

pursuant to 5 U.S.C. 553, notice of proposed rulemaking and opportunity for comment are not required for this rule, and it may be made effective less than 30 days after publication in the **Federal Register**. In addition, under 5 U.S.C. 804, this rule is not subject to congressional review under the Small Business Regulatory Enforcement Fairness Act of 1996, Public Law 104–121. Finally, this action is not a rule as defined by 5 U.S.C. 601 *et seq.*, the Regulatory Flexibility Act, and thus is exempt from the provisions of that Act.

#### Paperwork Reduction Act

This final rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

#### List of Subjects in 7 CFR Part 1

Administrative practice and procedure, Agriculture, Antitrust, Claims, Cooperatives, Courts, Equal access to justice, Fraud, Freedom of information, Government employees, Lawyers, Motion pictures, Penalties, Privacy.

■ Accordingly, we are amending 7 CFR part 1 as follows:

#### PART 1—ADMINISTRATIVE REGULATIONS

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

**Authority:** 5 U.S.C. 301, unless otherwise noted.

#### Subpart H—Rules of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary Under Various Statutes

##### § 1.131 [Amended]

■ 2. Section 1.131 is amended as follows:

■ a. In paragraph (a), by removing the entries for “Act of May 29, 1884, commonly known as the Animal Industry Act, section 7, as amended (21 U.S.C. 117).”, “Act of August 30, 1890, section 6, as amended (21 U.S.C. 104).”, “Act of February 2, 1903, commonly known as the Cattle Contagious Diseases Act of 1903, section 3, as amended (21 U.S.C. 122).”, “Act of March 3, 1905, section 6, as amended (21 U.S.C. 127).”, “Act of July 2, 1962, section 6(a), as amended (21 U.S.C. 134e).”, and “Act of May 6, 1970, section 2, as amended (21 U.S.C. 135a).”.

■ b. In paragraph (a), by adding, in alphabetical order, an entry for “Agricultural Bioterrorism Protection Act of 2002, section 212(i) (7 U.S.C. 8401(i)).”.

■ c. In paragraph (b)(2), by removing the words “Animal Quarantine and Related Laws (21 U.S.C. 111 *et seq.*)” and adding the words “Animal Health Protection Act (7 U.S.C. 8301 *et seq.*)” in their place.

Dated: June 29, 2009.

**Thomas J. Vilsack,**

*Secretary of Agriculture.*

[FR Doc. E9–16195 Filed 7–8–09; 8:45 am]

**BILLING CODE 3410–34–P**

#### DEPARTMENT OF AGRICULTURE

#### Cooperative State Research, Education, and Extension Service

#### 7 CFR Part 3431

**RIN 0524–AA43**

#### Veterinary Medicine Loan Repayment Program (VMLRP)

**AGENCY:** Cooperative State Research, Education, and Extension Service, USDA.

**ACTION:** Interim final rule and request for comments.

**SUMMARY:** This interim final rule establishes the process and procedures for designating veterinarian shortage situations, specifically for the Veterinary Medicine Loan Repayment Program (VMLRP) authorized by the National Veterinary Medical Service Act (NVMSA) and administered by the Cooperative State Research, Education, and Extension Service (CSREES) of the U.S. Department of Agriculture. CSREES will designate geographic and practice areas that have a shortage of food supply veterinarians in order to carry out the VMLRP goals of strengthening the nation’s animal health infrastructure and supplementing the Federal response during animal health emergencies. CSREES will carry out NVMSA by entering into educational loan repayment agreements with veterinarians who agree to provide veterinary services in veterinarian shortage situations for a determined period of time. CSREES is establishing Subpart A for the designation of the veterinarian shortage situations and Subpart B for the administration of the VMLRP.

**DATES:** This rule is effective July 9, 2009. The Agency must receive comments by September 8, 2009 for them to be considered in the final rule.

**ADDRESSES:** You may submit comments, identified by RIN 0524–AA43, by any of the following methods:

**Federal eRulemaking Portal:** <http://www.regulations.gov>. Follow the instructions for submitting comments.

**E-mail:** [vmrlrp@csrees.usda.gov](mailto:vmrlrp@csrees.usda.gov). Include Regulatory Information Number (RIN) number 0524–AA43 in the subject line of the message.

**Fax:** 202–401–7752.

**Mail:** Paper, disk or CD–ROM submissions should be submitted to Cooperative State Research, Education, and Extension Service; U.S. Department of Agriculture, STOP 2299, 1400 Independence Avenue, SW., Washington, DC 20250–2299.

**Hand Delivery/Courier:** Cooperative State Research, Education, and Extension Service, U.S. Department of Agriculture, Room 2258, Waterfront Centre, 800 9th Street, SW., Washington, DC 20240.

**Instructions:** All submissions received must include the agency name and the RIN for this rulemaking. All comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided.

**FOR FURTHER INFORMATION CONTACT:** Gary Sherman, National Program Leader, Veterinary Science, Cooperative State Research, Education, and Extension Service, U.S. Department of Agriculture, STOP 2220, 1400 Independence Avenue, SW., Washington, DC 20250–2220; Voice: 202–401–4952; Fax: 202–401–6156; e-mail: [gsherman@csrees.usda.gov](mailto:gsherman@csrees.usda.gov).

#### SUPPLEMENTARY INFORMATION:

##### Background and Purpose

In January 2003, the National Veterinary Medical Service Act (NVMSA) was passed into law, adding section 1415A to the National Agricultural Research, Extension, and Teaching Policy Act of 1997 (NARETPA). This law established a new Veterinary Medicine Loan Repayment Program (7 U.S.C. 3151a) authorizing the Secretary of Agriculture to carry out a program of entering into agreements with veterinarians under which they agree to provide veterinary services in veterinarian shortage situations. In November 2005, the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2006 (Pub. L. 109–97) appropriated \$495,000 for CSREES to implement the Veterinary Medicine Loan Repayment Program and represented the first time funds had been appropriated for this program. In February 2007, the Revised Continuing Appropriations Resolution, 2007 (Pub. L. 110–5) appropriated an additional \$495,000 to CSREES for support of the program, and in December 2007, the

Consolidated Appropriations Act, 2008 appropriated an additional \$868,875 to CSREES for support of this program. On March 11, 2009, the Omnibus Appropriations Act, 2009 (Pub. L. 111–8) was enacted, providing an additional \$2,950,000 for the VMLRP.

Consequently, there is a cumulative total of approximately \$4.8 million available for CSREES to administer this program. Funding for future years will be based on annual appropriations and balances from prior years, and will likely vary from year to year.

Section 7105 of the Food, Conservation, and Energy Act of 2008, Public Law 110–246 (FCEA) amended section 1415A to revise the determination of veterinarian shortage situations to consider (1) geographical areas that the Secretary determines have a shortage of veterinarians; and (2) areas of veterinary practice that the Secretary determines have a shortage of veterinarians, such as food animal medicine, public health, epidemiology, and food safety. This section also added that priority should be given to agreements with veterinarians for the practice of food animal medicine in veterinarian shortage situations.

NARETPA section 1415A requires the Secretary, when determining the amount of repayment for a year of service by a veterinarian, to consider the ability of USDA to maximize the number of agreements from the amounts appropriated and to provide an incentive to serve in veterinary service shortage areas with the greatest need. This section also provides that loan repayments may consist of payments of the principal and interest on government and commercial loans received by the individual for the attendance of the individual at an accredited college of veterinary medicine resulting in a degree of Doctor of Veterinary Medicine or the equivalent. Please note that this program is not authorized to provide repayments for any government or commercial loans incurred during the pursuit of another degree, such as an associate or bachelor degree and, consequently, any consolidated loans (e.g., combined loans for bachelor and Doctor of Veterinary Medicine degrees). Loans eligible for repayment include educational loans made for one or more of the following: Loans for tuition expenses; other reasonable educational expenses, including fees, books, and laboratory expenses, incurred by the individual; and reasonable living expenses as determined by the Secretary. In addition, the Secretary is directed to make such additional payments to participants as the

Secretary determines appropriate for the purpose of providing reimbursements to participants for individual tax liability resulting from participation in this program. Finally, this section requires USDA to promulgate regulations within 270 days of the enactment of FCEA (*i.e.*, June 18, 2008). The Secretary delegated the authority to carry out this program to CSREES.

#### Solicitation of Stakeholder Input

On August 29, 2008, CSREES published a **Federal Register** notice [73 FR 50928–50929] announcing a public meeting to be held on Monday, September 15, 2008, at the Waterfront Centre in Washington, DC, to solicit stakeholder input as well as the instructions on how to submit written comments by Tuesday, September 30, 2008, on the implementation of VMLRP.

CSREES received oral and written comments from the following veterinary professional associations and organizations: American Veterinary Medical Association (AVMA), Association of American Veterinary Medical Colleges (AAVMC), American College of Veterinary Microbiologists (ACVM), American Association of Veterinary Laboratory Diagnosticians (AAVLD), American College of Veterinary Pathologists (ACVP), National Cattlemen's Beef Association (NCBA), Texas Cattle Feeders Association (TCFA), and Ohio's Cattlemen Association (OCA) as well as a comprehensive joint statement from AVMA and the AAVMC. In addition, CSREES received 27 comments from individuals, most of whom were students at veterinary colleges. CSREES considered all comments received in the development of this interim rule.

As the trade association of America's cattle farmers and ranchers, the NCBA commented that the implementation of VMLRP would “ease the shortage of veterinarians in rural areas, encourage more veterinarians to go into food animal practice, retain food animal veterinarians in rural practices, and help better protect our nation's livestock herds.” The NCBA further commented that livestock producers rely on their local veterinarian for guidance to ensure herd management, disease control, and food product safety; and that the increased complexity of pharmaceutical and biological product use requires additional veterinarian supervision for producers. The NCBA believes that practicing food animal veterinarians is the veterinarian shortage situation with the greatest need. In addition, NCBA feels strongly that the program must be simple and uncomplicated and that administrative costs must be minimized

to maximize the number of agreements executed. The TCFA submitted a comment stating that they agree with and support the NCBA comments.

The OCA urged USDA not to stray from the original intent of the legislation to increase the number of practicing food animal veterinarians in rural areas. OCA also stated that Ohio has a very significant shortage of food animal veterinarians and that this program would provide an incentive for veterinarians to practice in underserved rural areas. OCA encouraged flexibility in determining the veterinarian shortage situation as sometimes the lack of food animal veterinarians actually contributes to a reduced number of livestock in the area. Finally, OCA commented on the important role that food animal veterinarians play in the production of a safe and wholesome food supply.

The ACVM, the AAVLD, and the ACVP commented that there are acute shortages of trained veterinarians in disciplines such as pathology, microbiology, toxicology, and parasitology and that often these specialized disciplines require an additional three years of study which contributes to the student debt load, thus presenting a potential barrier to students wishing to pursue further study in these disciplines. These disciplines contribute to the animal, human, and environmental health and the economic well-being of society by engaging in some of the following objectives and activities: Diagnosing disease in food-producing and companion animals (*i.e.*, pets); ensuring safety in food, pharmaceuticals and biological products; and maintaining vigilance against outbreaks of new and emerging diseases. The AAVLD commented that it has recognized for a number of years a severe shortage of veterinarians to staff its diagnostic laboratories. AAVLD laboratories work with USDA in surveillance for, response to, and recovery from foreign animal diseases, and recognition of emerging diseases, primarily through the National Animal Health Laboratory Network (NAHLN). According to AAVLD, many of its laboratories work closely with the Center for Disease Control (CDC) in the Laboratory Response Network (LRN), or with the Food and Drug Administration (FDA) in the Food Emergency Response Network (FERN). All three organizations commented that they wished the VMLRP would be made available to veterinarians willing to pursue residencies or advanced degrees in the above-mentioned disciplines.

In their joint comprehensive set of comments, the AVMA and the AAVMC

stated that it is essential for the nation to address the well documented critical workforce shortages in veterinarians pursuing careers in food animal science, food safety, and public health. They continued their veterinary shortage discussion by commenting that the VMLRP will help address the growing disparities in the numbers and types of veterinarians practicing in rural and other underserved locations across the country as well as in areas of veterinary practice with a shortage of veterinarians. According to the statistics provided by the AVMA and the AAVMC, only about 10 percent of the veterinarians practicing in the United States today work in the food animal practice versus 100 percent at the beginning of the last century. In addition, there will continue to be a shortage of veterinarians in food safety and public health. They also cited the significant number of new veterinarians electing to enter companion animal medicine for several reasons, one of which is that the salary level is often higher than in food animal medicine. AVMA and AAVMC also stated that "one of the most daunting obstacles standing in the way of students pursuing a career in food animal medicine is educational debt." They noted that the average student debt for a veterinary school graduate exceeded \$106,000 in 2007 and to repay that sum over a 10-year period would average about \$1,200 a month. The AVMA and AAVMC concluded their discussion of the need for the VMLRP by stating that the highest paying jobs in each of the practice categories are typically determined by geography and that jobs in rural areas, where most of the food animal practitioners are in the highest demand, often pay less due to demographics and other economic conditions.

The AVMA and the AAVMC recommended that the loan repayment agreements be for four years with the average annual loan repayment (exclusive of payments for tax liability) ranging from \$25,000 to \$40,000 per year over the agreement period. They recommended that 90 percent of the agreements be targeted to veterinarians practicing food animal medicine in any underserved area and to food animal medicine veterinarians practicing in rural areas (*i.e.*, with a mixed practice in which at least 30 percent of the practice is devoted to food animals). They further recommended that 10 percent be used to attract and retain veterinarians to critical veterinarian shortage situations in food safety and public health.

The AVMA and the AAVMC recommended that the Secretary, under

the guidance of the Federal and state veterinarians, designate the veterinary shortage situations. They felt that these shortage situations are best determined at the state level. With regard to designation of a veterinary shortage situation, the AVMA and the AAVMC recommended that the nominations for these situations address risk, activity, and objective. They recommended CSREES assemble an official review panel of qualified individuals to review the nominations for designation of various shortage situations submitted by the states. In 2007, the AVMA compiled the Food Supply Veterinary Medicine Data Maps which can be found at <http://www.avma.org/fsvm/maps/default.asp>. As part of their joint comments, AVMA suggested that the data compiled in these maps may be useful in designating veterinarian shortage areas, particularly those related to food animal practices, and they stated that they were committed to keeping this information up-to-date. AVMA and AAVMC also made specific comments on the solicitation, selection criteria, and the administration of these loan repayment agreements, particularly the terms and conditions of these awards. For example, they recommended that eligibility not be limited to recent graduates and that CSREES explore the possibility of entering into an agreement with a service provider to administer the program.

Twenty-three of the 27 comments received were from veterinary medical students who discussed at great length their significant future debt loads after graduation, averaging from \$100,000 to more than \$300,000 in some cases when combined with the debt incurred during their undergraduate education. Most student respondents would be willing to locate to an underserved rural area or other critical veterinarian shortage situation (*e.g.*, food safety or public health) to practice food animal medicine. They also would be willing on average to agree to serve in that area from three to six years if a significant amount of their student loan debt was repaid through this program, at the rate of \$20,000 per year. Many felt that the combined financial commitment by USDA and a time commitment by the veterinarian to practicing in the veterinarian shortage situation would result in the practicing veterinarian making a long-term commitment to the community. Most student respondents either had a desire or a potential interest in practicing food animal medicine full-time or in a mixed animal practice. Most indicated that they would probably continue serving in the community after

the expiration of their service agreement. Most indicated that the looming debt and the monthly payments as well as their start-up costs (personal and professional) were driving them to consider other practices and other geographic areas to attain a certain level of income sufficient to make their monthly student loan payments.

One student recommended that the loan repayments be tax free. However, the authorizing act, National Veterinary Medicine Service Act, while not making these payments non-taxable, does include a provision for USDA to pay the tax liability incurred by VMLRP participants as a result of receiving these loan repayments. There was also a suggestion to allow participants to transfer from one shortage situation to another within the period of the service agreement.

In response to stakeholder input, CSREES will be awarding VMLRP loan repayment agreements in amounts ranging up to \$25,000 for the first three or four years (with a minimum of three years). In addition, CSREES will be paying an amount up to 39 percent of the total amount of loan repayments made in a calendar year to reimburse program participants for the tax liability incurred as a result of their participation in VMLRP. Consequently, for each VMLRP participant, the loan repayment amounts plus the tax liability payments would be reported as income on the form 1099-G, Certain Government Payments, each calendar year.

In addition, CSREES is considering a small pilot program to implement the service in an emergency component of the VMLRP for a limited number of agreements. Potential agreements will be identified during the designation of the veterinarian shortage situations. The emergency situations referred to in this Part are emergencies related to pandemics, zoonotic outbreaks, or other food supply emergencies, as determined by the Secretary, and do not include emergencies related to armed conflict. Successful applicants for these annual agreements may receive an additional loan repayment amount of up to \$5,000 per year, plus an amount up to 39 percent of the amount of annual loan repayment made under the program, and will be required to serve no more than 60 days per year. Emergency responders will receive a salary for the period of emergency service, as determined by the Secretary, and will be reimbursed for travel and per diem expenses as appropriate for the duration of service. These agreements will be in addition to the primary VMLRP agreement. CSREES will identify which veterinarian shortage situations are

eligible for this type of agreement in the Request for Applications (RFA) for the VMLRP loan repayment applications from individual veterinarians.

Based on the stakeholder input received, the available funding for the program at this time, experiences of other Federal loan repayment programs, such as the NIH Division of Loan Repayment extramural programs, and the goals of the VMLRP program, CSREES believes that \$25,000, per year in loan repayments for a minimum of three or four years, plus an amount sufficient to cover the additional tax liability, is an adequate incentive for VMLRP participants to relocate to veterinarian shortage situations critical to the security of our Nation's food supply and the health and safety of people, food animals, and the environment. CSREES anticipates that about 40 VMLRP agreements will be executed the first year. This approach will allow individual participants to reduce their qualifying educational debt within a 3- or 4-year time period and meet their additional tax liability while serving in shortage areas with the greatest need.

As recommended by AVMA and AAVMC, CSREES is negotiating with the National Institutes of Health (NIH) Division of Loan Repayment (DLR) to provide certain administrative services and support. These services may include the receipt of individual applications, initial administrative review of applications, verification and certification of selected applicants as being eligible to participate, payments to actual loan providers, tax liability payments, and monitoring and reporting functions. CSREES has entered into an interagency agreement with the NIH DLR to determine the feasibility of NIH DLR performing some of these functions for CSREES. The NIH DLR currently manages a portfolio of eight NIH loan repayment programs, five of which are extramural programs, with an annual budget of approximately \$75 million. For the NIH extramural programs, the NIH DLR received over 3,000 applications and made over 1,600 awards in fiscal year (FY) 2007. The NIH DLR maintains a state-of-the-art system that manages the entire process from application through close-out. CSREES feels that it is in the best interest of potential applicants and VMLRP participants, as well as the Federal government, for CSREES to work with the NIH DLR on this initiative. Please note that CSREES will still be responsible for the determination of the veterinarian shortage situations, peer review of the individual VMLRP applications, and

overall oversight and coordination of the VMLRP. The CSREES Web site for the VMLRP is available at [http://www.csrees.usda.gov/nea/education/in\\_focus/vmlrp/html](http://www.csrees.usda.gov/nea/education/in_focus/vmlrp/html) and will be updated, as appropriate. Please note that any VMLRP applicant and participant interfaces will be conducted via the CSREES Web site. Additional information about the NIH DLR is available at <http://www.lrp.nih.gov>.

#### **Consideration of Stakeholder Input and the Interim Process and Procedures for the Designation of Veterinarian Shortage Situations**

CSREES was very appreciative of the stakeholder input that was received during the recent comment period. Based on these comments and other research and analysis conducted, CSREES has determined to issue two subparts for this Part: Subpart A, Designation of Veterinarian Shortage Situations, and Subpart B, Administration of the VMLRP. As recommended by the AVMA and the AAVMC, CSREES will solicit, via a notice (published in the **Federal Register** and on the CSREES Web site), the veterinarian shortage situations from the State animal health official in each state. Nominators will be requested to submit to a designated e-mail box a Form—CSREES XXXX, VMLRP Veterinarian Shortage Situation Nomination, which will be available on the CSREES Web site at [http://www.csrees.usda.gov/nea/education/in\\_focus/vmlrp.html](http://www.csrees.usda.gov/nea/education/in_focus/vmlrp.html).

Respondents will be required to identify the geographic location of the veterinarian shortage situation, as well as the area of practice. The area of practice includes private food animal science medicine (at least 80 percent of the practice), private mixed animal medicine (at least 30 percent of the practice dedicated to food animal medicine), food safety (identify employer and position), epidemiology (identify employer and position), public health (identify employer and position), and other (identify practice, employer, and position). The practice of private mixed animal medicine will only be considered for a veterinarian shortage situation in a rural area as defined in 7 CFR 3431.3. For the purposes of the VMLRP, CSREES is adopting the definition of rural area found in section 343(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1991(a)(13)(A)). Respondents will then be requested to address four additional questions about the objectives, activities, and risk associated with the situation/position not being secured or retained as well as past efforts to recruit

for and/or retain this position. Finally, respondents will be asked to identify if, how, and why this position may be considered for a secondary loan repayment agreement for service in an emergency.

CSREES intends to solicit these nominations for a 60-day period. Shortly thereafter, CSREES will convene a panel of food supply veterinary medicine experts from Federal and state agencies, as well as institutions receiving Animal Health and Disease Research Program funds under section 1433 of NARETPA, who will review the nominations and make recommendations to the CSREES Program Manager. CSREES explored the possibility of including experts from professional organizations for this process, but under the National Agricultural Research, Extension, and Teaching Policy Act (NARETPA) section 1409A(e), panelists for the purposes of this process are limited to Federal and State agencies and cooperating state institutions (*i.e.*, NARETPA section 1433 recipients).

The VMLRP Program Manager will then review the recommendations and designate the VMLRP shortage situations. The list of shortage situations will be published in the **Federal Register** and will be made available on the CSREES Web site at [http://csrees.usda.gov/nea/education/in\\_focus/vmlrp.html](http://csrees.usda.gov/nea/education/in_focus/vmlrp.html).

Upon designation of the veterinarian shortage situations, CSREES will publish in the **Federal Register** and on the Agency's Web site a Request for Applications (RFA) for the VMLRP with applications due within 90 days. This is the same length of time that the NIH provides applicants under its loan repayment programs. Applicants would then submit an application through the CSREES VMLRP Web site. A loan repayment service provider will work with the CSREES Office of Extramural Programs (OEP), the office responsible for administration and payment of all CSREES Federal assistance awards, throughout the application and administration of the VMLRP. Ineligible applicants will be notified. Applications from eligible applicants will be forwarded to CSREES. CSREES will submit the applications to a peer review panel comprised of food supply veterinary medicine experts from the Federal and state agencies, colleges and universities, professional organizations, and other interested stakeholders. This peer review panel will review and evaluate applications from individual veterinarians and make recommendations to the VMLRP Program Manager. After the VMLRP

Program Manager prepares the final list of potential awardees for each shortage situation, a second level review is conducted to ensure fairness and integrity of the process. This final list of potential awardees is forwarded to OEP for a final administrative review and execution of the VMLRP loan repayment agreements. As noted previously, Subpart B of this Part will provide the policies and procedures from the RFA through the closeout of the agreement, such as tax liability payments, reporting, payment schedule, and terms and conditions for the agreements.

For the purposes of this regulation, CSREES is adopting the definition of "food supply veterinary medicine" from the Food Supply Veterinary Medicine (FSVM) Coalition Report entitled "Estimating FSVM Demand and Maintaining the Availability of Veterinarians for Careers in Food Supply Related Disciplines in the United States and Canada," and the "practice of veterinary medicine" from the Model Veterinary Practice Act (Approved by the AVMA Executive Board, November 2003, revised April 2007, November 2007). CSREES developed a definition of "practice of food supply veterinary medicine" to include the practices contributing to the production of a safe and wholesome food supply and to animal, human, and environmental health. This definition incorporates the legislative intent of VMLRP and the adopted definition of "food supply veterinary medicine." CSREES also adopted a definition of "food animal" for the purposes of this regulation so that it was clear to the public what is a "food animal," while providing flexibility to the Secretary to consider other "food animals," if appropriate.

USDA appreciates the efforts of the AVMA in compiling the Food Supply Veterinary Medicine Data Maps which can be found at <http://www.avma.org/fsvm/maps/default.asp> and will be encouraging States to use the data contained in these maps to justify their veterinarian shortage situation.

#### **Consideration of Stakeholder Input and Administration of the VMLRP**

CSREES considered and included many of the recommendations of the AVMA and the AAVMC in the development of the administrative provisions for the VMLRP. USDA is initially capping annual loan repayment of principal and interest of qualifying loans to \$25,000 and the payments for the additional tax liability incurred to no more than 39 percent of the annual loan repayments. This will allow CSREES to maximize the number of

service agreements in accordance with the authorizing program legislation, while providing sufficient debt relief to attract potential VMLRP participants committed to serve in veterinarian shortage situations. However, these interim regulations allow the Secretary of Agriculture to adjust the cap under § 3431.13(b), if appropriate. Any changes in the caps will be addressed in the RFA.

Please note that the solicitation for veterinarian shortage situations and the VMLRP RFA will provide more specific details on the administration of the program. In addition, CSREES will establish a dedicated set of Web pages to the VMLRP similar to the Web pages established for the NIH loan repayment programs.

#### **Timeline for Implementing the Program**

This regulation is being published as "final interim" to allow CSREES to implement the program immediately. CSREES felt confident that this was the best approach for all given the delays in program implementation; the statutory requirement to promulgate regulations within 270 days of the enactment of the FCEA; the consideration and adoption of the stakeholder input received during the public meeting and comment period; the adoption, to the extent practical, of the NIH DLR best business practices for loan repayment programs; and the potential partnering of CSREES with the NIH DLR on this effort. However, CSREES is soliciting comments to consider and incorporate in the final rule.

CSREES anticipates soliciting for the veterinarian shortage situations via a **Federal Register** notice in September 2009 (open for 60 days) after the conclusion of the comment period for the associated information collection and approval by OMB of this information collection. At the same time, CSREES will continue to work with the NIH DLR on adapting the NIH DLR application forms for use by VMLRP as well as developing the other associated business processes (e.g., reporting, payments). CSREES anticipates soliciting for VMLRP participants in late fall 2009 or early winter 2010 (open for 90 days).

Although this interim regulation addresses most of the policies associated with this program, CSREES plans to create informational Web pages (providing detailed information and procedures) for the program similar to the pages created for the NIH DLR programs.

#### **Administrative Requirements for the Interim Rulemaking**

##### *Executive Order 12866*

The Office of Management and Budget has reviewed this interim rule because while it is not economically significant, it partially implements the Veterinary Medicine Loan Repayment Program (VMLRP). This interim rule will not materially alter the budgetary impact of entitlements, grants, user fees, or loan programs; nor will it have an annual effect on the economy of \$100 million or more; nor will it adversely affect the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities in a material way. Furthermore, it does not raise a novel legal or policy issue arising out of legal mandates, the President's priorities or principles set forth in the Executive Order.

##### *Regulatory Flexibility Act of 1980*

This interim rule has been reviewed in accordance with the Regulatory Flexibility Act of 1980, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 601–612. The Department concluded that the rule does not involve regulatory and informational requirements regarding businesses, organizations, and governmental jurisdictions subject to regulation.

##### *Paperwork Reduction Act*

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501, *et seq.*) and Office of Management and Budget (OMB) implementing regulations (5 CFR part 1320), this notice announces the Cooperative State Research, Education, and Extension Service's (CSREES) intention to request approval to establish an information collection for the purposes of submitting a nomination for the designation of a veterinarian shortage situation in response to a solicitation requesting nominations from the animal health official in each state.

Written comments on this notice must be received by September 8, 2009 to be assured of consideration. Comments received after that date will be considered to the extent practicable.

You may submit comments, identified by Docket ID# CSREES–2009–0004, by any of the following methods: Federal eRulemaking Portal: <http://regulations.gov>. Follow the instructions for submitting comments. E-mail: [jhitchcock@csrees.usda.gov](mailto:jhitchcock@csrees.usda.gov); Mail: Jason Hitchcock, Information Systems and Technology Management, USDA/

CSREES, STOP 2216, 1400 Independence Avenue, SW., Washington, DC 20250-2216; Hand Delivery/Courier: Jason Hitchcock, Information Systems and Technology Management, USDA/CSREES, 800 9th Street, SW., Room 4217, Waterfront Centre, Washington, DC 20024; Fax: 202-720-0857.

**FOR FURTHER INFORMATION CONTACT:**

Jason Hitchcock, (202) 720-4343. Information is also available at [http://www.csrees.usda.gov/nea/education/in\\_focus/vmlrp.html](http://www.csrees.usda.gov/nea/education/in_focus/vmlrp.html).

*Title:* VMLRP Veterinarian Shortage Situation Nomination.

*OMB Number:* 0524-00XX.

*Type of Request:* Intent to request approval to establish an information collection.

*Abstract:* CSREES is establishing the process and procedures for designating veterinarian shortage situations for the Veterinary Medicine Loan Repayment Program (VMLRP) as authorized under section 1415A of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (NARETPA). This information collection applies to Subpart A of 7 CFR part 3431.

*Need and Use of the Information:* CSREES will be requesting the animal health official in each state to submit the VMLRP Veterinarian Shortage Situation Nomination Form, for each situation or position for which there is a critical shortage of practicing veterinarians. CSREES plans to publish a solicitation for these veterinarian shortage situations, requesting that State animal health officials provide nominations by submitting this form. This form will be available at the CSREES Web site as a PDF-fillable document (to be e-mailed, faxed, or mailed), and includes questions requiring check boxes or text with a word limitation to minimize the burden. These nomination forms will be reviewed and evaluated by a panel according to the criteria identified in the published solicitation. From these evaluations, the VMLRP Program Director may designate the most highly recommended shortage situations according to criteria identified in the solicitation. These situations will later be identified in the Request for Applications (RFA) for VMLRP loan repayment applications (from individual veterinarians).

*Estimate of Burden:* It is estimated that it will take approximately two hours to complete this PDF-fillable form with checkboxes and text-limiting fields to minimize the overall burden.

*Respondents:* Animal Health Official in each State.

*Estimated Number of Respondents:* 57 respondents.

*Estimated Number of Responses:* 114 responses (average of 2 per State).

*Estimated Total Annual Burden on Respondents:* 228 hours.

*Comments:* Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

*Obtaining a Copy of the Information Collection:* A copy of the information collection and related instructions may be obtained free of charge by contacting Jason Hitchcock by telephone, (202) 720-4343, or by e-mail, [jhitchcock@csrees.usda.gov](mailto:jhitchcock@csrees.usda.gov). Information also is available at [http://www.csrees.usda.gov/nea/education/in\\_focus/vmlrp.html](http://www.csrees.usda.gov/nea/education/in_focus/vmlrp.html). When the VMLRP application forms and participant reporting requirements (i.e., the information collection requirements under Subpart B) are finalized, CSREES intends to publish another **Federal Register** notice announcing its intent to seek OMB approval for the information collection requirements under Subpart B.

*Catalog of Federal Domestic Assistance* This interim regulation applies to the following Federal assistance program administered by CSREES, Catalog of Federal Domestic Assistance (CFDA) No. 10.313, Veterinary Medicine Loan Repayment Program (VMLRP).

*Unfunded Mandates Reform Act of 1995 and Executive Order 13132*

The Department has reviewed this interim rule in accordance with the requirements of Executive Order No. 13132, 64 FR 43225 (August 10, 1999) and the Unfunded Mandates Act of 1995, 2 U.S.C. 1501 *et seq.*, and has found no potential or substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. As there is no Federal mandate contained herein

that could result in increased expenditures by State, local tribal governments or by the private sector, the department has not prepared a budgetary impact statement.

*Executive Order 13175: Consultation and Coordination With Indian Tribal Governments*

The Department has reviewed this interim rule in accordance with Executive Order 13175, 65 FR 67249 (Nov. 9, 2000), and has determined that it does not have "tribal implications." The interim rule does not "have substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and Indian Tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes."

*Clarity of This Regulation*

Executive Order 12866, 58 FR 51735 (September 30, 1993), and the President's memorandum of June 1, 1998, require each agency to write all rules in plain language. The Department invites comments on how to make this interim rule easier to understand.

**List of Subjects in Part 3431**

Administrative practice and procedure; Agricultural research, education, extension; Veterinarians; Federal assistance.

■ For the reasons discussed in the preamble, the Cooperative State Research, Education, and Extension Service amends Chapter XXXIV of Title 7 of the Code of Federal Regulations to add Part 3431 to read as follows.

**PART 3431—VETERINARY MEDICINE LOAN REPAYMENT PROGRAM**

**Subpart A—Designation of Veterinarian Shortage Situations**

Sec.

- 3431.1 Applicability of regulations.
- 3431.2 Purpose.
- 3431.3 Definitions and acronyms.
- 3431.4 Solicitation of stakeholder input.
- 3431.5 Solicitation of veterinarian shortage situations.
- 3431.6 Review of nominations.
- 3431.7 Notification and use of designated veterinarian shortage situations.

**Subpart B—Administration of the Veterinary Medicine Loan Repayment Program**

- 3431.8 Purpose and scope.
- 3431.9 Eligibility to apply.
- 3431.10 Eligibility to participate.
- 3431.11 Application.
- 3431.12 Selection of applicants.
- 3431.13 Terms of loan repayment and length of service requirements.
- 3431.14 Priority.
- 3431.15 Qualifying loans.
- 3431.16 Certifications and verifications.
- 3431.17 VMLRP service agreement offer.

- 3431.18 Service agreement.
- 3431.19 Payment and tax liability.
- 3432.20 Administration.
- 3432.21 Breach.
- 3432.22 Waiver.
- 3432.23 Service to Federal government in emergency situations.
- 3431.24 Reporting requirements, monitoring, and close-out.

**Authority:** 7 U.S.C. 3151a; Public Law 106–107 (31 U.S.C. 6101 note).

#### **§ 3431.1 Applicability of regulations.**

This part establishes the process and procedures for designating veterinarian shortage situations as well as the administrative provisions for the Veterinary Medicine Loan Repayment Program (VMLRP) authorized by the National Veterinary Medical Service Act (NVMSA), 7 U.S.C. 3151a.

#### **§ 3431.2 Purpose.**

The Secretary will follow the processes and procedures established in Subpart A to designate veterinarian shortage situations for the VMLRP. Applications for the VMLRP will be accepted from eligible veterinarians who agree to serve in one of the designated shortage situations in exchange for the repayment of an amount of the principal and interest of the veterinarian's qualifying educational loans. The administrative provisions for the VMLRP, including the application process, are established in Subpart B.

#### **§ 3431.3 Definitions and acronyms.**

##### *(a) General definitions.*

*Act* means the National Veterinary Medical Service Act, as amended.

*Agency* or CSREES means the Cooperative State Research, Education, and Extension Service.

*Department* means the United States Department of Agriculture.

*Food animal* means the following species: bovine, porcine, ovine/camelid, cervid, poultry, and any other species as determined by the Secretary.

*Food supply veterinary medicine* means all aspects of veterinary medicine's involvement in food supply systems, from traditional agricultural production to consumption.

*Insular area* means the Commonwealth of Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Federated States of Micronesia, the Republic of the Marshall Islands, the Republic of Palau, and the Virgin Islands of the United States.

*NVMSA* means the National Veterinary Medicine Service Act.

*Practice of food supply veterinary medicine* includes corporate/private practices devoted to food animal medicine, mixed animal medicine

located in a rural area (at least 30 percent of practice devoted to food animal medicine), food safety, epidemiology, public health, and other practices that contribute to the production of a safe and wholesome food supply.

*Practice of veterinary medicine* means:

(1) To diagnose, treat, correct, change, alleviate, or prevent animal disease, illness, pain, deformity, defect, injury, or other physical, dental, or mental conditions by any method or mode; including:

(i) The prescription, dispensing, administration, or application of any drug, medicine, biologic, apparatus, anesthetic, or other therapeutic or diagnostic substance or medical or surgical technique, or

(ii) The use of complementary, alternative, and integrative therapies, or

(iii) The use of any manual or mechanical procedure for reproductive management, or

(iv) The rendering of advice or recommendation by any means including telephonic and other electronic communications with regard to any of paragraphs (1)(i),(ii),(iii), or (iv) of this definition.

*Rural area* means any area other than a city or town that has a population of 50,000 inhabitants and the urbanized area contiguous and adjacent to such a city or town.

*Secretary* means the Secretary of Agriculture and any other officer or employee of the Department to whom the authority involved has been delegated.

*Service area* means geographic area in which the veterinarian will be providing veterinary medical services.

*State* means any one of the fifty states, the District of Columbia, and the insular areas of the United States, including the Commonwealth of Puerto Rico; Guam; American Samoa; the Commonwealth of the Northern Mariana Islands; the Federated States of Micronesia; the Republic of the Marshall Islands; the Republic of Palau; and the Virgin Islands of the United States.

*State animal health official* means the State veterinarian, or equivalent, who will be responsible for nominating and certifying veterinarian shortage situations within the State.

*Veterinarian* means a person who has received a professional veterinary medicine degree from an accredited college of veterinary medicine.

*Veterinary medicine* means all branches and specialties included within the practice of veterinary medicine.

*Veterinary Medicine Loan Repayment Program or VMLRP* means the Veterinary Medicine Loan Repayment Program authorized by the National Veterinary Medical Service Act.

*Veterinarian shortage situation* means any of the following situations in which the Secretary, in accordance with the process in Subpart A, determines has a shortage of veterinarians:

(1) Geographical areas that the Secretary determines have a shortage of food supply veterinarians; and

(2) Areas of veterinary practice that the Secretary determines have a shortage of food supply veterinarians, such as food animal medicine, public health, epidemiology, and food safety.

*(b) Definitions applicable to Subpart B.*

*Applicant* means an individual who applies to and meets the eligibility criteria for the VMLRP.

*Breach of agreement* results when a participant fails to complete the service agreement obligation required under the terms and conditions of the agreement and will be subject to assessment of monetary damages and penalties as determined in the service agreement, unless a waiver has been granted or an exception applies.

*Current payment status* means that a qualified educational loan is not past due in its payment schedule as determined by the lending institution.

*Debt threshold* means the minimum amount of qualified student debt an individual must have, on their program eligibility date, in order to be eligible for program benefits, as determined by the Secretary.

*Program eligibility date* means the date on which an individual's VMLRP agreement is executed by the Secretary.

*Program participant* means an individual whose application to the VMLRP has been approved and whose service agreement has been accepted and signed by the Secretary.

*Qualifying educational expenses* means the costs of attendance of the applicant at an accredited college of veterinary medicine, exclusive of the tuition and reasonable living expenses. Educational expenses may include fees, books, laboratory expenses and materials, as required by an accredited college or school of veterinary medicine as part of a Doctor of Veterinary Medicine degree program, or the equivalent. The program participant must submit sufficient documentation, as required by the Secretary, to substantiate the school requirement for the educational expenses incurred by the program participant.

*Qualifying educational loans* means loans that are issued by any U.S.



government (i.e., Federal, state, or local) entity, accredited U.S. academic institution(s), and/or commercial lender(s) that are subject to examination and supervision in their capacity as lending institutions by an agency of the United States or the state in which the lender has its principal place of business. Loans must have been made for one or more of the following: School tuition, other qualifying educational expenses, or reasonable living expenses relating to the obtainment of a degree of Doctor of Veterinary Medicine from an accredited college or school of veterinary medicine. Such loans must have documentation which is contemporaneous with the training received in a college or school of veterinary medicine. If qualifying educational loans are refinanced, the original documentation of the loan(s) will be required to be submitted to the Secretary to establish the contemporaneous nature of such loans.

*Reasonable living expenses* means the ordinary living costs incurred by the program participant while attending the college of veterinary medicine, exclusive of tuition and educational expenses. Reasonable living expenses must be incurred during the period of attendance and may include food and lodging expenses, insurance, commuting and transportation costs. Reasonable living expenses must be equal to or less than the sum of the school's estimated standard student budgets for living expenses for the degree veterinary medicine for the year(s) during which the program participant was enrolled in the school. However, if the school attended by the program participant did not have a standard student budget or if a program participant requests repayment for living expenses which are in excess of the standard student budgets described in the preceding sentence, the program participant must submit documentation, as required by the Secretary, to substantiate the reasonableness of living expenses incurred. To the extent that the Secretary determines, upon review of the program participant's documentation, that all or a portion of the living expenses are reasonable, these expenses will qualify for repayment.

*Service agreement* means the agreement, which is signed by an applicant and the Secretary for the VMLRP wherein the applicant agrees to accept repayment of qualifying educational loans and to serve in accordance with the provisions of NVMSA for a prescribed period of obligated service.

*Termination* means a waiver of the service obligation granted by the

Secretary when compliance by the participant is impossible, would involve extreme hardship, or where enforcement with respect to the individual would be unconscionable (see breach of agreement).

*Withdrawal* means a request by a participant for withdrawal from participation in the VMLRP after signing the service agreement, but prior to VMLRP making the first annual payment on behalf of the participant. A withdrawal is without penalty to the participant and without obligation to the Program.

#### **§ 3431.4 Solicitation of stakeholder input.**

The Secretary will solicit stakeholder input on the process and procedures used to designate veterinarian shortage situations prior to the publication of the solicitation for nomination of veterinarian shortage situations. A notice may be published in the **Federal Register**, on the Agency's Web site, or other appropriate format or forum. This request for stakeholder input may include the solicitation of input on the administration of VMLRP and its impact on meeting critical veterinarian shortage situations. All comments will be made available and accessible to the public.

#### **§ 3431.5 Solicitation of veterinarian shortage situations.**

(a) *General.* The Secretary will follow the procedures described in this part to solicit veterinarian shortage situations as the term is defined in § 3431.3.

(b) *Solicitation.* The Secretary will publish a solicitation for nomination of veterinarian shortage situations in the **Federal Register**, on the Agency's Web site, or other appropriate format or forum.

(c) *Frequency.* Contingent on the availability of funds, the Secretary will normally publish a solicitation on a biennial basis. However, the Secretary reserves the right to solicit veterinarian shortage situations every year or every three years, as appropriate.

(d) *Content.* The solicitation will describe the nomination process, the review criteria and process, and include the form used to submit a nomination. The solicitation may specify the maximum number of nominations that may be submitted by each State animal health official.

(e) *Nominations.* Nominations shall identify the veterinarian shortage situation and address the criteria in the nomination form which may include the objectives of the position, the activities of the position, and the risk posed if the position is not secured.

(f) *Nominating Official.* The State animal health official in each state may

nominate and certify veterinarian shortage situations within the State. It is anticipated that the State animal health official of each State will involve the leading health animal experts in the State in the nomination process.

#### **§ 3431.6 Review of nominations.**

(a) *Peer panel.* State nominations will be evaluated by a peer panel of experts in animal health convened by the Secretary. The panel will evaluate nominations according to the criteria identified in the solicitation. The panel will consider the objectives and activities of the veterinarian position in the veterinary service shortage situation and the risks associated with not securing or retaining the position and make a recommendation regarding each nomination.

(b) *Agency review.* The Secretary will evaluate the recommendations of the peer panel and designate shortage situations for the VMLRP.

#### **§ 3431.7 Notification and use of designated veterinarian shortage situations.**

The Secretary will publish the designated veterinarian shortage situations on the Agency's Web site and will use the designated veterinarian shortage situations to solicit VMLRP loan repayment applications from individual veterinarians in accordance with Subpart B.

### **Subpart B—Administration of the Veterinary Medicine Loan Repayment Program**

#### **§ 3432.8 Purpose and scope.**

(a) *Purpose.* The regulations of this subpart apply to the award of veterinary medicine loan repayments under the Veterinary Medicine Loan Repayment Program (VMLRP) authorized by the National Veterinary Medicine Service Act, 7 U.S.C. 3151a.

(b) *Scope.* Under the VMLRP, the Secretary enters into service agreements with licensed veterinarians to pay principal and interest on education loans of veterinarians who agree to work in veterinary shortage situations for a prescribed period of time. In addition, program participants may enter into an agreement to provide services to the Federal government in emergency situations in exchange for salary, travel, per diem expenses, and additional amounts of loan repayment assistance. The purpose of the program is to ensure an adequate supply of trained food animal veterinarians in shortage situations and provide USDA with a pool of veterinary specialists to assist in the control and eradication of animal disease outbreaks.



**§ 3431.9 Eligibility to apply.**

(a) *General.* To be eligible to apply to the VMLRP an applicant must:

(1) Have a degree of Doctor of Veterinary Medicine (DVM), or the equivalent, from an accredited college of veterinary medicine;

(2) Have qualifying educational loan debt as defined in § 3431.3 of this title;

(3) Secure an offer of employment or establish and/or maintain a practice in a veterinary shortage situation, as determined by the Secretary in accordance with the procedures in Subpart A, within the time period specified in the VMLRP service agreement offer; and

(4) Provide certifications and verifications in accordance with § 3431.16 of this Part.

(b) *Non-eligibility.* The following individuals are ineligible to apply to the VMLRP:

(1) An individual who owes an obligation for veterinary service to the Federal government, a State, or other entity under an agreement with such Federal, State, or other entity is ineligible for the VMLRP unless such obligation will be completely satisfied prior to the beginning of service under the VMLRP;

(2) An individual who has a Federal judgment lien against his/her property arising from Federal debt; and

(3) An individual who has consolidated qualifying loans with loans not qualifying for repayment under the VMLRP.

**§ 3431.10 Eligibility to participate.**

To be eligible to participate in the VMLRP, a participant must meet the following criteria:

(a) Meet the eligibility criteria of § 3431.9 for applying to the VMLRP;

(b) Be selected for participation by the Secretary pursuant to § 3431.12.

(c) Be a licensed veterinarian in the jurisdiction in which he or she proposes to practice;

(d) Be a citizen, national, or permanent resident of the United States;

(e) Sign a service agreement to provide veterinary services in one of the veterinarian shortage situations; and

(f) Comply with the terms and conditions of the Service Agreement.

**§ 3431.11 Application.**

Individuals who meet the eligibility criteria of § 3431.9 may submit an online program application or any other application process provided by the Secretary.

**§ 3431.12 Selection of applicants.**

(a) *Review of applications.* Upon receipt, applications for the VMLRP will

be reviewed for eligibility and completeness by the appropriate staff as determined by the Secretary. Incomplete or ineligible applications will not be processed or reviewed.

(b) *Peer review.* Applications for the VMLRP that are deemed eligible and complete will be referred to the VMLRP peer panel for peer review. In evaluating the application, reviewers are directed to consider the following components, as well as any other criteria identified in the RFA, and how they relate to the likelihood that the applicant will meet the terms and conditions of the VMLRP agreement, continue to serve in a veterinary shortage situation, or pursue a career in food animal veterinary medicine:

(1) Major or emphasis areas(s) during formal post-secondary training (e.g., bachelors degree major, minor);

(2) Major or emphasis area(s) during formal training for DVM/VMD degree;

(3) Specialty training area/discipline (e.g., board certification or graduate degree);

(4) Non-degree/non-board certification training or certifications (e.g., animal agrosecurity coursework and certifications);

(5) Applicant's personal statement;

(6) Awards;

(7) Letters or recommendation, if applicable; and

(8) Other documentation or criteria, as specified in the RFA.

**§ 3431.13 Terms of loan repayment and length of service requirements.**

(a) *Loan repayment.* For each year of obligated service in a veterinary shortage situation, as determined by the Secretary, with a minimum of 3 years (and maximum of 4 years) of obligated service, the Secretary may pay:

(1) An amount not exceeding \$25,000 per year of a program participant's qualifying loans; and

(2) An additional amount not exceeding \$5,000 per year of a program participant's qualifying loans, if the program participant has already been selected for participation in the VMLRP and agrees to enter into a one-year agreement for each year of service to provide up to 60 days of obligated service to the Federal government in animal health emergency situations, as determined by the Secretary, provided the shortage situation in which the participant has agreed to serve has been designated as suitable for the Federal obligated service.

(b) To maximize the number of agreements and to encourage qualified veterinarians to participate in the VMLRP, the Secretary may establish a loan repayment cap that differs from the

cap established under paragraph (a)(1) and (a)(2) of this section when it is in the best interest of VMLRP. This will be identified in the RFA.

(c) The Secretary will determine the debt threshold in the RFA.

(d) Loan repayments will be made directly to the loan provider on a quarterly basis, starting with the end of the first quarter after the program eligibility date of the service agreement.

(e) Once a service agreement has been signed by both parties, the Secretary will obligate such funds as will be necessary to ensure that sufficient funds will be available to make loan repayments and tax payments, as specified in the service agreement, for the duration of the period of obligated service. Reimbursements for tax liabilities in excess of the amount provided (not to exceed 39 percent of the amount of loan repayment) will be subject to the availability of funds. These additional tax payments, if available to the VMLRP participants, will be identified in the RFA and in the participant service agreement.

(f) Participants are required to keep payments current on all qualifying VMLRP loans.

(g) *Travel expenditures.* The VMLRP will not reimburse a program participant for expenses associated with traveling from the program participant's residence to the prospective practice site for the purpose of evaluating such site or the expenses of relocating from the program participant's temporary or permanent residence to a practice site.

**§ 3431.14 Priority.**

Pursuant to NVMSA, the Secretary will give priority to agreements with veterinarians for the practice of food animal medicine in veterinarian shortage situations, as determined by the Secretary. The Secretary may establish additional criteria in the RFA for assigning priority levels to veterinarian shortage situations nominated for award.

**§ 3431.15 Qualifying loans.**

(a) *General.* Loan repayments provided under the VMLRP may consist of payments on behalf of participating individuals of the principal and interest on qualifying educational loans received by the individual for attendance of the individual at an accredited college of veterinary medicine resulting in a degree of Doctor of Veterinary Medicine, or the equivalent, which loans were made for one or more of the following:

(1) Tuition expenses;

(2) All other reasonable educational expenses, as defined in this part and as determined by the Secretary; and

(3) Reasonable living expenses, as defined in this part and as determined by the Secretary.

(b) *Non-eligible loans.* The following loans are ineligible for repayment under the VMLRP:

(1) Loans not obtained from a bank, credit union, savings and loan association, not-for-profit organization, insurance company, school, and other financial or credit institution which is subject to examination and supervision in its capacity as lending institution by an agency of the United States or of the State in which the lender has its principal place of business;

(2) Loans for which supporting documentation is not available;

(3) Loans that have been consolidated with loans of other individuals, such as spouses or children;

(4) Loans that have been consolidated with loans obtained to attend an educational institution other than an accredited veterinary medical school;

(5) Loans or portions of loans obtained for educational or living expenses which exceed the standard of reasonableness as determined by the participant's standard school budget for the year in which the loan was made, and are not determined by the Secretary to be reasonable based on additional documentation provided by the individual;

(6) Loans, financial debts, or service obligations incurred under another loan repayment or scholarship program, or similar programs, which provide loans, scholarships, loan repayments, or other awards in exchange for a future service obligation;

(7) Non-educational loans, including home equity loans; and

(8) Any loan in default, delinquent, or not in a current payment status.

#### **§ 3431.16 Certifications and verifications.**

(a) The application for the loan repayment program shall include a personal statement describing how the applicant would meet the requirements of:

(i) The veterinary service shortage situations as defined in the RFA;

(ii) The eligibility criteria for application of section § 3431.9 of this part; and

(iii) The selection priority of section § 3431.14 of this part.

(b) The applicant shall provide sufficient documentation to establish that the applicant has qualifying loans as described in section § 3431.15 of this part.

(c) The applicant shall provide sufficient documentation to establish that the applicant has the capacity to secure an offer of employment or

establish and/or maintain a veterinary practice in a veterinary service shortage situation as defined in Subpart A.

(d) The applicant shall provide, if applicable, sufficient documentation to establish that the applicant is licensed to practice veterinary medicine in the jurisdiction in which the applicant has an offer of employment.

(e) The applicant shall provide, if applicable, the required documentation to establish whether the applicant receives payments under any other Federal, State, institutional, or private loan repayment programs.

(f) The applicant shall provide the required documentation to show that he/she has completed, or is in the process of completing, the National Veterinary Accreditation Program (NVAP).

(g) The applicant shall provide authorization to the appropriate staff as designated by the Secretary to obtain a copy of the participant's credit report.

#### **§ 3431.17 VMLRP service agreement offer.**

The Secretary will make an offer to successful applicants to enter into an agreement with the Secretary to provide veterinary services under the VMLRP. As part of the offer, successful VMLRP applicants will be provided a specific period of time, as defined in the RFA, to secure an offer of employment or establish and/or maintain a veterinary practice in a veterinary shortage situation.

#### **§ 3431.18 Service agreement.**

(a) The service agreement shall be signed by the program participant and the Secretary after acceptance of the terms and conditions of the loan repayment program by the program participant.

(b) The service agreement shall specify the period of obligated service.

(c) The service agreement shall specify the amount of loan repayment to be paid for each year of obligated service.

(d) The service agreement shall contain a provision defining when a breach of the agreement by the program participant has occurred.

(e) The service agreement shall provide remedies for the breach of a service agreement by a program participant, including repayment or partial repayment of financial assistance received, with interest.

(f) The service agreement shall include provisions addressing the granting of a waiver by the Secretary in case of hardship.

(g) Payments under the service agreement do not exempt a program participant from the responsibility and/

or liability for any loan(s) for which he or she is obligated, as the Secretary is not obligated to the lender/note holder for its commitment to the program participant.

(h) During the term of the service agreement, the program participant shall agree that the Secretary or the designated VMLRP service provider is authorized to verify the status of each loan for which the Secretary will be reimbursing the participant.

(i) The service agreement shall contain certifications, as determined by the Secretary.

(j) The service agreement shall contain provisions addressing the income tax liability of the program participant and the availability of reimbursement of taxes incurred as a result of an individual's participation in the VMLRP.

(k) *Renewal.* The service agreement will indicate whether the existing service agreement may be renewed. However, renewal applications are subject to peer review and approval, acceptance is not guaranteed, and the position must still be considered a veterinarian shortage situation at the time of application for renewal. The Secretary may request additional documentation in connection with the review and approval of a renewal application. The Secretary reserves the right not to offer renewals. Any requests for renewal applications will be solicited via the RFA.

(l) The service agreement shall contain participant reporting requirements (e.g., quarterly, annual, and/or close-out) to allow for program monitoring and evaluation.

#### **§ 3431.19 Payment and tax liability.**

(a) *Loan repayment.* Loan repayments pursuant to a service agreement are made directly to a participant's lender(s) by the Secretary or the VMLRP service provider. If there is more than one outstanding qualified educational loan, the Secretary will repay the loans in the following order, unless the Secretary determines significant savings to the program would result from paying loans in a different order of priority:

(1) Loans guaranteed by the U.S. Department of Education;

(2) Loans made or guaranteed by a State;

(3) Loans made by a School; and

(4) Loans made by other entities, including commercial loans.

(b) *Tax Liability Payments.* The Secretary may make payments of an amount not to exceed 39 percent of the actual annual loan repayments made in a calendar year for all or part of the increased Federal, State, and local tax

liability resulting from loan repayments received under the VMLRP.

Supplementary payments for increased tax liability may be made for the actual amount of tax liability associated with the receipt of loan repayments under the VMLRP. Availability of these additional tax liability payments (i.e., in excess of 39 percent) will be identified in the RFA and in the participant service agreement. Program participants wishing to receive tax liability payments will be required to submit their requests for such payments in a manner prescribed by the Secretary and must provide the Secretary with any documentation the Secretary determines is necessary to establish a program participant's increased tax liability. Tax liability payments in excess of 39 percent will be made on a reimbursement basis only.

(c) Under § 3431.19(a) and (b), the Secretary will make loan and tax liability payments to the extent appropriated funds are available for these purposes.

#### **§ 3431.20 Administration.**

The VMLRP will be administered by CSREES, Office of Extramural Programs (OEP). OEP may carry out this program directly or enter into agreements with another Federal agency or other service provider to assist in the administration of the VMLRP. However, the determination of the veterinarian shortage areas, peer review of individual VMLRP applications, and the overall VMLRP oversight and coordination will reside with the Secretary.

#### **§ 3432.21 Breach.**

(a) *General.* If a program participant fails to complete the period of obligated service incurred under the service agreement, including failing to comply with the applicable terms and conditions of a waiver granted by the Secretary, the program participant must pay to the United States an amount as determined in the service agreement. Payment of this amount shall be made within 90 days of the date that the program participant failed to complete the period of obligated service, as determined by the Secretary.

##### **(b) Exceptions.**

(1) A termination of service for reasons that are beyond the control of the program participant will not be considered a breach.

(2) A transfer of service from one shortage situation to another, if approved by the Secretary, will not be considered a breach.

(3) A call or order to active duty will not be considered a breach.

(c) The Secretary may renegotiate the terms of a participant's service agreement in the event of a transfer, termination or call to active duty pursuant to subsection (b).

(d) *Amount of repayment.* The service agreement shall provide the method for the calculation of the amount owned by a program participant who has breached a service agreement.

(e) *Debt collection.* Individuals in breach of a service agreement entered into under this part are considered to owe a debt to the United States for the amount of repayment. Any such debt will be collected pursuant to the Department's Debt Management regulations at 7 CFR part 3.

#### **§ 3432.22 Waiver.**

(a) A program participant may seek a waiver or suspension of the service or payment obligations incurred under this part by written request to the Secretary setting forth the bases, circumstances, and causes which support the requested action.

(b) The Secretary may waive any service or payment obligation incurred by a program participant whenever compliance by the program participant is impossible or would involve extreme hardship to the program participant and if enforcement of the service or payment obligation would be against equity and good conscience.

(1) Compliance by a program participant with a service or repayment obligation will be considered impossible if the Secretary determines, on the basis of information and documentation as may be required:

(i) That the program participant suffers from a physical or mental disability resulting in the permanent inability of the program participant to perform the service or other activities which would be necessary to comply with the obligation; or

(ii) That the employment of the program participant has been terminated involuntarily for reasons unrelated to job performance.

(2) In determining whether compliance by a program participant with the terms of a service or repayment obligation imposes an extreme hardship, the Secretary may, on the basis of information and documentation as may be required, take into consideration the nature of the participant's personal problems and the extent to which these affect the participant's ability to perform the obligation.

(c) All requests for waivers must be submitted to the Secretary in writing.

(d) A program participant who is granted a waiver in accordance with this

section will be notified by the Secretary in writing.

(e) Any obligation of a program participant for service or payment will be canceled upon the death of the program participant.

#### **§ 3431.23 Service to Federal Government in emergency situations.**

(a) The Secretary may enter into agreements of 1 year duration with veterinarians who have service agreements for such veterinarians to provide services to the Federal Government in emergency situations, as determined by the Secretary, under terms and conditions specified in the agreement.

(b) Pursuant to a service agreement under this section, the Secretary shall pay an amount, in addition to the amount paid, as determined by the Secretary and specified in the agreement, of the principal and interest of qualifying educational loans of the veterinarians. This amount will be provided in the RFA.

(c) Agreements entered into under this paragraph shall include the following:

(1) A veterinarian shall not be required to serve more than 60 working days per year of the agreement.

(2) A veterinarian who provides service pursuant to the agreement shall receive a salary commensurate with the duties and shall be reimbursed for travel and per diem expenses as appropriate for the duration of the service.

#### **§ 3431.24 Reporting requirements, monitoring, and close-out.**

VMLRP participants will be required to submit periodic reports per the terms and conditions of their service agreements. In addition, the Secretary is responsible for ensuring that a VMLRP participant is complying with the terms and conditions of their service agreement, including any additional reporting or close-out requirements.

Signed at Washington, DC, on June 26, 2009.

**Colien Hefferan,**

*Administrator, Cooperative State Research, Education, and Extension Service.*

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