SUPPORTING STATEMENT

Horse Protection Regulations
OMB Control Number 0579 - 0056

June 2016

A. Justification

1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.

9 CFR Part 11, Regulations, implement the Horse Protection Act (HPA) of 1970 (P.L. 91-540), as amended July 13, 1976 (P.L. 94-360), and are authorized under Section 9 of the Act. The Horse Protection Legislation was enacted to prevent showing, exhibiting, selling, or auctioning of "sore" horses, and certain transportation of sore horses in connection therewith at horse shows, horse exhibitions, horse sales, and horse auctions. A sore horse is a horse that has received pain provoking practices that cause the horse to have an accentuated, high stepping gait. The regulations delineate procedures relative to: (a) the certification and licensing of Designated Qualified Persons (DQPs) who may be appointed by the management of any horse show, exhibition, sale, or auction as a qualified person in accordance with Section 4 of the Act, (b) responsibilities and liabilities of management (Section 4 (d), and (c) prohibitions and requirement concerning persons involved in transportation of certain horses (Sec 3 (3) and (5)).

A Horse Industry Organization (HIO) wishing to certify a DQP program in order to inspect horses for compliance under the HPA must satisfy United States Department of Agriculture (USDA) requirements and abide by the Act and regulations. After petitioning and receiving USDA certification from the Animal and Plant Health Inspection Service (APHIS), HIOs must maintain an acceptable DQP program and recordkeeping systems as outlined in Sections 11.7, 11.20, 11.21, 11.22, 11.24, 11.40, and 11.41 of the regulations. The intent of "soring" is a process whereby chemical or mechanical agents, or combination thereof, have been applied to the limbs(s) of a horse in order to exaggerate its gait(s). This gait is referred to as the "big lick" within the walking horse industry. The HPA prohibits the showing, sale, exhibition, auction, or transport of sored horses. Sored horses cannot be entered in an event by any person, including trainers, riders, or owners. Exhibiters of a sored horse may obtain unfair advantage over people exhibiting horses that have not been sored. Management of shows, sales, exhibitions, or auctions must identify sored horses to prevent their participation under the Act. In order to eliminate their inspection responsibilities, management can affiliate within an HIO and have a DQP perform these inspections. APHIS works with HIOs on a continual basis in an effort to provide continual education and support.

Training session and ongoing conferences throughout the year provide communication and feedback in order to address issues and strengthen enforcement under the Act. Data collected throughout the year from within APHIS, the HIOs, and show management provide an account of the performance of the DQP system and progress towards eliminating the sore horse from competition. The DQP system provides the primary means of detecting sored horses.

APHIS is asking OMB to approve, for an additional 3 years, the use of these information collection activities.

2. **Indicate how, by whom, how frequently, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection.**

APHIS uses the following information collection activities to enforce the Horse Protection Act.

9 CFR 11.7 (b) - Request for Certification of DQP Program and detailed outline of such a program
DQPs can only be licensed through USDA certified programs known as HIOs that have received approval to select, train, and monitor these individuals in the performance of their duties. All HIOs should have this request on file with the Department in order to be certified.

9 CFR 11.7 (c) (2) - List of DQPs who have successfully completed the certified DQP program and have been licensed under the Act
This is received by the HIOs on a yearly basis or throughout the year if changes have been made to their DQPs. This information is used when APHIS performs visits to horse shows to review the performance of the DQPs.

9 CFR 11.7 (c) (3) - Notification to USDA of changes to licensed DQP list and any warnings or revocations issued to any DQP
This is received by the HIOs on a yearly basis or throughout the year if changes have been made to their DQPs. This information is used when APHIS performs visits to horse shows to review the performance of the DQPs.

9 CFR 11.7 (d) (1) - DQP records of disqualified or excused horses
This is received from HIOs or DQPs 30 days after each horse show that they have inspected. This helps APHIS in verifying the HIO applied the proper penalty for the HPA violation to the responsible parties. This also helps us verify if soring is continuing in a specific area or not.

9 CFR 11.7 (d) (3) - Certified DQP program report on attended events and identity of disqualified or excused horses
This is received from HIOs or DQPs 30 days after each horse show that they have inspected. This helps APHIS in verifying the HIO applied the proper penalty for the HPA violation to the responsible parties. This also helps us verify if soring is continuing in a specific area or not.

9 CFR 11.7 (d) (4) - Trainer and owner notification of horses allegedly found in violation of the HPA or regulations
Copies are sent to APHIS on a monthly basis to show what violations were found.

9 CFR 11.5 – Written identification, dosage, and purpose of drugs or other medications used, applied, or injected
The purpose of any non-emergency veterinary care of detained horses requiring the use, application, or injection of any drugs or other medications for therapeutic or other purposes is furnished to APHIS for certification.

9 CFR 11.7 (f) - Certified DQP program written warning to DQP of unsatisfactory performance
This is received by the HIOs on a yearly basis or throughout the year if changes have been made to their DQPs. This information is used when APHIS performs visits to horse shows to review the performance of the DQPs.

9 CFR 11.7 (f) - Request by DQP to USDA to appeal license cancellation
This is received by DQPs within 30 days of notice to conduct an appeal hearing for DQPs to retain their licenses.

9 CFR 11.20 (b) (1) - Written notification to USDA and certified DQP programs by management of unsatisfactory DQP performance
This is received by show management when DQP performance has failed. This is received within 30 days of event and reviewed by USDA and certified DQP program to determine further action or not.

9 CFR 11.22 - Records of events containing Tennessee Walking Horses or racking horses maintained by management
This is received by HIOs once they are affiliated with a horse show and will be sending DQPs to the horse show for inspection. This is to be received 30 days prior to the event.

9 CFR 11.24 - Management report to USDA of any horse show, exhibition, auction, or sale
This is received within 5 days by HIOs and/or DQPs that have conducted an inspection at a horse show, exhibition, auction, or sale. This report may include disqualified or excused horses and the circumstances involved in their assessed penalties. This is a "check and balance" accounting mechanism built into the regulations in order to accurately account for occurrences in the field.

9 CFR 11.41 - Certified DQP program annual report, rulebook, and quarterly reports on disciplinary actions
HIOs having certified DQP programs and that sponsor horse shows, sales, exhibitions, or auctions will furnish to USDA: rulebooks, disciplinary procedures, and quarterly reports. These are furnished by March 1 of each year with the exception of the quarterly reports. This data provides for program analysis and to cross-check industry with USDA reports. It also serves as a monitoring device whereby disciplinary actions taken against the management of any show, sale, auction, exhibition, exhibitor, or DQP can be monitored.

9 CFR 11.2 and 11.3 - Documentation by APHIS personnel concerning persons involved in alleged violations of the Horse Protection Act (APHIS Form 7077 or equivalent)
A partial list of violations of the Act that may be litigated through USDA appears in 9 CFR 11.2, subcategorized into "general prohibitions" and "specific prohibitions".

9 CFR 11.3 deals with the "scar rule", a regulation which intended to identify horses that may or may not be currently suffering pain from soring practices, but whose distal limb (pastern) tissue has changed in response to the application of soring chemicals, devices, or other practices, forming "scars". Horses having pastern tissue fulfilling the requirements of the "scar rule" are considered "sore", per the regulation itself.

Form 7077 provides blank spots into which a description of these violations can be written. These descriptions are later heavily relied upon by Office of General Counsel attorneys as the principal source of documentation of violations of the Act. The APHIS Form 7077 or equivalent is completed by a Veterinary Medical Officer, Investigative and Enforcement Services Investigator, or an Animal Care Inspector.

9 CFR 11.40 - Reporting requirements to APHIS upon request concerning persons involved in transportation of certain horses

Each person who ships any horse to be shown, auctioned, exhibited, or sold will assist in the inspection of such horse, if requested, in order to facilitate compliance with the Act. These inspections maintain proper enforcement of the Act, and provide an accurate account of compliance for individuals who come under its purview. Information regarding the owner, trainer, carrier, and the driver should be made available to any USDA representative, if requested.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also, describe any consideration of using information technology to reduce burden.

A Horse Protection database (ACIS) allows APHIS to collect, store, and track information required by the regulations.

APHIS is also developing a new IT system, called eFile, which aims to automate much of the Horse Protection Act activities, among other things.

A Horse Protection Web site is used to transmit information to the public concerning the enforcement of the Act. This Web site has a listing of industry inspectors (DQPs) for the public to use at horse shows. Any information placed on the Web site has been verified by the HIOs. The Web site is: https://www.aphis.usda.gov/aphis/ourfocus/animalwelfare/SA_HPA

4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purpose described in item 2 above.

APHIS is the only Federal Agency responsible for the enforcement of the Horse Protection Act. The information APHIS is collecting is its only source for the information and is not being collected through other forms or reports.

5. If the collection of information impacts small businesses or other small entities, describe any methods used to minimize burden.

The information collection and recordkeeping requirement are the minimum needed to comply with the law and to minimize the public burden. All respondents are considered small businesses.

6. Describe the consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.

If the information were collected less frequently, APHIS would not be able to accurately measure the enforcement of the program which will be based on industry self-regulation. With self-regulation, industry has greater regulatory authority under the Act.

7. Explain any special circumstances that would cause an information collection to be conducted in a manner:

- **requiring respondents to report information to the agency more often than quarterly;**

  Monthly reporting is necessary in order to obtain data that otherwise would not be available from a show, sale, auction, or exhibition on a quarterly basis. This information is vital to the review of the program and is not retained by management or industries for prolonged periods of time.

- **requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;**

  DQPs request to USDA to appeal license cancellation occurs within 30 days of notice to conduct an appeal hearing for DQPs to retain their licenses.

  Show management send written notifications to USDA of unsatisfactory DQP performance within 30 days of the event and then is reviewed by USDA for review and potential action.

  Reports of any horse show, exhibition, auction, or sale by which HIOs and/or DQPs have conducted an inspection must be submitted to USDA within 5 days.

- **requiring respondents to submit more than an original and two copies of any document;**

- **requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records for more than three years;**

- **in connection with a statistical survey, that is not designed to produce valid and reliable results that can be generalized to the universe of study;**

- **requiring the use of a statistical data classification that has not been reviewed and approved by OMB;**

- **that includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use; or**

- **requiring respondents to submit proprietary trade secret, or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.**

No other special circumstances exist that would require this collection to be conducted in a manner inconsistent with the general information collection guidelines in 5 CFR 1320.5.

8. Describe efforts to consult with persons outside the Agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting form, and on the data elements to be recorded, disclosed, or reported. If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the Agency's notice, soliciting comments on the information collection prior to submission to OMB.

APHIS consulted the following individuals:

Friends of Sound Horses
David Pruett
dpruett@comcast.net

National Walking Horse Association
Peggy Moore
Peggymoore515@yahoo.com

Racking Horse Breeders Association of America
Mika Pharez
info@rhbaa-hio.com

On Monday, February 29, 2016, page 10206-10207, APHIS published in the Federal Register, a 60-day notice seeking public comments on its plans to request a 3-year renewal of this collection of information. During that time, APHIS received four comments from the public. One of those comments is believed to be intended for a different Federal Register Notice as it pertained to the significance to fisheries. The second comment is from a concerned citizen about her perception of the Government which has no relevance to the purpose of this information collection. The third comment was from a concerned citizen about the need for APHIS to do more to protect the horses– "ramp up inspections and information gathering and take that information and prosecute." The fourth comment was from the Human Society of the United States supporting the collection of this information.

9. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.

There are no payments of gifts provided to respondents.

10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.

No assurance of confidentiality is provided to any respondent.

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior or attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.

There are no questions of a sensitive nature asked of the respondents.

12. Provide estimates of the hour burden of the collection of information. The statement should:

- **Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. If this request for approval covers more than one form, provide separate hour burden estimates for each form and aggregate the hour burdens in Item 13 of OMB Form 83-I.**

  See APHIS Form 71 for hour burden estimates.

- **Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories.**

  APHIS estimates the total annualized cost to the above respondents to be $47,764. APHIS arrived at this figure by multiplying the hours of estimated response time (2,268 hours) by the estimated average hourly wage of the above respondents ($21.06).

  This hourly rate was derived from the U.S. Department of Labor, Bureau of Labor Statistics May 2015 Report - Occupational Employment and Wages in the United States (see http://www.bls.gov/oes/current/oes_stru.htm).

13. Provide estimates of the total annual cost burden to respondents or record keepers resulting from the collection of information (do not include the cost of any hour burden shown in items 12 and 14). The cost estimates should be split into two components: (a) a total capital and start-up cost component annualized over its expected useful life; and (b) a total operation and maintenance and purchase of services component.

There is no additional cost burden to the respondents.

14. Provide estimates of annualized cost to the Federal government. Also, provide a description of the method used to estimate cost and any other expense that would not have been incurred without this collection of information.

The annual cost for the Federal Government is $18,910.02. (See APHIS Form 79).

15. Explain the reasons for any program changes or adjustments reported in Items 13 or 14 of the OMB Form 83-1.

	Requested	Program Change Due to New Statute	Program Change Due to Agency Discretion	Change Due to Adjustment in Agency Estimate	Change Due to Potential Violation of the PRA	Previously Approved
Annual Number of Responses	3,610	0	2	0	0	3,608
Annual Time Burden (Hr)	2,268	0	2	0	0	2,266
Annual Cost Burden ($)	0	0	0	0	0	0

There is an increase of +2 responses and +2 total burden hours (program change). These increases are due to the addition of *written identification, dosage, and purpose of drugs or other medications used, applied, or injected* which was previously omitted from this information collection package and from including figures for the *request by DQP to USDA to appeal license cancellation* which was previously included without figures/burden.

16. For collections of information whose results are planned to be published, outline plans for tabulation and publication.

APHIS has plans to publish this information collection, particularly the HIO suspension lists for HPA violations. These will be published on the USDA Horse Protection Web site. These suspension lists are frequently asked for through FOIA requests. Therefore in order to fulfill these requests and promote transparency of the program, the Animal Care management staff decided to publish these beginning of FY2010. No minor information is included in the suspension lists.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.

APHIS plans to display the expiration date.

18. Explain each exception to the certification statement identified in Item 19 "Certification for Paperwork Reduction Act."

APHIS certifies compliance with all provisions of the Act.

B. Collection of Information Employing Statistical Methods

There are no statistical methods associated with the information collection activities used in this program.