

territory or possession of the United States.

State Animal Health Official. The State animal health official who is responsible for the livestock and poultry disease control and eradication programs of a State.

Veterinarian-in-Charge. The veterinary official of APHIS who is assigned by the Administrator to supervise and perform the official work of APHIS in a State or group of States.

[57 FR 54912, Nov. 23, 1992, as amended at 59 FR 40797, Aug. 10, 1994; 60 FR 39842, Aug. 4, 1995; 62 FR 25445, May 9, 1997; 73 FR 60488, Oct. 10, 2008]

EFFECTIVE DATE NOTE: At 74 FR 65010, Dec. 9, 2009, §160.1 was amended in the definition of *accredited veterinarian*, by removing footnote 1; by adding definitions of *Category I animals*, *Category II animals*, and *herd or flock health plan* in alphabetical order; and 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, effective Feb. 1, 2010. For the convenience of the user, the added text is set forth as follows:

§ 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

Sec.

- 161.1 Statement of purpose; performance of accredited duties in different States.
- 161.2 Requirements and application procedures for accreditation.
- 161.3 Standards for accredited veterinarian duties.
- 161.4 Suspension or revocation of veterinary accreditation; criminal and civil penalties.
- 161.5 Specialization.
- 161.7 Activities performed by non-accredited veterinarians.

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

SOURCE: 57 FR 54912, Nov. 23, 1992, unless otherwise noted.

§ 161.1 Statement of purpose; performance of accredited duties in different States.

(a) This subchapter concerns a program administered by APHIS to accredit veterinarians and thereby authorize them to perform, on behalf of APHIS, certain activities specified in this chapter. This program is intended to ensure that an adequate number of qualified veterinarians are available in the United States to perform such activities.

(b) If an accredited veterinarian wishes to perform accredited duties in a State other than the State for which the veterinarian has completed an orientation in accordance with §161.2(a)(4), the accredited veterinarian shall so inform the Veterinarian-in-Charge of the new 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 problems 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.

(c) 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.

EFFECTIVE DATE NOTE: At 74 FR 65010, Dec. 9, 2009, §161.1 was amended by revising the section heading and paragraphs (b) and (c) and adding new paragraphs (d) through (h) and an OMB citation, effective Feb. 1, 2010. For the convenience of the user, the added and revised text is set forth 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)

§ 161.2 Requirements and application procedures for accreditation.

(a) *Initial accreditation.* A veterinarian may apply for accreditation by

completing an application for accreditation on Form 1-36A, "Application for Veterinary Accreditation," including certification that the applicant is able to perform the tasks listed in paragraph (d) of this section, and submitting it to the Veterinarian-in-Charge in the State where he or she wishes to perform accredited duties.

(1) Completed Forms 1-36A 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, a State Animal Health Official shall either endorse the application or send a written statement to the Administrator explaining why it was not endorsed; but if the State Animal Health Official fails to take one of these actions within 14 days, the Veterinarian-in-Charge shall proceed to review the application. The Administrator will review the application and the written statement, if any, and determine whether the applicant meets the requirements for accreditation contained in this part.

(2) The Administrator is hereby authorized to accredit a veterinarian when he or she determines that:

(i) 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;

(ii) 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 licensing status of the applicant by contacting the State board of veterinary medical examiners or any similar State organization that maintains records of veterinarians licensed in a State; and,

(iii) The veterinarian has completed an orientation program approved by the Veterinarian-in-Charge for the State in which the veterinarian wishes to practice, and upon completion of the orientation, has signed a written statement listing the date and place of orientation, the subjects covered in the orientation, and any written materials provided to the veterinarian at the ori-

entation. 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 orientation program shall include the following topics:

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

(B) Interstate movement requirements for animals;

(C) Import and export requirements for animals;

(D) USDA animal disease eradication and control programs;

(E) Laboratory support in confirming disease diagnoses;

(F) Ethical/Professional responsibilities of an accredited veterinarian; and,

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

(b) *Reaccreditation.* A veterinarian whose accreditation has been revoked may apply for reaccreditation when the revocation has been in effect for not less than two years by completing an application for reaccreditation on Form 1-36A, "Application for Veterinary Accreditation", and submitting it to the Veterinarian-in-Charge of the State or area where he or she wishes to perform accredited work.

(1) Completed Forms 1-36A 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, a State Animal Health Official shall either endorse the application or send a written statement to the Administrator explaining why it was not endorsed; but if the State Animal Health Official fails to take one of these actions within 14 days, the Veterinarian-in-Charge shall proceed to review the application. The Administrator will review the application and the written statement, if any, and determine whether the applicant meets the requirements for reaccreditation contained in this part.

(2) The Administrator is hereby authorized to reaccredit a veterinarian when he or she determines that:

(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 practice, and upon completion of the orientation, has signed a written statement listing the date and place of orientation, the subjects covered in the orientation, and any written materials provided to the veterinarian at the orientation. The Veterinarian-in-Charge shall also give the State Animal Health Official an opportunity to review the contents of the 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) Criminal conviction records adversely reflecting on the honesty or integrity of the applicant with regard to the performance or nonperformance of veterinary medical duties;

(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 integrity of the applicant; and

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

(c) *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 accred-

ited 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 (b)(2)(ii) of this section before accreditation will be reinstated.

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

(1) Perform physical examinations of individual animals, and visually inspect herds or flocks, to determine whether the animals are free from any clinical signs suggestive of communicable disease;

(2) Recognize the common breeds of livestock so as to be able to record breed information on official documents;

(3) Recognize brucellosis tattoos and calfhood vaccination tags, and determine the state of origin of eartags, to properly identify animals in interstate commerce;

(4) Estimate the age of livestock using a dental formula;

(5) Apply an eartag, tattoo, backtag, and legband;

(6) Certify the disease status of a poultry flock with regard to disease caused by *Salmonella enteritidis*, chlamydiosis and exotic Newcastle disease, by evaluating records of the flock's participation in and testing by Federal and State poultry health programs;

(7) Properly complete certificates for domestic and international movement of animals;

(8) Apply and remove official seals;

(9) Perform a necropsy on livestock;

(10) Recognize clinical signs and lesions of exotic animal diseases;

(11) Plan a disease control strategy for a livestock unit;

(12) Vaccinate for brucellosis and fill out the vaccination certificate;

(13) Draw and ship blood for testing;

(14) Perform a caudal fold test for tuberculosis;

(15) Develop appropriate cleaning and disinfection plans to control communicable livestock disease spread; and

(16) Explain basic principles for control of diseases for which APHIS or APHIS-State cooperative programs

§ 161.2, Nt.

exist, such as brucellosis, pseudorabies, and tuberculosis.

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

[57 FR 54912, Nov. 23, 1992, as amended at 61 FR 56891, Nov. 5, 1996]

EFFECTIVE DATE NOTE: At 74 FR 65011, Dec. 9, 2009, § 161.2 was revised, effective Feb. 1, 2010. For the convenience of the user, the revised text is set forth 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 Standards for accredited veterinarian duties.

An accredited veterinarian shall perform the functions of an accredited veterinarian only in a State in which the accredited veterinarian is licensed or legally able to practice veterinary

9 CFR Ch. I (1-1-10 Edition)

medicine. An accredited veterinarian shall perform the functions of an accredited veterinarian and carry out all responsibilities under applicable Federal programs and cooperative programs subject to direction provided by the Veterinarian-in-Charge and in accordance with any regulations and instructions issued to the accredited veterinarian by the Veterinarian-in-Charge, and shall observe the following specific standards:

(a) An accredited veterinarian shall not issue a certificate, form, record or report which reflects the results of any inspection, test, vaccination or treatment performed by him or her with respect to any animal, other than those in regular health maintenance programs, unless he or she has personally inspected that animal within 10 days prior to issuance. Inspections under this paragraph must be conducted in a location that allows the accredited veterinarian sufficient space to observe the animal in such a manner as to detect abnormalities related to areas such as, but not limited to, locomotion, body excretion, respiration, and skin conditions. An accredited veterinarian shall examine such an animal showing abnormalities, in order to determine whether or not there is clinical evidence compatible with the presence or absence of a communicable disease.

(1) Following the first two inspections of a herd or flock as part of a regular health maintenance program, an accredited veterinarian shall not issue a certificate, form, record or report which reflects the results of any inspection, test, vaccination or treatment performed by him or her with respect to any animal in that program, unless he or she has personally inspected that animal within 10 days prior to issuance.

(2) Following the third and subsequent inspections of a herd or flock in a regular health maintenance program, an accredited veterinarian shall not issue a certificate, form, record or report which reflects the results of any inspection, test, vaccination or treatment performed by him or her with respect to any animal in that program,

unless he or she has personally inspected that animal within 30 days prior to issuance.

(b) An accredited veterinarian shall not issue, or allow to be used, any certificate, form, record or report, until, and unless, it has been accurately and fully completed, clearly identifying the animals to which it applies, and showing the dates and results of any inspection, test, vaccination, or treatment the accredited veterinarian has conducted, except as provided in paragraph (c) of this section, and the dates of issuance and expiration of the document. Certificates, forms, records, and reports shall be valid for 30 days following the date of inspection of the animal identified on the document, except that origin health certificates may be valid for a longer period of time as provided in §91.3(a) of this chapter. The accredited veterinarian must distribute copies of certificates, forms, records, and reports according to instructions issued to him or her by the Veterinarian-in-Charge.

(c) An accredited veterinarian shall not issue any certificate, form, record, or report which reflects the results of any inspection, test, vaccination, or treatment performed by another accredited veterinarian, unless:

(1) The signing accredited veterinarian has exercised reasonable care, that is, a standard of care that a reasonably prudent person would use under the circumstances in the course of performing professional duties, to determine that the certificate, form, or report is accurate;

(2) The certificate, form, or report indicates that the inspection, test, vaccination, or treatment was performed by the other accredited veterinarian; identifies the other accredited veterinarian by name; and includes the date and the place where such inspection, test, or vaccination was performed; and,

(3) For a certificate, form, or report indicating results of a laboratory test, the signing accredited veterinarian shall keep a copy of the certificate, form, or report and shall attach to it either a copy of the test results issued by the laboratory, or a written record (including date and participants' names) of a conversation between the

signing accredited veterinarian and the laboratory confirming the test results.

(d) An accredited veterinarian shall perform official tests, inspections, treatments, and vaccinations and shall submit specimens to designated laboratories in accordance with Federal and State regulations and instructions issued to the accredited veterinarian by the Veterinarian-in-Charge.

(e) An accredited veterinarian shall identify or be physically present to supervise the identification of reactor animals by tagging or such other method as may be prescribed in instructions issued to him or her by the Veterinarian-in-Charge or by a State Animal Health Official through the Veterinarian-in-Charge.

(f) An accredited veterinarian shall immediately report to the Veterinarian-in-Charge and the State Animal Health Official all diagnosed or suspected cases of a communicable animal disease for which a APHIS has a control or eradication program in 9 CFR chapter I, and all diagnosed or suspected cases of any animal disease not known to exist in the United States as provided by §71.3(b) of this chapter.

(g) While performing accredited work, an accredited veterinarian shall take such measures of sanitation as are necessary to prevent the spread of communicable diseases of animals by the accredited veterinarian.

(h) An accredited veterinarian shall keep himself or herself currently informed on Federal and State regulations that are provided to him or her by the Veterinarian-in-Charge, or by a State official through the Veterinarian-in-Charge, governing the movement of animals, and on procedures applicable to disease control and eradication programs, including emergency programs.

(i) An accredited veterinarian shall not use or dispense in any manner, any pharmaceutical, chemical, vaccine or serum, or other biological product authorized for use under any Federal regulation or cooperative disease eradication program, in contravention of applicable Federal or State statutes, regulations, and policies.

(j) An accredited veterinarian shall be responsible for the security and proper use of all official certificates,

§ 161.3, Nt.

9 CFR Ch. I (1–1–10 Edition)

forms, records, and reports; tags, bands, or other identification devices; and approved digital signature capabilities used in his or her work as an accredited veterinarian and shall take reasonable care to prevent the misuse thereof. An accredited veterinarian shall immediately report to the Veterinarian-in-Charge the loss, theft, or deliberate or accidental misuse of any such certificate, form, record, or report; tag, band, or other identification device; or approved digital signature capability.

(k) An accredited veterinarian may issue an origin health certificate for export use pursuant to part 91 of this chapter without including test results from a laboratory, if the Veterinarian-in-Charge has determined that such action is necessary to save time in order to meet an exportation schedule and agrees to add the test results to the certificate at a later time. In such cases, the accredited veterinarian shall state on a removable attachment to the certificate that such test results are to be added by the Veterinarian-in-Charge.

[57 FR 54912, Nov. 23, 1992; 58 FR 8820, Feb. 17, 1993; 60 FR 39842, Aug. 4, 1995; 60 FR 55443, Nov. 1, 1995; 62 FR 25445, May 9, 1997; 67 FR 11561, Mar. 15, 2002]

EFFECTIVE DATE NOTE: At 74 FR 65011, Dec. 9, 2009, § 161.3 was redesignated as § 161.4 and a new § 161.3 was added, effective Feb. 1, 2010. For the convenience of the user, the added text is set forth 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)

§ 161.4 Suspension or revocation of veterinary accreditation; 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 §161.3 of this part, or, in lieu thereof, to issue a written notice of warning to the accredited veterinarian when the Administrator determines a notice of warning will be adequate to attain compliance with the Standards.

(b) Accreditation shall be automatically terminated when an accredited veterinarian is not licensed or legally able to practice veterinary medicine in at least one State.

(c) Accreditation shall be automatically revoked when an accredited veterinarian is convicted of a crime in either State or Federal court, if such conviction is based on the performance or nonperformance of any act required of the veterinarian in his or her capacity as an accredited veterinarian.

(d) Any accredited veterinarian who knowingly issues or signs a false, incorrect, or mislabeled animal health or inspection certificate, blood sample, official brucellosis vaccination certificate, or official tuberculin test certificate in accordance with this chapter, shall be subject to such civil penalties and such criminal liabilities as are provided by 7 U.S.C. 8313, 18 U.S.C. 1001, or other applicable Federal statutes. Such action may be in addition to, or in lieu of, suspension or revocation of accredited veterinarian status in accordance with this section.

[57 FR 54912, Nov. 23, 1992, as amended at 68 FR 6346, Feb. 7, 2003]

EFFECTIVE DATE NOTE: At 74 FR 65011, Dec. 9, 2009, §161.4 was redesignated as §161.6 and at 74 FR 65012, Dec. 9, 2009, newly redesignated §161.6 was amended by revising the section heading and paragraph (a); by redesignating paragraphs (b), (c), and (d) as paragraphs (d), (e), and (f), respectively; and by adding new paragraphs (b), (c), and (g), effective Feb. 1, 2010. For the convenience of the user, the added and revised text is set forth as follows:

§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

§ 161.5

9 CFR Ch. I (1–1–10 Edition)

the application. The Administrator will review the application and the written statement, if any, and determine whether the applicant meets the requirements for re-accreditation contained in this part.

(2) Once a veterinarian whose accreditation has been revoked has correctly applied for re-accreditation in accordance with the requirements of paragraph (c) of this section, the Administrator will determine whether to re-accredit or to deny re-accreditation. 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 re-accreditation 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 re-accreditation 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 re-accredited 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 re-accreditation is denied under paragraph (c)(2) of this section, the veterinarian may apply for re-accreditation 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 re-accreditation 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.

§ 161.5 Specialization.

An accreditation specialization recognized by the Administrator may be granted to an accredited veterinarian upon completion of an orientation or training program approved by APHIS. For certain accredited specializations, the cost of orientation or training may be borne by the accredited veterinarian. An accredited veterinarian granted an accreditation specialization will be referred to as a qualified accredited veterinarian or QAV. A QAV will be authorized to perform those activities and functions specifically provided for elsewhere in this chapter, for example, in part 149.

[73 FR 60488, Oct. 10, 2008]

EFFECTIVE DATE NOTE: At 74 FR 65012, Dec. 9, 2009, §161.5 was revised, effective Feb. 1, 2010. For the convenience of the user, the revised text is set forth 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.

§ 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.

[74 FR 65013, Dec. 9, 2009]

EFFECTIVE DATE NOTE: At 74 FR 65013, Dec. 9, 2009, §161.7 was added, effective Feb. 1, 2010.

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

Subpart A—General

Sec.

162.1 Scope and applicability of rules of practice.

Subpart B—Supplemental Rules of Practice

162.10 Summary suspension of accreditation of veterinarians.

162.11 Notification.

162.12 Informal conference.

162.13 Formal complaint.

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

SOURCE: 57 FR 54915, Nov. 23, 1992, unless otherwise noted.

Subpart A—General

§ 162.1 Scope and applicability of rules of practice.

The Uniform Rules of Practice for the Department of Agriculture promulgated in subpart H of part 1, subtitle A, title 7, Code of Federal Regulations, are the Rules of Practice applicable to adjudicatory, administrative proceedings for the revocation or suspension of accreditation of veterinarians (9 CFR parts 160 and 161). In addition, the Supplemental Rules of Practice set forth in subpart B of this part shall be applicable to such proceedings.

Subpart B—Supplemental Rules of Practice

§ 162.10 Summary suspension of accreditation of veterinarians.

In any situation where the Administrator has reason to believe that any veterinarian accredited under the provisions of 9 CFR parts 160 and 161 of this subchapter has not complied with the "Standards for Accredited Veterinarian Duties" set forth in §161.3 of this subchapter, and deems such action necessary in order to prevent the introduction into the United States or the spread from one State to another of a contagious, infectious, or communicable disease of animals, or to insure that animals intended or offered for export to foreign countries are free from disease, the Administrator may suspend the accreditation of such veterinarian pending final determination in the proceeding, effective upon oral or written notification, whichever is earlier. In the event of oral notification, a written confirmation thereof shall be given to such veterinarian pursuant to