

**SUPPORTING STATEMENT  
ANIMAL WELFARE; AMENDMENTS TO  
THE HORSE PROTECTION REGULATIONS  
PROPOSED RULE  
DOCKET APHIS-2022-0004**

**The activities in this information collection request will be scheduled for merger into 0579-0056 after the proposed rule is published as final.**

**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.**

The Horse Protection Act (HPA) of 1970 (P.L. 91-540), as amended July 13, 1976 (P.L. 94-360), 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. “Soring” is a process whereby chemical or mechanical agents, or a combination thereof, are applied to the limbs(s) of a horse in order to exaggerate its gait(s). A “sore” horse is one that has been subjected to prohibited practices and, as a result, suffers, or can reasonably be expected to suffer, physical pain or distress, inflammation, or lameness when walking, trotting or otherwise moving. A horse that is “sore” is prohibited from entering or participating in HPA-regulated events because exhibitors, owners, and trainers of such horse may obtain unfair advantage over individuals exhibiting horses that are not “sore.”

Section 1828 of the HPA authorizes the promulgation of regulations to implement the provisions of the Act. Those regulations are found in Title 9, Chapter I, Part 11, of the Code of Federal Regulations. Part 11 delineates the responsibilities of horse industry organizations (HIOs), designated qualified persons (DQPs), management of regulated horse events, and persons who have control over regulated horses [Sections 1823 and 1824 of the HPA]. Persons who own, train, show, exhibit, sell, transport, or otherwise have custody of, or direction or control over any horse shown, exhibited, sold, or auctioned or entered for the purpose of being shown, exhibited, sold, or auctioned at any horse show, horse exhibition, or horse sale or auction must also satisfy and abide by the requirements of the HPA and regulations.

We are proposing to amend the horse protection regulations by eliminating the role of Designated Qualified Persons as inspectors at horse shows, exhibitions, sales, and auctions and assigning inspection authority solely to Animal and Plant Health Inspection Service (APHIS) officials and other qualified representatives authorized by APHIS. We also propose to remove all regulatory requirements for horse industry organizations and associations. We would amend the regulations to prohibit any device, method, practice, or substance applied to a horse that can obscure evidence of soring. For Tennessee Walking Horses and racking horses, all action devices

and non-therapeutic pads and wedges would be prohibited, as would substances on the extremities above the hoof. We also propose to remove the scar rule from the regulations and replace it with a more accurate description of visible dermatological changes indicative of soring. Additionally, we would amend record keeping and reporting requirements for management at horse shows, exhibitions, sales, and auctions in order to better enforce the Act. The actions we propose would strengthen regulatory requirements intended to protect horses from the practice of soring and eliminate unfair competition as required under the Horse Protection Act.

APHIS is asking OMB to approve its use of these information collection activities to enforce the HPA.

**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.**

This new rule will add the following information collection activities for enforcing the Horse Protection Act.

**Unsatisfactory Performance Notice; 9 CFR 11.13(b)(5); Business**

Event managers may address concerns regarding the performance of a Horse Protection Inspector (HPI) utilized to conduct inspections. If management is dissatisfied with the performance of a particular HPI, it should notify the Administrator in writing and within 15 days as to why it believes the performance of the HPI was inadequate or otherwise unsatisfactory.

**Retain Records for Horse Therapeutic Treatment; 9 CFR 11.14(b); Business**

Management of any horse show, exhibition, or sale or auction that allows any horse to be shown, exhibited, or sold under the prohibitions in section § 11.6(b) for therapeutic treatment must maintain the following information for each horse receiving the therapeutic treatment for a period of at least 90 days following the closing date of the horse show, exhibition, sale, or auction: 1) The name, exhibition number and class number, or assigned sale number, and the registration name and number (if applicable) for each horse receiving therapeutic treatment; 2) the name, address and phone number of the licensed veterinarian providing the therapeutic treatment; 3) the State and license number of the licensed veterinarian providing the therapeutic treatment; 4) the name and address and phone number of the licensed veterinarian's business. Finally, the records would also need to contain a description of the disease, injury or disorder for which the treatment is given, to include at minimum the starting date of treatment, prescription or design of the treatment plan, and expected length of treatment.

**Provide Show, Exhibition, Sale, or Auction Information to APHIS w/in 30 Days; 9 CFR 11.16(a); Business**

At least 30 days before any horse show, exhibition, sale, or auction is scheduled to begin, the management of the event would need to notify APHIS of the event by mail, fax, or e-mail. This requirement is not currently in the regulations but has been added to give APHIS advance notice of the event and sufficient time to arrange for an APHIS representative to be present to inspect horses, if requested by management. Such notification would have to include: 1) The name and address of the horse show, exhibition, sale, or auction; 2) the name, address, phone number (and

e-mail address, if available) of the manager; 3) the date(s) of the horse show, exhibition, sale, or auction; and 4) a copy of the official event program, if any such program has been prepared. In addition, management would need to report the anticipated or known number of entries and whether management will allow any horse to be shown, exhibited, or sold with prohibitions under proposed § 11.6 for therapeutic treatment. Finally, for any horse show, horse exhibition, horse sale, or horse auction which is either required to appoint an APHIS representative, or elects to appoint an APHIS representative, the notice will be required to include a request to the Administrator for assignment of a representative.

**Request for Variance; 9 CFR 11.16(a)(6); Business**

Proposed § 11.16(a)(6) would require management to request an APHIS representative to perform inspections at the horse show, horse exhibition, horse sale, or horse auction; or, if not, whether management has chosen and appointed an HPI to inspect horses or have no inspector. If neither an APHIS representative nor an HPI is available on the date of the event, event management may request a variance. Variances must be submitted by mail, fax, or electronic means such as email to the Deputy Administrator of Animal Care at least 15 days before the event and state the reason for requesting the variance.

**Provide Changed Show, Exhibition, Sale, or Auction Information to APHIS w/in 15 Days; 9 CFR 11.16(b); Business**

Proposed § 11.16(b) would require that at least 15 days before any horse show, exhibition, sale, or auction is scheduled to begin, the management of the event must notify APHIS of any changes to the information required to be submitted to APHIS under proposed § 11.16(a) (see above for 30-day notices) by mail, fax, or e-mail.

**Post-Show Report to APHIS w/in 5 Days; 9 CFR 11.16(c); Business**

Proposed § 11.16(c) would require event managers of any horse show, horse exhibition, horse sale, or horse auction that contains Tennessee Walking Horses or racking horses to submit to APHIS within 5 days after the event's conclusion the information required to be maintained by § 11.14. Event information already submitted to APHIS under § 11.16(a) does not need to be sent again.

**Authorization Process for Horse Protection Inspectors (HPIs); 9 CFR 11.19(a); Business**

APHIS will authorize and train all HPIs. Persons wishing to become HPIs must submit an application to APHIS and meet all qualifications under a 2-tier system to become authorized to work as an HPI. Tier 1 qualification requires the applicant be a veterinarian. However, APHIS may also opt to authorize veterinary technicians and other state and local officials, if necessary to establish a sufficient pool of HPIs. Tier 2 qualifications include demonstration of pertinent knowledge and experience with equine husbandry and welfare, as well as clean criminal history and other criteria that would present potential conflicts of interest when serving as an HPI.

**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.**

The required information may be submitted via email, fax, regular mail, courier services (such as FedEx, UPS, etc.) to APHIS at the respondents' preference. The use of electronic submissions (fax and e-mail) will afford a decrease in notification time, record of submission, and reduction of paperwork, costs, and mailing activities.

**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 administering the Horse Protection Act. The information it collects while administering the Act is not available from any other sources.

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

All business respondents are considered small businesses. The information collection and records requirements are the minimum needed to verify compliance with the HPA and Federal regulations.

**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 or not collected, APHIS would not be able to accurately assess compliance with the HPA.

**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;**

Event managers will be required to the Administrator in writing and within 15 days notices of unsatisfactory performance by Horse Protection Inspectors (HPI).

Event managers may request a variance at least 15 days before an event if neither an APHIS representative nor an HPI is available on the date of the event.

Event management reports of any horse show, exhibition, auction, or sale at which inspections will be conducted of horses will be required no later than 30 days before the start of the event, 15 days before if there are changes to the information, and within 5 days after the event.

- **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 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 format (if any), 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 discussed with the following individuals the information collection requirements described in this proposed rule. It discussed with them how APHIS would obtain the necessary data and how frequently; the convenience and clarity of reporting formats; and the clarity of, and necessity for, any recordkeeping requirements. They supported the information collection and further requested the information be made easily available to the public.

Mr. Curtis Pittman, Jr.

President, American Horse Services  
P.O. Box 89  
Henryville, IN 47126  
Email cp3247@hotmail.com  
Telephone 502-468-8351

Ms. Rachel Reed  
Manager, S.H.O.W.  
P.O. Box 167  
Shelbyville, TN 37162  
[Email rreed@showhio.com](mailto:rreed@showhio.com)  
Telephone 931-684-9506

Ms. Peggy Moore  
DQP Director, National Walking Horse Association  
8527 E. Gum Road  
Murfreesboro, TN 37127  
Email nwhadqpteam@gmail.com  
Telephone 931-703-5757

APHIS' published in the Federal Register on August 21, 2023 (see 88 FR 160) a proposed rule notice that describes the information gathering requirements and provides a 60-day public 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. Actions taken on any comments received will be discussed in the Final Rule Federal Register notice.

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

There will be 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 will be 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.

- **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 respondents to be \$46,721. APHIS arrived at this figure by multiplying the total burden hours (630) by the respondents' estimated average hourly wage (\$51.18), and then multiplying the result by 1.449 to capture benefit costs.

This estimated average hourly rate was obtained for Agricultural Managers (Event Managers) [SOCC 11-9013, \$40.29], and Veterinarians [SOCC 29-1131, \$62.07], as listed in the U.S. Department of Labor; Bureau of Labor Statistics Occupational Employment and Wage Statistics website [https://www.bls.gov/oes/current/oes\\_stru.htm](https://www.bls.gov/oes/current/oes_stru.htm). According to DOL BLS news release USDL-23-0488, dated March 17, 2023, benefits account for 31% of employee costs, and wages account for the remaining 69%. Mathematically, total costs can be calculated as a function of wages using a multiplier of 1.449.

**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 will be 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.**

See APHIS Form 79. The estimated annual cost for the Federal Government will be \$126,264.

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

	<b>Requested</b>	<b>Program Change Due to New Statute</b>	<b>Program Change Due to Agency Discretion</b>	<b>Change Due to Adjustment in Agency Estimate</b>	<b>Change Due to Potential Violation of the PRA</b>	<b>Previously Approved</b>
Annual Number of Responses	1,155	0	1,155	0	0	0
Annual Time Burden (Hr)	630	0	630	0	0	0

Horse protection regulation activities are reported in ICR 0579-0056. This new request is tied to rulemaking and adds 7 new activities affecting an estimated 530 respondents preparing 1,155 responses per year for a total of 630 burden hours.

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

APHIS publishes a web site at [https://www.aphis.usda.gov/aphis/ourfocus/animalwelfare/SA\\_HPA](https://www.aphis.usda.gov/aphis/ourfocus/animalwelfare/SA_HPA) to transmit information to the public concerning the enforcement of the Horse Protection Act.

**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.**

The PRA ICR information with OMB approval expiration date will be displayed, either on the webpage(s) containing the activities in this request, or on the header of any forms developed for this request.

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

The agency will be able to certify compliance with all provisions of OMB 83i, Item 19.



**B. Collection of Information Employing Statistical Methods**

This information collection will not employ statistical methods.