web site, which will contain information about the new regulations, along with a phone number and an address to contact for more information. We will provide notice of the new requirements through these methods for 3 months. After the 3-month notification period, accredited veterinarians will have 3 months to elect to continue to participate in the veterinary accreditation program, the same as the response period we described in the June 2006 proposed rule.

Although contacting each accredited veterinarian individually, as we discussed in the June 2006 proposal, would provide the highest level of assurance that all accredited veterinarians are aware of the new renewal requirements, logistical and cost issues make such individual contact unrealistic. In part due to the previous lack of renewal requirements for veterinary accreditation, APHIS does not have current contact information for many accredited veterinarians; in order to obtain such contact information, we would have to place announcements in the same media as we are planning to use to notify veterinarians of the new requirements. Placing announcements of the new requirements in high-visibility media like those listed earlier will also be more cost-effective than sending individual notifications to approximately 66,000 accredited veterinarians. Therefore, we are no longer planning to contact accredited veterinarians individually. Accordingly, we have changed proposed paragraph (d), which stated that APHIS would contact currently accredited veterinarians to notify them that they must elect to participate in the NVAP as a Category I or Category II veterinarian, to state that APHIS will provide notice for 3 months to currently accredited veterinarians that they must elect to continue to participate in NVAP.

In response to the commenter's concern, we recognize that despite the duration and magnitude of the multimedia notifications that we have planned, there may be some accredited veterinarians who fail to receive notice of their obligations to renew their accreditation in order to continue to participate in the accreditation program. As the 3-month response period nears its end, Veterinary Services will notify veterinarians who routinely perform accredited veterinarian duties and have not yet elected to continue participating as accredited veterinarians, to ensure that such veterinarians do not inadvertently let their accreditation lapse. However, for the reasons discussed above, we will not be able to notify those accredited veterinarians who rarely or never perform accredited duties.

Two commenters stated that APHIS should notify veterinarians before the deadline for renewal even after the initial accreditation.

We agree with these commenters. Once accredited veterinarians have completed an initial renewal, we will be able to send out notifications to all veterinarians well before their deadline for renewal, reminding them of the supplemental training requirements they must fulfill. Veterinarians will also be able to access their profile on a Web site to review their renewal and training status, as well as their address and other aspects of their profile.

Proposed paragraph § 161.3(a) stated that accredited veterinarians who wish to continue participating in the NVAP must submit their renewal forms to APHIS. One commenter recommended that renewal forms be submitted in duplicate to both APHIS and the Area Veterinarians-in-Charge (AVICs) of the States in which the veterinarian is accredited, or that a mechanism be established to notify the AVICs in question immediately. Two other commenters suggested that we require that the form be sent to the AVICs and forwarded to APHIS.

If we required veterinarians who are accredited in multiple States to send their renewal forms to the AVICs of each of the States in which they are accredited, the veterinarians would have to send multiple copies of forms containing the same information to different addresses. We would like to minimize such paperwork burdens. Instead, we are requiring that the forms be sent to APHIS.

The database containing the accredited veterinarians will be updated immediately when an accredited veterinarian completes his or her renewal. In this way, instant notice of the renewal would be provided to the AVICs, since they would have access to the database. We are planning to send electronic notifications to the AVICs as well.

We are making a related change in this final rule to require veterinarians who wish to become accredited to submit their applications for initial accreditation and applications for changes in accreditation category to APHIS, rather than to the AVIC. This will reduce confusion by providing one common point of contact for veterinary accreditation.

One commenter recommended that APHIS maintain and publish a single, accurate, and up-to-date list of accredited veterinarians by accreditation category.

The new database of accredited veterinarians will allow AVICs and State animal health officials to access this information. We would not publish

a veterinarian's name for the general public, however, unless the veterinarian gave us permission to release it.

We are making a few changes in this final rule to the renewal requirements in the February 2007 supplemental proposal. In that document, we proposed to require that newly accredited veterinarians renew their accreditation within 3 years of completing the initial accreditation training in proposed § 161.1(e)(3), regardless of when their accreditation is granted. This training is typically given by veterinary schools at some point during the veterinarians' course of study; our proposed requirement was intended to ensure that veterinarians had up-to-date training based on the last training they had received. However, the NVAP presently does not have a means to track when veterinarians complete the initial accreditation training. In addition, we believe that dating the renewal period from the completion of the core orientation program described in § 161.1(e)(4) is more appropriate and would place less of a burden on accredited veterinarians, since the core orientation program covers topics essential to accreditation and is typically given after the initial accreditation training. Therefore, this final rule requires newly accredited veterinarians to renew their accreditation 3 years after completion of the core orientation program in § 161.1(e)(4). In addition, under § 161.1(e)(4), this final rule requires applicants for accreditation to apply within 3 years of completing core orientation.

Proposed paragraph § 161.3(d) set out the conditions under which veterinarians who are accredited as of the effective date of this final rule would renew their accreditation. This paragraph referred both to these veterinarians' ''first renewal'' and their ''initial renewal.'' We are amending the paragraph to refer only to the veterinarians' ''first renewal'' to avoid ambiguity. Additionally, the last sentence of this proposed paragraph indicated that, after their first renewal, veterinarians accredited as of the effective date of this final rule would be required to renew their accreditation in accordance with the provisions of § 161.3. We have removed this sentence from this final rule, as we believe it is self-evident.

Program Certifications (Accreditation Specializations)

We proposed to add a new § 161.5 to the regulations setting out the conditions under which accredited veterinarians could earn accreditation specializations. 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 have been known as accreditation specialization programs.

We are making one change to proposed § 161.5 in this final rule. In the June 2006 proposal, we introduced the term ''accreditation specializations.'' We have since decided that this term could create confusion given the common meaning of the term ''specialization'' in veterinary medicine. In veterinary medicine, ''specialization'' refers to a discipline such as oncology or thoracic surgery in which a veterinarian has completed extensive training over a period of years and achieved a board certification. We believe the term ''program certification'' refers more directly to what the training will allow a veterinarian to do — participate in program-specific Veterinary Services activities — and will be less likely to cause confusion. Therefore, in the regulatory text in § 161.5, we have replaced all references to ''accreditation specializations'' with references to ''program certifications'' in this final rule.

Currently, APHIS is developing program certifications for testing in the tuberculosis program for cervidae and in the scrapie program for ovines.

In a final rule published in the **Federal Register** on October 10, 2008 (73 FR 60463-60488, Docket No. APHIS-2006-0089), and effective on November 10, 2008, we established a voluntary swine herd certification program for trichinae. To accommodate this program, we added a new § 161.5 to the regulations that provides for accreditation specializations. This final rule revises § 161.5 as it was established in the October 2008 final rule to refer to program certifications and to add provisions from the June 2006 proposed rule, such as requiring Category II accreditation in order to earn a program certification, that are not currently included in § 161.5.

In addition, the October 2008 final rule added a definition of *qualified accredited veterinarian* to § 160.1 that refers to accreditation specializations. The regulations in 9 CFR part 149, which was established by the October 2008 final rule, also contain references to accreditation specializations. This final rule updates those references to refer instead to program certifications.

One commenter stated that future program certification requirements should only be made after consulting with industry and State animal health officials to prevent the process from imposing undue costs on accredited veterinarians.

In all cases, Veterinary Services will work with affected industries and States to ensure that the program certifications we establish are useful and rigorous. Specific decisions about the structure and content of program certifications will be made by the programs that establish them.

One commenter recommended that we develop a program certification for aquaculture.

The aquaculture program in Veterinary Services presently plans to develop a program certification. It is important to note that the decision to develop an accreditation specialization is made by the specific program for which the specialization will be used, and not by the NVAP. The NVAP will document which accredited veterinarians have earned program certifications and, if renewal requirements exist, when renewal is due.

We are making one other change related to program certifications in this final rule. In the June 2006 proposed rule, paragraph (a) of § 161.7 would have required full-time Federal (including military) and State employed veterinarians to qualify under § 161.5 in order to perform duties for which a program certification is required. However, these veterinarians are not required to be accredited in order to perform duties under subchapters B, C, and D of 9 CFR chapter I, and veterinarians are required to be accredited under Category II in order to earn a program certification. In addition, the authorization of any full-time Federal (including military) and State employed veterinarian to perform duties under the regulations is contingent on delegation of authority by the Administrator or cooperative agreements; APHIS would not delegate authority to perform duties that would otherwise require a program certification unless the full-time Federal (including military) and State employed veterinarian had the appropriate training. Accordingly, this final rule does not include that proposed requirement.

In a related matter, proposed paragraph (a) of § 161.7 in the June 2006 proposed rule referred to authorization for full-time Federal (including military) and State employed veterinarians to perform Category II accredited duties. This paragraph was based on a footnote to the definition of *accredited veterinarian* in § 160.1; the footnote referred to authorization to perform

functions specified in subchapters B, C, and D of 9 CFR chapter I. As full-time Federal (including military) and State employed veterinarians are not accredited, it is inappropriate to refer to ''Category II accredited duties'' in this context. Therefore, we are amending proposed paragraph (a) of § 161.7 in this final rule to refer instead to functions specified in subchapters B, C, and D of 9 CFR chapter I.

Suspension and Revocation of Veterinary Accreditation

The regulations in § 161.4 have provided for the suspension or revocation of veterinary accreditation as well as civil and criminal penalties. We proposed to move these requirements to § 161.6, add relevant requirements from § 161.2, and update the requirements to make them clearer and to enhance the integrity of the NVAP.

One commenter stated that it is unclear whether a veterinarian who has requested a hearing to challenge a suspension, revocation, or denial of accreditation may perform accredited duties while waiting for the hearing. The commenter stated that common sense would indicate such duties could not be performed if accreditation was denied, but in the case of veterinarians under suspension or revocation, it could be argued that the duties could continue to be performed until accreditation is removed after the hearing.

The regulations in 9 CFR part 162 set out the rules of practice governing revocation or suspension of veterinarian' accreditation. Section 162.10 sets out conditions for summary suspension of veterinary accreditation, including the circumstances in which the Administrator may determine that it is necessary to summarily suspend a veterinarian's accreditation. The summary suspension regulations may apply pending the final outcome of a proceeding either to suspend or revoke accreditation. Once an accredited veterinarian's accreditation has been summarily suspended, that veterinarian may not perform accredited duties until a final determination of his or her status has been made.

In response to the comment, this final rule amends § 162.10 to make it clear that summary suspension may be appropriate in cases that may ultimately lead to either suspension or revocation.

We are making an additional changes to the regulations in § 162.10 in this final rule. These regulations have provided that the Administrator may summarily suspend accreditation 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,'' and the Administrator determines that summary suspension is necessary to prevent the introduction of certain diseases or to ensure that exports to foreign countries were free from disease. This language predates the enactment of the Animal Health Protection Act (AHPA). The AHPA allows summary suspension of accreditation whenever the Secretary of Agriculture has reason to believe that a veterinarian has knowingly violated the AHPA. (Because the NVAP regulations are promulgated under the AHPA, any violation of the ''Standards for Accredited Veterinarian Duties'' is necessarily a violation of the Act.) Therefore, to be consistent with our statutory authority, we are amending § 162.10 to refer to violation of the AHPA as a reason for summary suspension.

In the June 2006 proposal, we proposed to modify § 162.10 to include the need to maintain the integrity of the NVAP as one of the circumstances the Administrator may consider in determining whether to summarily suspend a veterinarian's accreditation. We received no comments on this aspect of the proposal. However, we have determined that it is not necessary to add such a provision to the summary suspension regulations, as any breach of the integrity of the NVAP would also necessarily be a violation of the NVAP regulations promulgated under the AHPA. Accordingly, this final rule does not include the integrity of the NVAP as a reason for summary suspension.

Veterinarians whose application for accreditation is denied are covered by § 161.7(b) in this final rule, which states that, except for full-time Federal and State employed veterinarians, anyone who performs accredited veterinarian duties that he or she is not authorized to perform will be subject to such criminal and civil penalties as are provided by the Animal Health Protection Act (7 U.S.C. 8301 *et seq.*) or other applicable Federal statutes or regulations. Paragraph (b) of § 161.7 also states that performing accredited duties without having been accredited will be considered grounds for the Administrator to deny an application for accreditation.

One commenter stated that public complaints lodged against an accredited veterinarian in the performance of accredited duties should be considered when determining whether to reaccredit the veterinarian. However, the commenter stated, in order to do so there must be a process by which such complaints can be lodged, and there is currently no clear point of contact for a member of the public who may have a legitimate complaint against an accredited veterinarian regarding an improperly issued health certificate. The commenter recommended that we address this issue in the regulations, including the process by which such complaints would be investigated.

Veterinary Services area offices are the points of contact for members of the public who wish to lodge a complaint about an accredited veterinarian's performance of accredited duties. Contact information for Veterinary Services area offices can be found on the Veterinary Services Web site at (*http://www.aphis.usda.gov/animal_health/area_offices/*). Paragraph (c)(2)(iii) of § 161.6 provides that the NVAP will consider the professional integrity and reputation of applicants for reaccreditation when determining whether to reaccredit such veterinarians.

Activities Performed by Non-Accredited Veterinarians

We proposed to add a new § 161.7 to 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. The proposed rule further stated that, except for full-time Federal (including military) and State employed veterinarians, 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 or other applicable Federal statutes or regulations.

One commenter stated that the authorization granted to Federal and State full-time veterinarians should be granted to veterinarians employed by tribal governments as well, if the tribal veterinarians are acting in the same function for their tribal government that Federal and State employed Veterinarians are providing. The commenter stated that tribal veterinarians are even more aware of current regulatory requirements for interstate movement and export of animals because of the nation-to-nation agreements necessary to allow such movement from tribal lands.

We appreciate the commenter's suggestion. However, there would be

several obstacles to allowing veterinarians employed by tribes to perform accredited duties without being formally accredited. Much of accreditation work involves certifying an animal for entry into interstate or international commerce. State and country laws and regulations are typically set up to recognize the State or country of origin for an animal in commerce. States or countries may not be able to recognize accredited work performed on a reservation, which is considered to be a nation, for animal health movement purposes.

In addition, Federal and State employed veterinarians who are exempt from accreditation requirements function within a hierarchical structure that provides them with training and with continual updates regarding regulatory changes and animal health-related events. The regulatory work performed by these individuals is reviewed by a supervisory chain of command for accuracy and comprehensiveness. A veterinarian who is exempt from accreditation requirements but allowed to perform accredited duties on a reservation would not have an analogous animal health infrastructure to provide necessary updates or evaluate performance. Therefore, we are making no changes to the proposed regulations in response to this comment.

Noting that the proposed rule would have prohibited the performance of accredited duties by ''veterinarians who are not federally accredited,'' two commenters recommended that this section address the problem of people who are not veterinarians who perform accredited duties, such as when non-veterinarians issue fraudulent health certificates. One of these commenters also recommended that we address the problem of an accredited veterinarian performing duties that he or she is not authorized to perform.

We agree that these situations need to be addressed. In this final rule, we are changing the proposed language to state: ''Anyone who performs accredited veterinarian duties that he or she is not authorized to perform will be subject to such criminal and civil penalties as are provided by the Animal Health Protection Act (7 U.S.C. 8301 *et seq.*) or other applicable Federal statutes or regulations.'' This statement indicates that both non-veterinarians who perform accredited duties and accredited veterinarians who perform duties that they are not authorized to perform (for example, an accredited veterinarian performing program certification work for which he or she is not authorized) will be subject to criminal and civil penalties.

Customer Service

We received five comments addressing various aspects of the NVAP's customer service. These comments are not related to the provisions in the June 2006 proposal or the February 2007 supplemental proposal, and we are making no changes in this final rule based on them. We address these comments below.

Four commenters asked us to make information more readily available to accredited veterinarians through the Web and to make our Web site easier to navigate. They requested that the relevant State and foreign regulations for animal movement be posted on a Web site, and that this information be separated from information about training. They also requested that we explore the use of electronic templates for certificates of veterinary inspection, encourage the use of eHealth certificates, and format the official certificates to fit printers.

We agree with these commenters, and we are working to develop such resources. We plan to provide links to State and foreign regulations for animal movement on the NVAP Web page. We are developing an electronic certificate of veterinary inspection (also referred to as the eCVI), which will provide many benefits to users. We encourage additional feedback on the NVAP Web site, as we are continually looking for ways to better serve accredited veterinarians with Web resources.

Three commenters were concerned about the assistance that APHIS area offices provide to accredited veterinarians. One asked us generally to be more customer-friendly and supportive of veterinarians in the field. Another commenter cited a frustrating experience when attempting to process a certificate of veterinary inspection. One commenter requested that we provide not more than 24-hour turnaround time for documents such as endorsements of certificates of veterinary inspection, and that we respond to telephone or e-mail inquiries in less than 24 hours. This commenter also requested that we provide 24-hour-a-day, 7-day-a-week contact information so that accredited veterinarians can get information at night or on weekends.

We appreciate these commenters' concerns. Our area offices always strive to provide the highest possible level of customer service to accredited veterinarians and to respond promptly to requests for services and information. Planned upgrades to our information technology systems may address some of these concerns. For example, the eCVI will facilitate the completion and endorsement of inspection certificates. Additionally, the NVAP Web site will feature responses to frequently asked questions as well as resources for topics of interest.

We always respond to requests for information as quickly as we are able to do so. At this time, we do not have the resources to provide continuous access to APHIS employees that was requested by one commenter. We will continue to pursue means by which to make information easily and promptly available to accredited veterinarians.

Miscellaneous Changes

We are making three miscellaneous changes in this final rule.

The definition of *herd or flock health plan* in the June 2006 proposal stated that participants in such a plan undertake actions to ''control a disease or diseases.'' However, a herd or flock health plan may be necessary for a herd or flock in which a disease has recently been eradicated, meaning that the goal of the plan would be to prevent the disease from recurring. We have amended this definition to refer instead to maintaining the health of the animals and detecting signs of communicable disease.

The current regulations in § 161.2(a)(2)(iii), which describe the State-specific orientation program that a veterinarian must complete prior to accreditation, refer to the veterinarian completing an orientation program approved by the Veterinarian-in-Charge for the State in which the veterinarian wishes to practice. As discussed earlier in this document, a non-accredited veterinarian may practice normal veterinary medicine on any animal; accreditation allows a veterinarian to perform specific, disease control-related accredited tasks. To ensure clarity, we are replacing the word ''practice'' with the words ''perform accredited duties'' as part of moving this paragraph to § 161.1(e)(4) in this final rule.

The February 2007 supplemental proposal removed references to specific form titles and numbers in the parts of the June 2006 proposal that the supplemental proposal amended. We removed those references because we do not believe it is necessary to refer to specific forms in the regulations, and doing so may impede efforts to simplify the application and renewal processes in the future. This final rule removes the remaining references to specific form titles and numbers that appeared in the June 2006 proposal.

Therefore, for the reasons given in the proposed rule and in this document, we

are adopting the proposed rule as a final rule, with the changes discussed in this document.

Effective Date

In order to give all involved parties time to prepare for the new requirements for renewal of accreditation, we are making this final rule effective on February 1, 2010.

Executive Order 12866 and Regulatory Flexibility Act

This 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.

This final rule will establish two accreditation categories (Category I and Category II) in place of the current single category, add requirements for supplemental training and renewal of accreditation every 3 years, and provide for program certifications.

Category I accreditation will require the completion of 3 supplemental training units every 3 years in order to renew accreditation and will allow the veterinarians who choose it to perform accredited duties only for Category I animals, as that term is defined in § 160.1 of the regulations. Category II accreditation, however, will require the completion of 6 supplemental training units every 3 years in order to renew accreditation; veterinarians who select it will be able to perform the full spectrum of accredited duties that do not require a program certification. For both categories, the majority of the supplemental training will be delivered through the World Wide Web, with no charge to the participating veterinarians. The Internet-based training will eliminate the need for additional costs for travel and accommodations for the veterinarians taking the training. We will provide the training in other media (*e.g.*, CD-ROM or paper) at minimal cost, and we will provide the training in a classroom setting at meetings of veterinary associations. Thus, there will be, at the most, minimal additional costs associated with the new aspects of the NVAP apart from the time spent taking the training. Each supplemental training unit will take approximately 1 hour to complete.

The program certification component that APHIS will add to the NVAP could involve some cost to the accredited veterinarians who choose to voluntarily participate in these program certifications.

The primary cost of changes to the program will be the new training requirements, and these costs will be borne primarily by APHIS. If an accredited veterinarian wants to be qualified in a program certification, 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 changes a continuing program. Entities that will be affected as a result of the proposed changes in the regulations will 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 27,247 in 2005; they employed 269,724 people with an annual payroll of $7.34 billion (2005 County Business Patterns, NAICS, U.S. Census Bureau).

We do not know how many of these establishments are considered small entities under the SBA's standards. However, the changes in this final rule are not expected to have any significant economic effect on any of these 27,247 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 will 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 final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Has no retroactive effect; and (2) does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this rule have been approved by the Office of Management and Budget (OMB) under OMB control number 0579-0297.

E-Government Act Compliance

The Animal and Plant Health Inspection Service is committed to compliance with the E-Government Act to promote the use of the Internet and other information technologies, to provide increased opportunities for citizen access to Government information and services, and for other purposes. For information pertinent to E-Government Act compliance related to this rule, please contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 851-2908.

List of Subjects

9 CFR Part 149

Animal diseases, Hogs, Laboratories, Meat and meat products, Meat inspection, Reporting and recordkeeping requirements.

9 CFR Part 160

Veterinarians.

9 CFR Part 161

Reporting and recordkeeping requirements, Veterinarians.

9 CFR Part 162

Administrative practice and procedure, Veterinarians.

■ Accordingly, we are amending 9 CFR parts 149, 160, 161, and 162 as follows:

PART 149—VOLUNTARY TRICHINAE CERTIFICATION PROGRAM

■ 1. The authority citation for part 149 continues to read as follows:

Authority: 7 U.S.C. 1622 and 8301-8317; 21 U.S.C. 136a; 7 CFR 2.22, 2.80, and 371.4.

§ 149.1 [Amended]

■ 2. Section 149.1 is amended as follows:

■ a. In the definition of *qualified accredited veterinarian (QAV)*, by removing the words ''an accreditation specialization'' and adding the words ''a program certification'' in their place.

■ b. In footnote 2, by removing the word ''specializations'' and adding the words ''program certification'' in its place.

PART 160—DEFINITION OF TERMS

■ 3. The authority citation for part 160 continues 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 160.1 is amended as follows:

■ a. In the definition of *accredited veterinarian*, by removing footnote 1.

■ b. By adding definitions of *Category I animals*, *Category II animals*, and *herd or flock health plan* in alphabetical order, to read as set forth below.

■ c. In the definition of *qualified accredited veterinarian (QAV)*, by removing the words ''an accreditation specialization'' and adding the words ''a program certification'' in their place.

§ 160.1 Definitions.

* * * * *

Category I animals. Any animals other than Category II animals, *e.g.*, cats and dogs.

Category II animals. Food and fiber animal species; horses; birds; farm-raised aquatic animals; all other livestock species; and zoo animals that can transmit exotic animal diseases to livestock.

* * * * *

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 maintain the health of the animals and detect signs of communicable disease.

* * * * *

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

■ 5. The authority citation for part 161 continues 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.

■ 6. Section 161.1 is amended by revising the section heading and paragraphs (b) and (c) and adding new paragraphs (d) through (h) and an OMB citation to read as follows:

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

* * * * *

(b) *Categories of accreditation.* A veterinarian may be accredited as a Category I veterinarian or a Category II veterinarian. A veterinarian who is accredited under Category I is only authorized to perform accredited duties on Category I animals, as defined in § 160.1. A veterinarian who is accredited under Category II is authorized to perform accredited duties on both Category I animals and Category II animals.

(c) *Application for initial accreditation.* A veterinarian may apply for accreditation by completing an application for accreditation and submitting it to APHIS. In completing the application, the veterinarian will choose one of the accreditation activity categories, either Category I or Category II, as discussed in paragraph (b) of this section. Applications for Category I accreditation must include certification that the applicant is able to perform the tasks listed in paragraph (g)(1) of this section. Applications for Category II accreditation must include certification that the applicant is able to perform the tasks listed in paragraph (g)(2) of this section. An accredited veterinarian must not perform duties requiring a program certification unless he or she is accredited under Category II and qualified to perform such duties in accordance with § 161.5 of this part.

(d) *Review of application.* Applications for accreditation received by APHIS 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, APHIS 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.

(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;

(3) The veterinarian has completed initial accreditation training, using content provided by APHIS; and

(4) The veterinarian has completed an orientation program approved by the Veterinarian-in-Charge for the State in which the veterinarian wishes to perform accredited duties, 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 veterinarian applying for accreditation must have completed the orientation program within 3 years prior to submitting the application for accreditation. 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.

(f) *Change in accreditation category.* (1) *Category I to Category II.* A veterinarian who is accredited under Category I may become accredited under Category II if the veterinarian applies for accreditation under Category II by completing an application for accreditation, including certification that the applicant is able to perform the tasks listed in paragraph (g)(2) of this section, and submitting it to APHIS. The veterinarian must also have fulfilled the training requirements in § 161.3(b) that are associated with renewal of accreditation under Category II.

(2) *Category II to Category I.* A veterinarian who is accredited under Category II may become accredited under Category I if the veterinarian applies for accreditation under Category I by completing an application for accreditation, including certification that the applicant is able to perform the tasks listed in paragraph (g)(1) of this section, and submitting it to APHIS. The veterinarian must also have fulfilled the training requirements in § 161.3(b) that are associated with renewal of accreditation under Category I.

(g) *Tasks that 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 Category I animals to determine whether they are free from any clinical signs suggestive of communicable disease.

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

(iii) Apply common animal identification for Category I animals.

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

(v) Perform necropsies on Category I animals.

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

(vii) Vaccinate Category I animals and accurately complete the vaccination certificates.

(viii) Properly collect and ship specimen samples to the 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 Category I 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 Category I and Category II animals, including 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 an avian flock regarding diseases of domestic or international regulatory concern, and evaluate records pertaining to poultry 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 consistent with requirements in subchapters B, C, and D of this chapter.

(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.

(h) *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.

(Approved by the Office of Management and Budget under control number 0579-0297)

■ 7. Section 161.2 is 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 an application 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 the veterinarian receives written authorization from APHIS to perform accredited duties in the new State.

(Approved by the Office of Management and Budget under control numbers 0579-0032 and 0579-0297)

§§ 161.3 and 161.4 [Redesignated]

■ 8. Section 161.4 is redesignated as § 161.6, and § 161.3 is redesignated as § 161.4.

■ 9. A new § 161.3 is 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 and submitting it to APHIS. Newly accredited veterinarians must renew their accreditation within 3 years of completing the orientation program described in § 161.1(e)(4) of this part, regardless of when their accreditation was granted. Other veterinarians must renew their accreditation within 3 years of the previous renewal.

(b) Accredited veterinarians who wish to renew their accreditation under Category I must complete 3 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 6 supplemental training units approved by APHIS by the end of their 3-year tenure as an accredited veterinarian. Accredited veterinarians who wish to change the category in which they are accredited, rather than renew accreditation in their current accreditation category, should follow the procedure in § 161.1(f) of this part.

(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 *et seq.*) 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 an 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 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 will not count towards fulfilling his or her training requirement.

(d) Veterinarians who are accredited as of February 1, 2010, may continue to perform accredited duties between February 1, 2010, and the date of their first renewal. APHIS will provide notice for 3 months to accredited veterinarians who are accredited as of February 1, 2010, 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 3 months of the end of the notification period, 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 date for first renewal. The accredited veterinarian must then complete all the training requirements for renewal, as described in this section, by his or her first renewal date.

(Approved by the Office of Management and Budget under control number 0579-0297)

■ 10. Section 161.5 is revised to read as follows:

§ 161.5 Program certifications.

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

■ 11. Newly redesignated § 161.6 is amended as follows:

■ a. By revising the section heading to read as set forth below.

■ b. By revising paragraph (a) to read as set forth below.

■ c. By redesignating paragraphs (b), (c), and (d) as paragraphs (d), (e), and (f), respectively.

■ d. By adding new paragraphs (b), (c), and (g) 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 *et seq.*) 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 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 applications 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.

■ 12. A new § 161.7 is 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 functions specified in subchapters B, C, and D of this chapter, pursuant to delegation of authority by the Administrator or cooperative agreements, without specific accreditation under the provisions of this subchapter.

(b) Except as provided by paragraph (a) of this section, anyone who performs accredited veterinarian duties that he or she is not authorized to perform will be subject to such criminal and civil penalties as are provided by the Animal Health Protection Act (7 U.S.C. 8301 *et seq.*) 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

■ 13. The authority citation for part 162 continues 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.

■ 14. Section 162.10 is revised to read as follows:

§ 162.10 Summary suspension or revocation 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 knowingly violated the Animal Health Protection Act (7 U.S.C. 8301 *et seq.*), the Administrator may summarily suspend the accreditation of such veterinarian pending final determination in either a suspension or revocation 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.

§ 162.12 [Amended]

■ 15. In § 162.12, paragraphs (b), (c), and (d) are redesignated as paragraphs (c), (d), and (b), respectively.

Done in Washington, DC, this 1st day of December 2009.

Kevin Shea,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. E9–29253 Filed 12–08–09; 1:26 pm]

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