

SUPPORTING STATEMENT

Horse Protection; Licensing of Designated Qualified Persons and Other Amendments OMB Control Number 0579 - XXXX

July 2016

Note: Upon the Office of Management and Budget's (OMB) approval of this new information collection tied to rulemaking, Animal and Plant Health Inspection Service (APHIS) plans to merge it into the existing Horse Protection Act information collection, 0579-0056, where some of the information collection burden described in the rule is already approved by OMB.

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.

APHIS is proposing to amend these regulations to provide that APHIS will train and license Horse Protection Inspectors (HPIs), previously referred to as Designated Qualified Persons (DQPs), to inspect horses at horse shows, exhibitions, sales, and auctions for compliance with the HPA or regulations. DQPs are currently trained and licensed through programs certified by APHIS and initiated and maintained by horse industry organizations (HIOs). The proposed changes to the regulations would relieve HIOs of all regulatory burdens and requirements. APHIS is also proposing several changes to the responsibilities of management of horse shows, exhibitions, sales, and auctions, as well as changes to the list of devices, equipment, substances, and practices that can cause soring or are otherwise prohibited under the HPA or regulations. These actions would strengthen existing requirements (currently OMB approved under 0579-0056) intended to protect horses from the unnecessary and cruel practice of soring and eliminate unfair competition.

APHIS is asking OMB to approve, for 3 years, its use of these information collection activities to enforce the HPA or regulations protecting horses from the unnecessary and cruel practice of soring and eliminating unfair competition.

- 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 will use the following information collection activities to enforce the HPA or regulations protecting horses from the unnecessary and cruel practice of soring and eliminating unfair competition.

9 CFR 11.6 - Persons requesting to be licensed HPIs (private sector)

All persons wishing to become HPIs must submit an application to APHIS. Applicants will be required to show that they satisfy the necessary requirements outlined in the regulations. HPI applicants selected as candidates will complete a formal training program administered by APHIS. After a HPI candidate successfully completes the formal training program and passes a written examination, a license will be granted to that candidate for 1 year. Licenses terminate after 1 year and all HPIs must submit a new application each year if they wish to be considered for licensing for another year. APHIS will explore developing a new, official form/application for these persons requesting to be HPIs.

9 CFR 11.10 - Management requests for HPIs (private sector)

Show management will request this list of HPIs from APHIS and/or visit the APHIS HPA Web site for a listing. Show management will then contact the HPIs before the show/event occurs to request their services to detect and diagnose horses that are sore or to otherwise inspect horses and any records pertaining to such horses for the purposes of enforcing the HPA or regulations.

9 CFR 11.6 and 11.10 - Show management/HPI notifying horse owner, trainer, exhibitor, or custodian that his/her horse will be inspected/is noncompliant (private sector)

After completing the inspection as outlined in the regulations, the HPI shall inform the custodian of each horse that it is noncompliant with the HPA or regulations. The HPI shall notify the custodian, on behalf of show management, that the horse is disqualified from participating in the show, exhibition, sale or auction, or be involved with any other action under the HPA or regulations along with the reasons for such action. The HPI shall collect the information relating to the noncompliance from the custodian. The HPI shall immediately inform management of each case regarding the custodian of any horse which, in his/her opinion, is found to be in noncompliance with the HPA or regulations.

9 CFR 11.5 - HPI identifying detained horses (private sector)

Detained horse may be marked for identification, on an as-needed basis, and any such identifying markings shall not be removed by any person other than an authorized HPI or APHIS representative. The identifying markings could include a clip attached to the mane.

9 CFR 11.10 - Notification that a show/event is going to take place (management) (private sector)

APHIS requires the management of any horse show, horse exhibition, or horse sale or auction involving Tennessee Walking Horses, Racking Horses, and related breeds notify the Administrator of the event at least 30 days before it begins. That notification may be made by mail, fax, or electronic means such as email, but that notification through electronic means is strongly preferred. Notification must include: The name and location of the show, exhibition, sale, or auction; the name and address of the manager; a phone number and email address (if available); the date or dates of the show, exhibition, sale, or auction; and a copy of the official horse show, horse exhibition, horse sale, or horse auction program, if any such program has been prepared. Notification would also have to

include the names of the APHIS-licensed HPIs scheduled to perform inspections at the horse show, exhibition, sale, or auction.

9 CFR 11.12 - Waiver request to not have a class of horses inspected (private sector)

Show management may submit a class list to APHIS via email to hp@aphis.usda.gov or otherwise along with a request for a waiver to not have a class of horses inspected during a show/event. This waiver must be requested along with the required notification to the Administrator that the event will occur and must be granted prior to judging of the class, or the HPI will inspect the horses.

9 CFR 11.5 - Request for re-inspection and testing of the horse within 24 hours (private sector)

The custodian of any horse allegedly found to be in noncompliance of the HPA or regulations, and who has been notified of such noncompliance by an authorized HPI or APHIS representative may request reinspection and testing of the horse within a 24-hour period if such request is made to an authorized HPI or APHIS representative immediately after the horse has been inspected by an authorized HPI or APHIS representative and before such horse has been removed from the inspection facilities; an authorized HPI or APHIS representative determines that sufficient cause for reinspection and testing exists; and the horse is maintained under HPI or APHIS supervisory custody until such reinspection and testing has been completed. The custodian of any horse being inspected shall render such assistance as an authorized HPI or APHIS representative may request for purposes of such inspection.

- 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.**

APHIS' HPA Web site will list licensed HPIs and transmit other, helpful information to the public concerning the enforcement of the HPA or regulations which would reduce the burden of the public having to officially request the information.

Email submissions/notifications are preferred/encouraged; however, APHIS may accept mail and fax submissions/notifications, too.

In addition, a HPA database (Animal Care Information System (ACIS)) will allow APHIS to collect, store, and track some of the information required by the regulations. APHIS is also developing a new IT system, called eFile, which aims to automate some of the HPA activities, among other things.

- 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 HPA or regulations. The information APHIS is collecting is its only source for the information and is not being collected through other forms, reports, or requirements.

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 requirements 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 APHIS did not collect this information or collected it less frequently, the effectiveness of APHIS' enforcement of the HPA or regulations would be severely compromised, and it would be impossible for APHIS to confirm or enforce compliance to protect horses from the unnecessary and cruel practice of soring and eliminating unfair competition.

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

APHIS requires the management of any horse show, horse exhibition, or horse sale or auction involving Tennessee Walking Horses, Racking Horses, and related breeds notify the Administrator of the event at least 30 days before it begins.

The custodian of any horse found to be in noncompliance with the HPA or regulations, and who has been notified of such noncompliance by an authorized HPI or APHIS representative may request reinspection and testing of the horse within a 24-hour period.

- **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 information 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 with the following individuals:

Dr. Donna Moore
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Rural Route 4,
Morral, OH 43337
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Nancy O'Dell Plunkett
Western International Walking Horse Association
26280 SW Baker Rd
Sherwood, OR 97140
www.bluemoonwalkinghorses.com

Mark Matson
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Morral, OH 43337
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APHIS' proposed rule (Docket Number APHIS-2011-0009) publishing in the Federal Register on Tuesday, July 26, 2016 (page 49112), will describe its information gathering requirements, and also provide a 60-day comment period. During this time, interested members of the public will have the opportunity to provide APHIS with their input concerning the usefulness, legitimacy, and merit of the information collection activities APHIS is proposing.

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

There are no payments or 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 additional assurance of confidentiality is provided with this information collection. Any and all information obtained in this information collection shall not be disclosed except in accordance with 5 U.S.C. 552a at this time.

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 \$1,074.06. APHIS arrived at this figure by multiplying the hours of estimated response time (51 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 estimated at \$635. (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.**

ICR Summary of Burden:

	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	436	0	436	0	0	0
Annual Time Burden (Hr)	51	0	51	0	0	0
Annual Cost Burden (\$)	0	0	0	0	0	0

This is a new information collection resulting in 51 additional burden hours.

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

APHIS has plans to publish the list of licensed HPis on its HPA Web site for show management use.

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.**

Not applicable. There are currently no forms associated with this information collection.

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 Paperwork Reduction Act.

B. Collection of Information Employing Statistical Methods

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