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Office of Inspector General



**Animal and Plant Health Inspection Service
Administration of the Horse Protection
Program and the Slaughter Horse
Transport Program**

Audit Report 33601-2-KC
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REPLY TO
ATTN OF: 33601-2-KC

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for Audit

SUBJECT: Animal and Plant Health Inspection Service Administration of the Horse
Protection Program and the Slaughter Horse Transport Program

This report presents the results of our audit of the Animal and Plant Health Inspection Service Administration of the Horse Protection Program and the Slaughter Horse Transport Program. The September 20, 2010, written response to the official draft report is included with excerpts and the Office of Inspector General's position incorporated into the relevant sections of the report.

In its written response to the official draft report, the agency concurred with the findings and recommendations in the report. Based on your response, we have accepted management decision for all recommendations in the report. Please follow your internal agency procedures in forwarding final action correspondence to the Office of the Chief Financial Officer. Also, please note that Departmental Regulation 1720-1 requires final action to be completed within 1 year of the date of management decision to preclude being listed in the Department's annual Performance and Accountability Report.

We appreciate the courtesies and cooperation extended to us by members of your staff during the review.

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APHIS Administration of the Horse Protection Program and the Slaughter Horse Transport Program

Executive Summary

Federal law and regulations require that horses be treated humanely, whether they are horses exhibited at shows or horses being transported to slaughterhouses.¹ As the agency of the U.S. Department of Agriculture (USDA) tasked with enforcing the humane treatment of these animals, the Animal and Plant Health Inspection Service (APHIS) operates two programs. The Horse Protection Program ensures that show horses are not subjected to the abusive practice of “soring,” i.e., physically mistreating a horse to cultivate a certain gait in the show ring. The Slaughter Horse Transport Program ensures that horses being shipped for slaughter to foreign processing plants are transported humanely.² The Office of Inspector General (OIG) initiated this audit to evaluate APHIS’ oversight of the humane treatment of horses, both those being shown and those being shipped to slaughter.

Horse Protection Program

Concerning the treatment of show horses, we found that APHIS’ program for inspecting horses for soring is not adequate to ensure that these animals are not being abused. At present, horse industry organizations hire their own inspectors (known as designated qualified persons (DQP)) to inspect horses at the shows they sponsor. However, we found that DQPs do not always inspect horses to effectively enforce the law and regulations, and in some cases where they do find violations, they deliberately issue tickets to friends or family members of responsible individuals so that the responsible person could avoid receiving a penalty for violating the Horse Protection Act.

After Congress passed the Horse Protection Act, USDA through APHIS, developed the DQP system as a way of meeting its responsibilities to establish a program for the appointment of inspectors and the manner of inspections, given the agency’s very limited resources. Since passage of the Horse Protection Act in 1970, APHIS’ budget for the Horse Protection Program was set at no more than \$500,000 yearly, and the program’s funding limitation has remained unchanged for almost four decades. These funds are used to cover travel, salaries, and other expenditures for APHIS employees involved in the Horse Protection Program.

Given its limited resources—which APHIS regards as inadequate to send its own veterinarians to the approximately 500 horse shows that are held each year—the agency implemented the program by collaborating with the horse industry organizations sponsoring the shows. Horse industry organizations are responsible for hiring, training, and licensing all DQPs that inspect horses to enforce the Horse Protection Act. These organizations are required to hire enough DQPs to examine every horse that is shown for signs of soring and issue violations to exhibitors

¹ The Horse Protection Act, 15 *U.S. Code* (U.S.C.) §1821-§1831, and regulations found in the *Code of Federal Regulations* (CFR), 9 CFR Part 11, relate to protecting horses from soring. Regulations found in 9 CFR Part 88 relate to protecting horses being transported to immediate slaughter.

² Since 2007, State laws have prevented the slaughter of horses for human consumption in the United States.

who abuse their horses.³ Having DQPs present to inspect the horses at each show relieves show managers of their liability to ensure that no horses that are found in violation of the Horse Protection Act participate in any show, sale, or other event. APHIS also sends its own teams of veterinarians to some of these horse shows, where they make unannounced visits and evaluate the DQPs' performance. In fiscal year 2007, the Horse Protection Program's budget of \$497,000 was only sufficient to send APHIS veterinarians to approximately 30 of the 463 sanctioned shows, or 6 percent.

Although the DQP system was intended to establish a way for inspections to occur even when APHIS employees could not be present, we found that it was not functioning as intended. DQPs realize that by ticketing horse exhibitors, or by excluding horses from a show, they are not likely to please their employers—who are interested in putting on a profitable show. DQPs are also likely to be exhibitors themselves, and so while they may be inspecting horses at one show, they could be exhibiting horses at another. If they inspected other exhibitors' horses rigorously, they might find their own horses subjected to much more strenuous inspections at other shows.

Given the DQPs' clear conflict of interest, we found that they did not always inspect horses according to the requirements of the Horse Protection Act. One DQP we spoke to was in the habit of giving exhibitors "freebies," or warnings, instead of issuing tickets for violations. Some DQPs—when they did issue a ticket—would issue it, not to the exhibitor responsible for abusing the horse, but to almost anyone else, including stable hands working for the exhibitor. Overall, we found that DQPs working independently issued few tickets; they were much more likely to issue violations when they were being observed by an APHIS employee. From 2005 to 2008, APHIS veterinarians were present at only 6 percent of all shows, yet DQPs issued 49 percent of all violations at these shows.⁴ In other words, DQPs noticed about half of the violations they found at the small number of shows where they were being observed by an APHIS employee.

Additionally, the environment for enforcing the Horse Protection Act is hostile. Many in the horse show industry do not regard the abuse of horses as a serious problem, and resent USDA performing inspections. The practice of soring has been ingrained as an acceptable practice in the industry for decades. APHIS records showed that there was an environment at horse shows, sales, and other horse-related events in which APHIS employees were subjected to intimidation and attempts to prevent them from inspecting horses. Show organizers, exhibitors, and spectators denied the inspectors the physical environment they needed to inspect horses, verbally abused them, and even made anti-USDA comments over the public address system. APHIS reports describe one incident where a representative of show management made a speech during a horse show discussing how the government bullied the walking horse industry and urged people to stand up to this unjust treatment. The crowd cheered these sentiments. Due to this

³ We use the term "exhibitor" in the report to refer to a show horse's owner, trainer, or other handler. Horse Protection Act regulations state that the term "exhibitor" refers to "(1) any person who enters any horse, any person who allows his horse to be entered, or any person who directs or allows any horse in his custody or under his direction, control or supervision to be entered in any horse show or horse exhibition; (2) any person who shows or exhibits any horse, any person who allows his horse to be shown or exhibited, or any person who directs or allows any horse in his custody or under his direction, control, or supervision to be shown or exhibited in any horse show or horse exhibition; (3) any person who enters or presents any horse for sale or auction, or any person who allows any horse in his custody or under his direction, control, or supervision to be entered or presented for sale or auction in any horse sale or horse auction; or (4) any person who sells or auctions any horse, any person who allows his horse to be sold or auctioned, or any person who directs or allows any horse in his custody or under his direction, control, or supervision to be sold or auctioned."

⁴ We requested that APHIS obtain data from the 14 horse industry organizations approved by APHIS in 2008; only 6 horse industry organizations provided this data to APHIS.

hostile environment, APHIS employees routinely bring armed security or the police with them when they visit shows.

Such an environment creates clear challenges for enforcing the Horse Protection Act. At present, horse industry organizations and show managers are paying substantial sums to regulate their industry by training and hiring DQPs, but at present, the DQP-inspection process is not serving APHIS' intended purpose. Given the problems we observed with DQPs and the conflicts of interest, we are recommending that APHIS abolish the DQP program, and instead provide independent, accredited veterinarians to perform inspections at sanctioned shows. APHIS should hire and train these inspectors, but the agency should pass the costs for their inspections along to the show managers responsible for the show. While it is true that an inspection system relying on veterinarians will be more expensive than a system based on DQPs, our estimate of the costs involved indicates that the additional costs would be minimal, amounting to only a few dollars for each horse entered into the shows.⁵ The APHIS officials we spoke with stated that a veterinarian-based system would provide the horse industry and the Federal Government with a much higher quality inspection process, and would generally improve APHIS' ability to enforce the Horse Protection Act.

We also noted that APHIS inspection teams at horse-related events cannot ensure that individuals suspended from participating in horse shows due to violations are not participating. APHIS personnel visiting a show do not check the USDA suspension list, unless they recognize a suspended person at the show, and show managers also do not provide APHIS personnel with a complete list of all the individuals planning to exhibit horses during a given show, sale, or event. Unless there is a control in place to check this information, suspended exhibitors may continue participating in shows.

Overall, OIG is also recommending that APHIS seek the necessary funding from Congress for the Horse Protection Program, as the current level of funding does not enable the agency to oversee it adequately. Given the weaknesses in the inspection process, APHIS employees need to attend more shows to ensure that horses are inspected adequately.

Slaughter Horse Transport Program

Our review of the slaughter horse transport program found that APHIS needs to improve its controls for ensuring that horses being shipped to foreign plants for slaughter are treated humanely. At present, APHIS does not deny authorization to individuals with a record of inhumanely transporting slaughter horses to ship other loads of horses, even if unpaid fines are pending for previous violations. Regulations simply do not address denying this authority, and so APHIS provides the authorization, regardless of the owner's history. Without regulations or legislation to establish more meaningful penalties, owners have little incentive to comply with regulations, pay their penalties, and cease inhumanely handling horses bound for slaughter.

Finally, we found that there were control deficiencies in how APHIS tags horses that have been inspected and approved for shipment to foreign slaughterhouses. The agency requires shippers to mark such horses with backtags, which are intended to allow APHIS employees to trace

⁵ We compared the costs of using veterinarians and DQPs for inspections. The details of this analysis are found on page 17.

horses back to their owner and also to verify that the horses have passed inspection by an accredited veterinarian. We found, however, that the agency's controls over these tags were weak, and that owners could easily obtain them and apply the tags to horses without APHIS' knowledge. In addition, APHIS does not currently have an effective control or tracking system to trace all backtags used to transport horses to slaughter. Without regulations controlling the distribution, use, and tracking of these tags, owners can transport horses that do not meet the requirements for shipment. APHIS needs to seek the appropriate legislative and regulatory changes to ensure that only qualified individuals (such as APHIS personnel or USDA-accredited veterinarians) apply backtags to horses being shipped to slaughter. It also needs to obtain the resources necessary to adequately oversee the Slaughter Horse Transport Program.

We concluded that APHIS needs to take the following steps to strengthen controls over the Horse Protection Program and the Slaughter Horse Transport Program.

Recommendation Summary

Abolish the current DQP system and establish by regulation an inspection process based on independent accredited veterinarians, and obtain the authority, if needed, to charge show managers the cost of providing independent, accredited veterinarians to perform inspections at sanctioned horse shows, sales, and other horse-related events.

Implement a control to ensure that individuals suspended from horse shows, sales, or exhibitions due to Horse Protection Act violations do not participate in subsequent events.

Seek the necessary funding from Congress to adequately oversee the Horse Protection Program.

Revise and enforce regulations to prohibit horses disqualified as sore from competing in all classes at a horse show, exhibition, or other horse-related event.

Revise Slaughter Horse Transport Program regulations to allow APHIS to deny shipping documents to individuals who repeatedly violate humane handling regulations and who have fines outstanding.

Develop and maintain a control (database or list) of all individuals who have violated the regulations of the Slaughter Horse Transport Program and have not paid the associated fines.

Revise regulations or implement adequate controls to ensure that APHIS provides backtags to qualified personnel who can inspect horses bound for slaughter and apply, or oversee the application of, backtags when approving transport documentation.

Develop and implement an appropriate control to track individual horses by backtag number on all shipping documents approved so that reconciliation can be performed, violations can be investigated, and enforcement action can be initiated against the horse's owner and shipper.

Agency Response

In its September 20, 2010, response to the official draft report, APHIS agreed with each of the findings and recommendations and provided information on corrective actions planned and underway. The APHIS written response to the official draft report is included at the end of this report with excerpts and the Office of Inspector General's (OIG) position incorporated into the relevant sections of the report.

OIG Position

Based on APHIS' response, we accept management decision on all of the report's 13 recommendations.

Background & Objectives

Background

APHIS ensures the humane treatment of show horses and slaughter horses through two programs—the Horse Protection Program and the Slaughter Horse Transport Program. APHIS is divided into several smaller divisions that focus on different aspects of animal and plant health initiatives. The Animal Care Division administers the Horse Protection Program, and at the time of the audit, the Veterinary Services (VS) Division⁶ administered the Slaughter Horse Transport Program.

Horse Protection Program

The Horse Protection Program, administered by APHIS' Animal Care Division, protects horses participating in shows, sales, exhibitions, or auctions from being abused, especially through the process known as “soring.” Used to accentuate a horse’s gait, “soring” involves applying an irritating or blistering agent to any limb of a horse; cutting, burning, or lacerating any limb of a horse; or applying a tack, nail, screw, or chemical agent to any limb of a horse so that the horse suffers, or is expected to suffer, pain, inflammation, or lameness when walking, trotting, or otherwise moving.⁷ Horse Protection Act violations can also include pressure shoeing and scar rule violations, as scarring is often evidence of past abuse.

Exhibitors began using soring in the United States in the 1950s as a way to improve a horse’s chances of winning at shows without following conventional training methods.⁸ Sore horses gained a competitive edge, and the practice became widespread in the 1960s. Soring raises the prestige, value, and breeding prospects of horses that are often not the best examples of their respective breed. While any breed of horse can be sored, the practice is most frequently used on high-stepping breeds such as Tennessee walking horses.⁹

The Horse Protection Act was passed in 1970, and amended in 1976, to ensure that show horses were not subjected to the practice of soring to gain a competitive edge over horses that were not abused. The Act established that soring at horse shows, horse sales, and other horse exhibitions is prohibited and outlines penalties if inspectors find a horse to be sore. This Act states,

“the Congress finds and declares that (1) the soring of horses is cruel and inhumane; (2) horses shown or exhibited which are sore, where such soreness improves the performance of such horse, compete unfairly with horses which are not sore;... (5) regulation under this chapter by the Secretary is appropriate to prevent and eliminate burdens upon commerce and to effectively regulate commerce.”

⁶ In January 2010, the administration of the Slaughter Horse Transport Program was transferred from VS to the APHIS National Center for Import and Export.

⁷ Horse Protection Act, as amended, 15 U.S.C. §1821.

⁸ More conventional training methods include conditioning and regular riding to develop the horse’s natural gaits.

⁹ The Tennessee walking horse is a gentle and comfortable riding horse. The breed was originally bred in the Southern United States to carry the owners of plantations around their lands. Their unique four-beat “running walk” is especially comfortable to ride. It is a calm, easygoing breed that is typically easy to train. In the show arena, walking horses are known for their gliding running walk.

The Act also states that,

“The Secretary shall prescribe by regulation requirements for the appointment by the management of any horse show, horse exhibition, or horse sale or auction of persons qualified to detect and diagnose a horse which is sore or to otherwise inspect horses for the purposes of enforcing this chapter...”

In order to enforce the Horse Protection Act, APHIS partnered with horse industry organizations, which sponsor and sanction shows, sales, and other events. The horse industry organizations hire inspectors, known as designated qualified persons (DQP), who inspect every horse before it is shown, exhibited, or sold at an event.¹⁰ DQPs are not APHIS employees, but are farriers, horse trainers, or other knowledgeable horsemen. Each individual must receive proper training on the detection or diagnosis of horses that are sore before being licensed as a DQP. During training sessions, DQPs and APHIS veterinarians work together to identify sore horses, discuss inspection techniques, etc.¹¹

When DQPs inspect a horse for soring, they physically examine the pastern and fetlock area of the horse’s front legs, and the horse’s front hooves—this physical examination is referred to as “palpating” the horse. (See Exhibit A for a diagram of a horse’s leg and hoof.) DQPs write tickets for Horse Protection Act violations, and the horse industry organization and APHIS ensure that the violator serves an appropriate penalty.¹² Horse Protection Act violations may ultimately lead to an investigation by APHIS’ Investigative and Enforcement Services and Federal enforcement by the Office of the General Counsel (OGC).

APHIS inspection teams—including professional equine veterinarians working directly for the agency—conduct unannounced inspections at selected horse events to evaluate DQPs and examine any horse for signs of soring or other violations of Federal regulations. If a DQP’s inspection procedure does not meet Horse Protection Act standards, APHIS may recommend the horse industry organization issue a letter of warning. Regulations state that a DQP will permanently lose his or her license after receiving two warnings. A DQP can appeal for reinstatement to the Deputy Administrator of APHIS after losing his or her license.

Because inspections are performed by hand, their quality and results can vary greatly. To improve their accuracy, APHIS has recently made gas chromatography/mass spectrometry technology available to its veterinarians. This technology analyzes a sample obtained by swabbing a horse’s pastern in order to identify otherwise undetectable chemical substances such as mustard oil, diesel fuel, kerosene, any other irritating agent used to accentuate a horse’s gait, or any numbing or masking agents used to hide the effects of soring. In addition, APHIS veterinarians have begun using thermography cameras to detect signs of inflammation on the pasterns of horses presented for inspection. Thermography cameras detect the radiant heat of an object, and can offer inspectors clues that a horse has been subjected to soring. Thermography

¹⁰ 9 CFR Part 11.21 lists the inspection procedures that all DQPs must follow.

¹¹ Our review of the training program provided to DQPs indicated that it was adequate, and that lack of training was not a cause of DQPs’ failure to properly inspect horses.

¹² Individuals may serve a suspension for violating the Horse Protection Act; the length of suspension depends on the nature of the violation. See Exhibit B for a description of suspensions for Horse Protection Act violations. Individuals may also be required to pay monetary penalties if found guilty of violating the Horse Protection Act during Federal prosecution. Individuals may pay penalties of up to \$3,000 for violating the Horse Protection Act.

became an available screening tool for the 2009 show season that APHIS veterinarians can use if environmental conditions at the show are favorable for its use.¹³ Thermography cameras are not effective for use in all areas, such as open areas with direct sunlight or areas with dust in the air.

Because many in the horse industry do not agree that the “soring” of horses is a problem, APHIS employees are often subjected to hostile treatment when they attend shows. At the 2006 Tennessee Walking Horse National Celebration—the premier event for the industry—APHIS disqualified all but three horses in the show’s World Grand Championship class due to Horse Protection Act violations. Show management cancelled the final class, failing to name a World Grand Champion for the first time in 68 years. Spectators demanded that the horses be allowed to show. Police and other security were needed to control the crowd and protect APHIS’ personnel. These sorts of disagreements, as well as the anti-Government sentiments expressed at these shows when APHIS employees are present, make the agency’s efforts to introduce effective and objective enforcement procedures difficult.

Slaughter Horse Transport Program

APHIS also monitors the transport and treatment of horses bound for slaughter. Prior to 2007, the majority of U.S. horses bound for slaughter were sent to three American facilities, where they were slaughtered in accordance with U.S. humane handling regulations. When those slaughterhouses were shut down by State laws banning horse slaughter for human consumption in those two States, horse dealers began shipping all slaughter horses to Canadian and Mexican facilities, which are not subject to the U.S. Humane Slaughter Act.¹⁴ Owners and shippers in the United States sent almost 107,000 horses to slaughter in foreign plants during 2008—50,000 horses to Canadian slaughter facilities and 57,000 horses to Mexican slaughter facilities.

In order to reach these foreign slaughterhouses, horses must be shipped much greater distances, which increases the risk for accidents and inhumane treatment during transport. Regulations require owners and shippers to provide the animals adequate food, water, and rest before and during the transport process, as well as provide adequate safety measures to ensure that the animals are not injured or suffer unduly while in transit.¹⁵ APHIS’ VS Division monitors shipments of horses transported for slaughter to ensure that owners and shippers meet established regulations. APHIS VS’ identified program goal is that “if a horse must be transported commercially to slaughter, then it will travel in a safe and humane fashion.”

A USDA representative may examine horses, the conveyance, and the “Owner/Shipper Certificate” at any point during the transport of horses to slaughter, including at the border, to ensure the animals are treated humanely.¹⁶ Persons found to be violating humane transport regulations for horses bound to slaughter plants face penalties up to \$5,000 per horse, per violation.

¹³ A horse show season generally lasts from March through October of each year, although some horse shows, sales, or events are held before or after these dates.

¹⁴ 7 U.S.C. §1901-1907.

¹⁵ Regulations in 9 CFR Part 88 define an owner/shipper as, “Any individual, partnership, corporation, or cooperative association that engages in the commercial transportation of more than 20 equines per year to slaughtering facilities, except any individual or other entity who transports equines to slaughtering facilities incidental to his or her principal activity of production agriculture (production of food or fiber).”

¹⁶ VS Form 10-13, Owner/Shipper Certificate.

Awareness of the shipment of U.S. horses to these facilities and their treatment has recently increased. Legislation has been introduced in Congress that would amend the criminal code (18 U.S.C. Chapter 3, §50) to prohibit the possession, shipment, transport, purchase, selling, delivering, or receiving of horses to be slaughtered for human consumption. This offense would be punishable by fine or imprisonment of up to three years.¹⁷

Objectives

The overall objective of our review was to evaluate the effectiveness of APHIS' oversight of the humane treatment of horses. In relation to the Horse Protection Act, we determined whether DQP inspections were adequate at sales and shows, and determined whether unannounced inspections by APHIS officials provide adequate oversight of DQPs in the field. We also identified and assessed APHIS' policies regarding the humane treatment of horses in transport to slaughter facilities.

¹⁷ Senate 727 and House of Representatives 503—To amend Title 18, U.S.C., to prohibit certain conduct relating to the use of horses for human consumption, also known as the “Prevention of Equine Cruelty Act of 2009,” 111th Congress.

Section 1: Preventing the Soring of Show Horses

Finding 1: APHIS Needs to Improve its Program for Inspecting Show Horses for Abuse and Penalizing Violators

APHIS' current program for inspecting show horses for abuse is not adequate to ensure that these animals are not being sored so that they will display certain behavior in the show ring. APHIS has attempted to implement the program with very limited resources, and due to those limitations, it developed a system relying on part-time DQPs hired by horse industry organizations to inspect horses at shows. Because these DQPs are primarily hired from show industry participants, they have an inherent conflict of interest—they are reluctant to issue violations since excluding horses from the show inconveniences their employers, and makes it less likely they will be hired for other shows. They are also subject to a conflict of interest because, while they are acting as a DQP at one show, they may be an exhibitor at another show, and the exhibitor of the horse they are examining might later act as the DQP.¹⁸ Due to this ineffective inspection system, the Horse Protection Act is not being sufficiently enforced and the practice of abusing show horses continues.

In response to public awareness of the practice of soring show horses, Congress passed the Horse Protection Act in 1970.¹⁹ APHIS administers the Horse Protection Program to protect show horses from the abusive practice of soring, and prevent sored horses from participating in shows, sales, exhibitions, or auctions. However, the Horse Protection Act specifically authorizes no more than \$500,000 each year to administer this program. These funds are used to cover travel, salaries, and other expenditures for the APHIS employees involved in the Horse Protection Program.

When APHIS implemented the program, its available resources were not sufficient to send agency employees to every horse show. Given its funding limitations, APHIS codified into regulations a system whereby horse industry organizations were responsible for accrediting, hiring, paying, and disciplining individuals who would inspect horses at their shows. To ensure that the industry-hired DQPs are inspecting horses as required under the law, APHIS uses its available resources to send APHIS employees to as many horse shows as possible, where they monitor DQPs and perform their own independent inspections.

In our discussions with APHIS officials, OIG and APHIS have together reached the conclusion that the system of inspections based on DQPs is not working to accomplish the goals of the law, primarily because DQPs are not independent of the horse show organizers who employ them. The horse industry organizations sponsor shows to promote and exhibit horses and to generate income from ticket sales, concessions, and entry fees; they also license DQPs. When horse show

¹⁸ We use the term “exhibitor” in the report to refer to a show horse’s owner, trainer, or other handler. Horse Protection Act regulations state that the term “exhibitor” refers to “(1) any person who enters any horse, any person who allows his horse to be entered, or any person who directs or allows any horse in his custody or under his direction, control or supervision to be entered in any horse show or horse exhibition; (2) any person who shows or exhibits any horse, any person who allows his horse to be shown or exhibited, or any person who directs or allows any horse in his custody or under his direction, control, or supervision to be shown or exhibited in any horse show or horse exhibition; (3) any person who enters or presents any horse for sale or auction, or any person who allows any horse in his custody or under his direction, control, or supervision to be entered or presented for sale or auction in any horse sale or horse auction; or (4) any person who sells or auctions any horse, any person who allows his horse to be sold or auctioned, or any person who directs or allows any horse in his custody or under his direction, control, or supervision to be sold or auctioned.”

¹⁹ Horse Protection Act, 15 U.S.C. §1821-1831.

management designates and appoints DQPs to inspect horses at a show, then horse show management is relieved of its responsibility and any liability regarding the Horse Protection Act. Essentially, the horse show management gets the best of both worlds—use of DQPs so its liability is limited regarding the Horse Protection Act and an ineffective DQP process that rarely finds horses that are sore or eliminates horses from their show. The DQPs work within the horse industry and understand that they will not please their employers by excluding horses from the show due to violations of the Horse Protection Act. In the established system, DQPs have a direct conflict of interest with enforcing the law and regulations. The overall result is a compromised inspection process where some DQPs overlook violations and fail to issue violations to exhibitors who abuse their horses.

APHIS officials agreed that DQPs do not properly enforce the Horse Protection Act, and that there are conflicts of interest affecting DQPs’ ability to independently enforce the law and regulations. They explained that the DQP system was established as a way of uniformly enforcing the Horse Protection Act when APHIS personnel could not be present due to the agency’s limited funding for the program, but they stated that the system was not functioning as intended. Our review of APHIS’ records found that DQPs are much more likely to find evidence of soreing when APHIS employees are present than when they are not, as illustrated by the following table:

| Horse Industry Organizations ^{20, 21} | Show Season Reviewed | Total Shows | Shows Attended by APHIS | Percentage Attended by APHIS | Total Violations Issued | Violations Issued When APHIS Was Present | Percentage of Tickets Issued When APHIS Was Present |
|--|----------------------|-------------|-------------------------|------------------------------|-------------------------|--|---|
| HAWHA | 2006 | 30 | 2 | 7 | 7 | 3 | 43 |
| HPC | 2007 | 22 | 1 | 5 | 5 | 2 | 40 |
| KWHA | 2005 | 113 | 11 | 10 | 154 | 98 | 64 |
| KWHA | 2006 | 126 | 6 | 5 | 119 | 32 | 27 |
| KWHA | 2007 | 117 | 6 | 5 | 121 | 74 | 61 |
| MFTHBA | 2005 | 28 | 1 | 4 | 11 | 3 | 27 |
| MFTHBA | 2007 | 20 | 1 | 5 | 1 | 1 | 100 |
| NHSC | 2005 | 280 | 20 | 7 | 662 | 398 | 60 |
| NHSC | 2006 | 285 | 22 | 8 | 983 | 285 | 29 |
| NHSC | 2007 | 280 | 20 | 7 | 480 | 229 | 48 |
| NHSC | 2008 | 252 | 16 | 6 | 477 | 280 | 59 |
| SSHBEA | 2005 | 34 | 1 | 3 | 5 | 3 | 60 |
| SSHBEA | 2008 | 20 | 1 | 5 | 4 | 1 | 25 |
| Average | | | | 6 percent | | | 49 percent |

On average, APHIS employees were present at only 6 percent of shows, yet DQPs issued 49 percent of violations at these shows.

²⁰ Horse industry organizations include the Heart of America Walking Horse Association (HAWHA), Horse Protection Commission (HPC), Kentucky Walking Horse Association (KWHA), Missouri Fox Trotting Horse Breeders Association (MFTHBA), National Horse Show Commission (NHSC), and Spotted Saddle Horse Breeders and Exhibitors Association (SSHBEA).

²¹ The data pertain to 6 of the 14 horse industry organizations for which we received APHIS reports on the groups’ operations.

I. DQPs Do Not Always Inspect Horses in Accordance with the Horse Protection Act and APHIS Regulations

We attended five Tennessee walking horse shows—three with APHIS personnel and two without them. Although one of these five shows was cancelled as soon as we arrived and before APHIS personnel could inspect any horses, we were able to observe how 14 DQPs inspected horses at 4 shows. We also reviewed APHIS veterinary medical officers' show reports for an additional 31 shows.

Based on these observations, we found that 3 of the 14 DQPs (21 percent) did not inspect horses for evidence of soring in compliance with laws and regulations, even though most were aware they were being directly observed.²² The show reports noted five similar incidents involving an additional four DQPs. APHIS officials stated that these problems often occur because the DQPs come from within the horse show industry, and are paid by the horse industry organizations. Therefore, they associate themselves much more closely with the needs of the exhibitors than with the horses they are there to protect. As one DQP told an APHIS veterinarian, he was “a trainer himself,” he was “here for the trainers,” and “these people are just trying to make a living.” The APHIS veterinarian explained to the DQP that “he was not there as a representative for the trainers,” that “his role was to identify [Horse Protection Act] violations if they were present, document them, inform the custodians of the violation, dismiss the horse from the class, and issue a [horse industry organization] ticket for the violation.”

We provide two examples of the deficient inspections we or APHIS personnel observed when visiting horse shows:

- At one of the three shows we attended with APHIS, we observed a DQP who did not perform inspections according to regulations. Instead of issuing a violation when he observed a horse that had been sored, the DQP informed OIG and APHIS veterinarians that he gave exhibitors three warnings—or what he termed “freebies”—before he would write a ticket. These warnings were issued if he observed an exhibitor stewarding a horse, if he found a horse that was mildly sore, or if he found a small area on a horse's pastern that appeared to be inflamed.²³ Regulations do not allow for the issuance of such warnings; DQPs are to disqualify horses in violation and issue appropriate penalties for violating the Horse Protection Act. We asked the DQP how many tickets he had issued in the last year—he replied that he had issued only one.
- At another show, one we attended without APHIS personnel, we observed a DQP who did not always observe horses while they were moving, and kept his back turned to the horses as

²² Due to the volatile atmosphere of the shows, we did not directly confront these DQPs concerning their problematic inspection technique. In some instances, we observed DQP inspections by purchasing tickets to the shows and observing from public spaces adjacent to the inspection areas.

²³ Stewarding is a practice employed by exhibitors who use soring to force horses to stand still for inspection even if they are in pain. Techniques generally involve a stable employee palpating the horse's front legs; if the horse flinches from the pain of soring, another employee injures the horse by hitting it in the head, using a cigarette to burn its tongue, or other painful methods. Eventually the horse learns to stand still for the lesser pain of inspection. Exhibitors may give a horse subjected to stewarding a cue in the inspection area to remain still, such as holding the horse's rein tightly, pinching the horse's lip, or staring directly into the horse's eye, which may be a clue to a DQP or veterinarian that the exhibitor is stewarding the horse. The operating plan, an agreement between APHIS and horse industry organizations on operating practices and penalties for violations, states that if a DQP or veterinarian detects stewarding, the horse should be excused and show management should be notified.

they walked around cones in a figure-eight pattern.²⁴ Unless he observed the horses directly, he could not see if they were limping, walking slowly, or having difficulties turning. This DQP also declined to inspect horses that placed first, as required by regulations. We observed more than one first-place horse return to the inspection area after the class, and the DQP did not inspect the horses or weigh action devices, as required by regulations.²⁵ The DQP simply waved the horses through, stating that they were fine. We also noted that the DQP did not examine horses properly, which is important because an improper technique could fail to uncover evidence of soring.²⁶ Instead of palpating the horse's pastern area with his thumbs in a consistent pattern to detect sore areas as required, the DQP gripped each horse's pastern with his hand in two or three places, and then moved on to the opposite leg. When we spoke to APHIS officials about this DQP's inspection technique, they stated that DQPs generally perform inspections properly during training sessions, but then revert to improper inspection techniques at shows so that they can allow more horses to pass inspection and avoid issuing penalties to exhibitors for violating the Horse Protection Act.

Many of these problems occurred while DQPs were being observed by OIG auditors, APHIS personnel, or both.²⁷

II. DQPs Do Not Always Issue Violations to the Responsible Individuals to Avoid Penalizing Exhibitors

If a DQP finds evidence that a Horse Protection Act violation has occurred, he or she is responsible for issuing a ticket to the individual or individuals responsible for committing the violation.²⁸ We found, however, that DQPs often do not address tickets to the individuals who violate the Horse Protection Act; instead, they issue them to an exhibitor's stable hand, friend, family member, or other individual so the exhibitor responsible for abusing the horse can avoid being penalized.

APHIS employees (veterinarians, animal care inspectors, and national office officials) we interviewed at shows stated that the practice of penalizing someone other than the horse's exhibitor was a frequent problem, and that it allowed exhibitors who sore their horses to continue to compete in shows and other events without serving any penalties for their actions. The agency veterinarians explained that exhibitors often send in their children, older relatives, friends, stable hands, or other individuals to sign tickets involving Horse Protection Act violations. An APHIS Review and Analysis Branch review also identified this problem, and stated that, "[a]s it stands, most head trainers are escaping penalties for many horses." The APHIS reviewer cited at least one instance where a DQP changed the name on a ticket based on a phone call to the stable and also noted one particular stable had many suspensions issued to employees rather than the head

²⁴ 9 CFR 11.21 (a)(1). DQPs are directed to have exhibitors walk and turn the horse to determine if it exhibits signs of soreness.

²⁵ Regulations define an action device as, "...any boot, collar, chain, roller, or other device which encircles or is placed upon the lower extremity of the leg of a horse in such a manner that it can either rotate around the leg, or slide up and down the leg so as to cause friction, or which can strike the hoof, coronet band, or fetlock joint." Regulations state that action devices cannot weigh more than 6 ounces each; cannot contain sharp edges, drop links, or twisted links; and cannot strike the coronet band of the horse's hoof.

²⁶ 9 CFR Part 11.20(b)(2)(iv).

²⁷ When we attended shows without APHIS, the DQPs did not know that they were being observed by USDA personnel. We purchased tickets to the shows and did not identify ourselves to anyone, including DQPs and show management. We observed DQP inspections from public spaces near the designated inspection area.

²⁸ 9 CFR 11.7(d)(1-3) and 9 CFR 11.20(b)(3).

exhibitor, who directs the employees while they are working with the horses at the stable. In these cases, DQPs issued tickets to stable employees rather than to the exhibitors actually responsible for the condition of the horses. This practice allows exhibitors to continue violating the Horse Protection Act even if they are caught because stable employees or other individuals serve the penalty for the exhibitors' actions.

During our field work, we observed an instance where an exhibitor attempted to avoid receiving a penalty. When the exhibitor was cited for a Horse Protection Act violation during a pre-show inspection, he took his horse to the barn area while the DQP wrote the ticket. The exhibitor returned with an older relative. The DQP explained the ticket, and asked for a signature. The exhibitor asked the older relative to sign the ticket. She stated that she did not understand why she was signing the form. After she became quite upset that she would be penalized for the horse's condition, the exhibitor agreed to sign the ticket himself.

Our review of show reports for the 2008 show season revealed other instances where DQPs issued violations to individuals who were not responsible for the condition of the horse inspected. APHIS officials and veterinarians explained that exhibitors often employ individuals who may not be fluent in English or may not fully understand the Horse Protection Act; these individuals may be sent to sign tickets for violations so that the exhibitor can avoid serving a penalty. For example, one DQP issued a ticket for a horse whose exhibitor was Joe Smith, yet the ticket showed the exhibitor as Paul Jones.²⁹ In this way, the exhibitor was able to avoid a penalty.

OIG concluded that this sort of behavior illustrates the challenges APHIS faces in trying to enforce the Horse Protection Act through the DQP system. Some DQPs associate their interests so closely with exhibitors and the horse industry organizations that they have difficulty issuing violations to the individuals who are responsible for the horse's condition.

III. APHIS Should Strengthen its Direct Control Over the Inspection Process

According to the Horse Protection Act, APHIS employees have the authority to inspect horses and initiate civil proceedings against individuals who are suspected of having abused their horses.³⁰ Because these proceedings can be long, expensive, and have unpredictable results, APHIS has structured its enforcement process so that horse industry organizations and DQPs are the primary parties responsible for issuing immediate penalties to individuals for violating the Horse Protection Act. Such violations are not, however, civil penalties but rather violations deriving from the operating plan horse industry organizations sign with APHIS so that their DQP training programs can be accredited and their shows can be affiliated with an accredited organization.³¹

²⁹ These names have been changed to protect the privacy of the individuals involved.

³⁰ Horse Protection Act, 15 U.S.C. §1823 (e), gives APHIS personnel the authority to "...inspect any horse show, horse exhibition, or horse sale or auction or any horse at any such show, exhibition, sale or auction." §1825 (b) states that, "[n]o penalty shall be assessed unless such person is given notice and opportunity for a hearing before the Secretary with respect to such violation." These hearings may result in USDA issuing a civil penalty of varying monetary amount to the individual found liable for violating the Horse Protection Act.

³¹ The operating plan, effective for the 2007-2009 show seasons, is an agreement between APHIS and the horse industry organizations on the enforcement of the Horse Protection Act, the penalties for violations, and how APHIS will work to resolve conflicts over violations with horse industry organization representatives. For the 2010 show season, there is no operating plan. Instead, APHIS focused on enforcing the Horse Protection Act and regulations as written and issued reminders to the horse industry on specific items required by regulations that were not always followed or enforced under the operating plan.

Due to this arrangement, at accredited shows (where there is an operating agreement in effect), APHIS employees must sometimes persuade DQPs to issue violations. If an APHIS employee is at a show and identifies a sore horse, the agency employee does not have the authority to write a ticket for the violation directly. Instead, the agency employee must convince the DQP that a violation occurred so that the DQP will then write a ticket. If the DQP does not agree, APHIS collects evidence (e.g., pictures, videos, statements, etc.) for conflict resolution between APHIS and the horse industry organization and a possible Federal case.³² When a horse is placed in conflict resolution, it is dismissed and is not allowed to compete, be offered for sale, or participate in an exhibition. However, because conflict resolution can be a long and involved process with an uncertain result, APHIS would generally prefer the DQP to issue a violation, which results in the horse's owner being immediately suspended.

APHIS employees also have limited options for correcting the inspection techniques of DQPs whom they may observe at accredited shows. When APHIS employees see a DQP whose inspection technique does not conform to the agency's standards, they can request a letter of warning from the horse industry organization.³³ They cannot, however, discipline a DQP themselves.

At non-accredited shows (where the horse industry organization has not signed an operating plan), APHIS employees can still hold the organization to the terms of the Horse Protection Act. Since APHIS does not honor any penalty structure that may be established by horse industry organizations at non-accredited shows, APHIS veterinarians who visit the show and observe problems must forward any evidence of violations to APHIS' Investigative and Enforcement Services for potential Federal enforcement.

Because Federal investigations and enforcement can be slow, cumbersome, and culminate in uncertain outcomes, OIG maintains that APHIS should make greater use of its ability to negotiate a penalty before forwarding the case for investigation and enforcement.³⁴ Currently, when APHIS veterinarians collect evidence for a potential enforcement case, APHIS Investigative and Enforcement Services personnel spend time gathering additional evidence for the case, and then forward it to OGC. OGC attorneys review the file and determine whether they will accept the case for enforcement. OGC primarily accepts only bilateral soring and scar rule cases for enforcement, which can allow individuals who have violated the Horse Protection Act to a lesser degree (for example, only one pastern shows signs of soring) to continue their practices without an appropriate penalty.³⁵ If APHIS were able to negotiate directly with the violator to accept an agreed-upon penalty rather than face enforcement, APHIS could better ensure that individuals who violate the Horse Protection Act serve an appropriate penalty.

³² During conflict resolution, the APHIS Horse Protection Coordinator and the horse industry organization's DQP Coordinator review the presented evidence and try to reach an agreement on whether to issue a penalty to the individual.

³³ DQPs who receive two letters of warning lose their license permanently. Those who lose their license can request that the Administrator reinstate their DQP license. Although APHIS officials have records of DQPs receiving letters of warning as early as 1979 for performing inspections that did not effectively enforce the Horse Protection Act, no DQP has lost his or her license for receiving two letters of warning.

³⁴ 9 CFR Part 12.10.

³⁵ Bilateral soring occurs when an exhibitor sors the horse on both front limbs.

At present, there is no clear protocol concerning when APHIS might negotiate a penalty, so the agency is forwarding many cases for investigation that might be settled without expending further resources on investigating and prosecuting the violator. Consistently using this authority would also result in a more immediate penalty being issued to many individuals whom APHIS employees have found to be in violation of the Horse Protection Act. The Animal Care division has started to work with the Investigative and Enforcement Services staff to develop a protocol to better use this authority.

Based on our review we concluded that, as APHIS transitions from the current DQP system and moves to an inspection process based on independent veterinarians, it should take several steps to address problems with how the agency interacts with horse industry organizations. It should revise its regulations so that independent veterinarians can directly issue violations, much as DQPs do in the current system. It should revise its regulations so that it can discipline inspectors who do not examine horses according to the agency's standards, which would include revoking the USDA accreditation of any veterinarian who does not adequately inspect horses. Finally, it should—in cases where the horse industry organization has not signed an operating plan or where there is a disagreement with an inspector—improve its protocol for negotiating a penalty before the case is forwarded for investigation and enforcement.

Finally, we noted that APHIS employees are attempting to enforce the Horse Protection Act under hostile conditions. When they attend horse shows, employees are often subjected to harassment from organizers, exhibitors, and spectators, which can include anti-Government comments spoken over the public address system and remarks that create hostile working conditions. For instance, at one show, an APHIS employee described how the crowd reacted to his presence:

At about 8:10 pm-8:20 pm a person representing show management gave a speech to the crowd. The subject of the speech was that the government was picking on the walking horse industry and that the people needed to stand up to this unjust treatment. This was met with cheers from the crowd. [We then] spoke with the show manager and I warned her that we would be forced to have this person removed from the show by our security if the tirade was allowed to continue. The speech continued with its scheduled topic being discussed and the anti-government topic dropped.

When they visit shows, APHIS employees are routinely escorted by police and security personnel for their own protection. During one show we attended, security personnel recommended that we have an escape plan in place in case the situation got out of hand. Based on the attitude organizers, trainers, and spectators expressed at these horse shows, it does not appear that the Horse Protection Act and its provisions against soring show horses are respected at these events. It is unreasonable to expect that DQPs—part-time employees hired by the show organizers—will be able to reliably enforce the law under conditions as hostile as these, even if they were inclined to do so.

Given the problems described in this finding, APHIS and OIG have together reached the conclusion that the current DQP system is not an effective means of enforcing the law. It has the advantage of requiring horse industry organizations to train and license the DQPs; but if DQPs are ineffective, show management is not liable for identifying sore horses. APHIS lacks

assurance that horses are being properly inspected at shows inspected by DQPs. To develop a more effective inspection system, we recommend that APHIS abolish the DQP system and institute a system based on inspections by veterinarians independent of the horse industry.

OIG acknowledges that replacing the DQP system with a system of independent veterinarians will involve increased costs. However, our analysis shows that those costs could be passed along to horse show participants, and that the costs would not be prohibitive. For example, at one small horse show we visited, the show organizer paid a DQP a total of \$175 to inspect 158 horses, or \$1.11 per horse.³⁶ A veterinarian might charge as much as \$1,000 to inspect this show, or \$6.33 per horse for a difference of \$5.22 per horse.³⁷ Under the DQP-based system, participants paid from \$30 to \$60 to enter a horse into the show; under a veterinarian-based system, they would pay from \$35.22 to \$65.22 (or a 9 to 17 percent increase).

Such a system would have a number of advantages that would outweigh this relatively small cost increase. Exhibitors would have greater confidence that other exhibitors were competing fairly; horse show organizers would be more confident that they were in full compliance with the law; and Congress would have greater assurance that the Horse Protection Act is being enforced. Moreover, asking horse show participants to pay the costs of their own regulation is not an unreasonable solution to the problem of inspecting horses at these shows.

When we spoke to APHIS officials about abolishing the DQP system and implementing a system based on USDA-accredited, independent veterinarians, they stated that they thought it would be a good idea for virtually all parties. Show managers and exhibitors would be paying slightly more for inspections, but the quality of the inspections would be much higher than with DQPs. APHIS officials viewed this as an opportunity cost for the industry—if the industry wants to move forward with a better inspection process, then industry officials should be willing to pay for better inspectors.

OIG also maintains that APHIS should approach Congress to seek the necessary funding for the Horse Protection Program, as the agency has operated the program for decades with few resources. Even when the DQP system is abolished, APHIS will continue sending its own employees to horse shows so that it can ensure that the independent USDA-accredited veterinarians are inspecting horses according to the agency's standards. In fiscal year 2007, the Horse Protection Program's budget was sufficient to send APHIS veterinarians only to approximately 30 of the 463 accredited shows, or 6 percent. Given the weaknesses in the inspection process, APHIS employees need to attend more shows to ensure that horses are inspected adequately.

Recommendation 1

Abolish the current DQP system and establish by regulation that inspectors will be independent, USDA-accredited veterinarians that perform the inspections to assess whether

³⁶ These cost estimates do not include travel costs; however, DQPs are often paid travel costs, just as veterinarians might be if they have to travel to reach shows. Therefore, we excluded travel costs from our analysis.

³⁷ APHIS officials stated that they had polled accredited veterinarians before about inspecting horses and what they would consider a fair amount of pay for this function. The veterinarians polled quoted between \$500 and \$1,000 per night plus travel expenses.

horses are sore at sanctioned horse shows, sales, and other horse-related events and obtain, if needed, the authority to require show managers to pay the higher cost of providing independent, USDA-accredited veterinarians to inspect the horses if their liability is to remain limited.

Agency Response

APHIS responded that the Agency agrees with the intent of the recommendation. APHIS will propose a regulatory change to abolish the current DQP licensing system and propose that the Agency license DQPs. Under the proposed regulations, APHIS would require and provide a minimum of 14 hours of specialized training to individuals pursuing DQP licensing. The proposed regulations will also establish strict qualification and criteria to prohibit conflicts of interest. DQPs having close ties with the horse show industry would be excluded from licensing. Horse Industry Organizations would continue to be responsible for hiring and compensating the DQPs to inspect horse shows, but would have to use APHIS-licensed DQPs.

Additionally, APHIS will provide more outreach and recruitment activities to license independent, accredited veterinarians as DQPs. The Agency will display the USDA Horse Protection Program exhibit at the American Association of Equine Practitioners (AAEP) Annual Convention in Baltimore, Maryland in December 2010. APHIS will conduct a tabletop discussion session at the convention to inform the AAEP members about the efforts USDA is making to eliminate soring at horse shows and other related events. APHIS will meet with other associations and organizations such as, but not limited to, the American Horse Council and National Institute of Animal Agriculture. APHIS attended the World Equestrian Games in Lexington, Kentucky in September 2010, to discuss the Horse Protection Act with many of the accredited veterinarians that were in attendance.

APHIS will submit the work plan by January 1, 2011, but cannot predict the timing or the final outcome of rulemaking.

OIG Position

We accept management decision for this recommendation.

Recommendation 2

Seek the necessary funding from Congress to adequately oversee the Horse Protection Program.

Agency Response

APHIS stated that it agreed with this recommendation. APHIS requested a \$400,000 increase in funding for fiscal year 2011 which will bring the Horse Protection budget to \$900,000. APHIS will develop a budget and staffing plan to phase in the resources needed to adequately oversee the Horse Protection program, and continue to evaluate funding needs in future fiscal years.

OIG Position

We accept management decision for this recommendation.

Recommendation 3

Revise the agency's regulations so that independent USDA-accredited veterinarians and APHIS veterinarians can directly issue violations, much as DQPs do in the current system.

Agency Response

APHIS agreed with the intent of the recommendation and provided that, by creating an improved and more accountable DQP program, the Agency will be better able to ensure that Horse Industry Organizations assess appropriate penalties. APHIS has mandated a penalty protocol for every Horse Industry Organization to implement and enforce in order to maintain USDA certification. APHIS will require each Horse Industry Organization to include the penalty protocol in their rule book and implement the penalty protocol by January 1, 2011. Each Horse Industry Organization will be required to submit their rule book to APHIS for review and approval before it is implemented during the 2011-2012 show season. Since APHIS will have direct responsibility for the licensing of DQPs, APHIS will be able to hold DQPs accountable for issuing violation findings.

The Horse Industry Organizations are responsible for enforcing Horse Protection Act penalties, with APHIS overseeing the process. Show management will be held liable and responsible if a Horse Industry Organization DQP is not utilized during the horse show, sale, or other related event. APHIS will submit a work plan to propose a regulatory change to decertify a Horse Industry Organization that fails to enforce the Horse Protection Act and penalties set forth by APHIS. With enhanced authority, APHIS will establish criteria and procedures to immediately suspend the operation of a Horse Industry Organization.

APHIS will submit the work plan by January 1, 2011, but cannot predict the timing or the final outcome of rulemaking.

APHIS will continue to conduct yearly Horse Industry Organization office audits. The audit results will be used for risk analysis to determine the performance level of the Horse Industry Organizations enforcing the Horse Protection Act, future shows to monitor, and if the Horse Industry Organizations followed the auditors' recommendations. The audit reports will continue to be posted on the APHIS Animal Care website.

OIG Position

We accept management decision for this recommendation.

Recommendation 4

Revise its regulations so that APHIS can discipline inspectors who do not examine horses according to the agency's standards, which would include revoking the USDA accreditation of any veterinarian who does not adequately inspect horses.

Agency Response

APHIS stated that it agreed with this recommendation. Within the proposed regulations for a new DQP licensing program, APHIS will incorporate its authority to directly discipline DQPs, including DQPs who are accredited veterinarians. APHIS will develop a work plan to add enforcement of the Horse Protection Act under duties for accredited veterinarians by January 1, 2011. Therefore, the accreditation for a veterinarian will be suspended or revoked if they do not carry out their duties under the Horse Protection Act. The license of a DQP who is not an accredited veterinarian can be suspended or revoked by APHIS if they fail to enforce the Horse Protection Act. APHIS will submit a work plan to propose a regulatory change to directly discipline DQPs by January 1, 2011, but cannot predict the timing or the final outcome of rule making.

APHIS is utilizing intermittent and full time field personnel to: (1) increase the number of shows/sales attended by APHIS; (2) to monitor the inspections of the DQPs; (3) to develop and implement additional training for the APHIS inspectors and DQPs; and (4) to monitor the Horse Industry Organizations implementation of the penalty protocol.

APHIS will reiterate to the Horse Industry Organizations in 2011 that all parties responsible for the horse (trainer, owner, rider, transporter, custodian, etc.) will be penalized under the APHIS penalty protocol. APHIS will monitor the Horse Industry Organizations process of penalizing the violators of the Horse Protection Act by reviewing the Horse Protection Act database. APHIS will also verify that the penalty protocol is implemented during the yearly Horse Industry Organization office audits.

In the interim, APHIS will continue to monitor the DQPs who are licensed and certified by the Horse Industry Organizations and recommend letters of warning and cancellation of licenses when APHIS observes lack of performance by DQPs during unannounced visits to horse shows and related events.

OIG Position

We accept management decision for this recommendation.

Recommendation 5

Develop and implement protocols to more consistently negotiate penalties with individuals who are found to be in violation of the Horse Protection Act.

Agency Response

APHIS stated that it agreed with this recommendation. APHIS developed a penalty protocol that every Horse Industry Organization will be required to include in their rule books. The Horse Industry Organizations will also be required to submit their rule books to APHIS for review and approval. APHIS will implement this requirement on January 1, 2011.

APHIS is utilizing intermittent and full time field personnel to conduct unannounced visits to horse shows to monitor DQPs' issuance of tickets and to ensure the DQPs are completely and accurately collecting the information on the violators during the show or other related event.

APHIS will closely monitor the appeal hearing process conducted by Horse Industry Organizations by attending, unannounced, randomly selected appeal hearings. APHIS will require Horse Industry Organizations to submit written justification of a dismissed violation. APHIS will also verify that the hearing protocol was followed during their yearly Horse Industry Organization office audits.

OIG Position

We accept management decision for this recommendation.

Finding 2: APHIS Needs to Improve its Controls for Ensuring that Horse Protection Act Violators Do Not Participate in Shows While Suspended

Individuals issued a violation for abusing horses under the terms of the Horse Protection Act are suspended from participating in horse shows and other events for a period of time. During this time period, suspended individuals cannot transport horses to the show grounds, prepare horses in the barn or warm-up areas for the show, or engage in other horse show-related activities. We found, however, that APHIS does not maintain and distribute an accurate, up-to-date list of suspended individuals to show managers, DQPs, and APHIS employees—a list against which horse show participants can be checked to verify that they are not suspended. Some horse industry organizations send monthly suspension lists to APHIS, while other groups send their suspension lists to other horse industry organizations instead of APHIS. This occurred because horse industry organizations do not always cooperate with APHIS personnel by providing accurate and timely information concerning who has been suspended, and horse show managers do not provide APHIS personnel with a complete list of all the individuals planning to exhibit horses during a given show, sale, or event. The suspension list that APHIS does distribute may not contain all suspended individuals since APHIS may not receive suspension information from all horse industry organizations. Aware of this problem, APHIS officials had proposed using a computerized suspension list that show organizers could check as participants entered horses into the show, but the organizers of smaller horse shows resisted, claiming that they were not always able to use a computerized system at horse shows. Without accurate information concerning who is suspended, who has paid entry fees for a show, and who is planning to participate, show managers, DQPs, and APHIS employees cannot fully enforce the Horse Protection Act, and suspended exhibitors may be allowed to participate.

When individuals receive a penalty for violating the Horse Protection Act, they are prohibited from participating in horse shows, sales, or exhibitions for a specified period. (See Exhibit B for a description of penalties and prohibitions that apply when an individual is serving a suspension.) If APHIS finds that individuals serving a suspension violate the terms of the suspension by participating in a horse show, sale, or exhibition, they can face Federal enforcement and fines of \$4,300 per incident.³⁸ In addition, horse shows, horse sales, horse exhibitions, and show

³⁸ Since 2007, there has been one case pursued against an individual found to be participating in horse shows, sales, etc., while serving a suspension for a Horse Protection Act violation. This case is currently being investigated by APHIS Investigative and Enforcement Services.

managers who knowingly allow a suspended individual to participate in the show, sale, or exhibition face enforcement with fines similar to the individual's penalty.³⁹

We found, however, that APHIS does not have an adequate control for ensuring that suspended individuals do not participate in horse shows, sales, or exhibitions. At present, the agency does not require APHIS inspection teams, DQPs, or show organizers to check each participant against the suspension list. Instead, APHIS employees refer to the list when they recognize someone they suspect may be on the list, but they do not know every person at a show, nor do they attend every show. Show organizers should obtain information on all individuals responsible for the condition of each horse entered (e.g. owner, trainer, handler, etc.) and check all responsible individuals against the suspension list to ensure that no one involved with the horses entered is currently on suspension for violating the Horse Protection Act. Additionally, it would be best if APHIS employees, DQPs, and show managers could check the horse show entries against the suspension list in advance, so they could identify any violators or suspected violators before inspections begin.

When we spoke to APHIS officials about this problem, they agreed that there was no reliable control preventing suspended individuals from participating in shows or other events, and they stated that they would develop a policy requiring APHIS employees, DQPs, and show organizers to check the suspension list against participants at each show. Officials discussed using a database or printouts of the most current suspension list to check against participants entering horses in the show and ensure no individuals on suspension participate. APHIS personnel also explained that they are working with show management to obtain class sheets and entry sheets at the beginning of the show or in advance of each class, if possible, so the inspection team can check the information against the list of suspended individuals.

In addition to ensuring that suspended individuals do not participate in shows, sales, and other events, APHIS faces additional challenges when enforcing the Horse Protection Act. We found that APHIS must ensure that exhibitors do not attempt to re-enter a horse into an event after it has already been disqualified due to Horse Protection Act violations. We found that APHIS needs to clarify its regulations regarding whether a horse that has been disqualified in one class is also disqualified from other classes at the same show. Regulations do not prohibit a horse that was cited for a violation in one class from returning to participate in later classes, which would entail another inspection since each horse is inspected for each class it is entered into. Because the quality of inspections can vary based on the inspector examining the horse, re-presenting the animal could result in a situation in which a horse that has failed an inspection for one class could be passed for another. Exhibitors could also use numbing or masking agents on the horse's legs or hooves to prevent the horse from exhibiting pain when being inspected the second time.

APHIS officials stated that inconsistent inspections plagued the 2009 Tennessee Walking Horse National Celebration, the breed's premier annual event. Potentially, inconsistent inspections could also have legal consequences for enforcement of horse abusers under the Horse Protection Act. In order to prevent this sort of situation, APHIS should suspend horses that have been cited

³⁹ 7 CFR 3.91(b)(2)(ix) and 15 U.S.C. §1825, Section 6(c).

with a soring violation from all classes at a given show. APHIS officials we spoke to agreed that horses cited for violations should not be allowed to participate in later classes, and stated that they want to ensure that when a horse is disqualified, it is disqualified from the entire show.

Recommendation 6

Develop and implement controls (searchable database) that identify individuals with Horse Protection Act violations or disqualifications to verify that individuals suspended from horse shows, sales, or exhibitions do not participate in these types of events when suspended. In addition, APHIS should include a process for receiving accurate, timely information regarding suspended individuals from horse industry organizations, and accurate, timely information regarding participants from horse show organizers.

Agency Response

APHIS stated that it agrees with this recommendation. As of July 19, 2010, APHIS developed and implemented a new web-interfaced database that each Horse Industry Organization is required to utilize to submit the required information under the regulations. Information from the database will be used to hold the management of horse shows, sales, etc., accountable for their responsibilities under 9 CFR 11.20. On February 2, 2010, APHIS began posting online current Horse Protection Act suspension lists on the USDA website. APHIS will create an online searchable database of Horse Industry Organization suspensions to be available to the public by November 1, 2010.

OIG Position

We accept management decision for this recommendation.

Recommendation 7

Require that APHIS employees, independent veterinarians (or DQPs), and horse show organizers check all participants responsible for the condition of horses entered in the event against the database of suspended individuals.

Agency Response

APHIS stated that it agreed with this recommendation. On February 2, 2010, APHIS began posting online current Horse Industry Organization suspensions on the USDA website for APHIS employees, independent veterinarians, DQPs and horse show organizers to identify people on suspension and prohibit them from showing. APHIS is currently in the process of gathering the data necessary to initiate investigations on show managers who have allowed people on suspension to show. APHIS anticipates completing the process of gathering the data and requesting an investigation by October 1, 2010.

APHIS will propose a work plan to require that show managements conducting horse shows or related events post the suspension lists and manually check the list against those participating in the horse shows or related events prior to exhibiting horses. APHIS cannot

predict the timing or the final outcome of rulemaking. APHIS will submit the work plan by January 1, 2011.

On August 12, 2010, APHIS sent a memo to all Horse Industry Organization coordinators, reminding them that Horse Industry Organization suspensions and USDA disqualifications are to be enforced by all Horse Industry Organizations and show managers. APHIS developed a fact sheet entitled "Responsibilities of Horse Show Management." This fact sheet will be sent to show managers to emphasize their responsibility to follow the regulations, and to ensure that individuals who have violated the Horse Protection Act do not exhibit horses at the show or related event. APHIS will distribute the notice by January 1, 2011.

OIG Position

We accept management decision for this recommendation.

Recommendation 8

Revise and enforce regulations to prohibit horses disqualified as sore from competing in all classes at a horse show, exhibition, or other horse-related event.

Agency Response

APHIS stated that it agrees with this recommendation. APHIS currently has the authority and enforces regulations to keep horses from competing in subsequent events after inspectors detect a violation. Beginning March 1, 2010, APHIS emphasized to all show managers, Horse Industry Organizations, and DQPs that any horse found in violation at a horse show will be prohibited from competing in any further classes at the horse show, exhibition, or horse-related event. To better ensure that horses found to be in violation do not compete in later events at a show, we will propose regulatory changes to require that each horse be clearly and uniquely identified by a reliable, objective, and permanently attached or embedded device. APHIS will submit the work plan by January 1, 2011, but cannot predict the timing or the final outcome of rulemaking.

In the interim, APHIS will continue to conduct yearly Horse Industry Organization office audits with emphasis on determining if horses found in violation at a horse show or related event continued to show or be exhibited. By January 1, 2010, APHIS will establish and implement procedures to decertify a Horse Industry Organization that has been found to allow horses to continue to exhibit during a show. The criteria and procedures will include a provision to immediately suspend the operation of a Horse Industry Organization. APHIS will propose a regulatory change to suspend the operations of a Horse Industry Organization that fails to enforce the Horse Protection Act and requirements set forth by APHIS.

APHIS will submit the work plan by January 1, 2011, but cannot predict the timing or the final outcome of rulemaking.

OIG Position

We accept management decision for this recommendation.

Section 2: Ensuring the Humane Transport of Horses to Foreign Slaughter Facilities

Finding 3: APHIS Needs Stronger Penalties to Prevent Individuals with Humane Handling Violations from Transporting Slaughter Horses

If a horse must be transported commercially to slaughter, then APHIS regulations require that it travel in a safe and humane fashion, and the agency levies fines on owners and shippers who violate these requirements. We found, however, that APHIS regulations do not allow the agency to deny individuals with unpaid fines the right to ship other loads of horses. In 2008, APHIS issued fines to 23 individuals, but 3 did not pay their fines on time. From 2005 to 2009, a total of 43 violators incurred nearly \$174,000 in unpaid fines, yet APHIS allowed these violators to continue shipping horses. APHIS officials explained that they did not foresee this problem when the regulations were originally published in 2001, and thus they did not draft the regulations to prevent individuals from shipping slaughter horses if they have unpaid fines. Due to these enforcement limitations, owners have little incentive to comply with regulations, pay their fines, and cease inhumanely handling horses bound for slaughter. During our visit to a border crossing facility, we witnessed two loads of horses, consisting of 68 horses, bound for slaughter at the facility even though the horses' owner had not paid fines for humane transportation violations.⁴⁰

APHIS handling regulations establish a number of requirements which owner/shippers must meet. They state that owner/shippers must (1) provide horses unlimited food, water, and rest for at least 6 hours prior to loading; (2) provide horses adequate floor space in whatever conveyance is being used; (3) segregate all stallions and other aggressive equines; (4) ensure that trailers are free of protrusions, are not double-decked, and have adequate ventilation. The duration of a shipment should be less than 28 consecutive hours—if a trip is longer than 28 hours, horses must be unloaded and provided at least 6 hours of food, water, and rest before being reloaded. Horses that are under 6 months of age, or horses that are blind in both eyes, cannot bear weight on all four limbs, or are likely to foal during transport should not be shipped to slaughter.⁴¹

In order to ensure that owner/shippers follow these humane handling regulations, those seeking to transport horses across U.S. borders to foreign slaughter facilities must have the required shipping documents completed and endorsed by the APHIS Area Veterinarian In-Charge (AVIC) of the State where the horses are being loaded. Each load of horses has its own shipping paperwork that must be completed by the owner and an accredited veterinarian and endorsed by the AVIC before the horses arrive at the border crossing facility. Owners found to be in violation of humane handling regulations can face penalties of \$5,000 per horse, per violation.⁴² For example, a horse that is found to be blind in both eyes and that is transported on a double-deck trailer (i.e., two violations) would result in fines of \$10,000, as shipping blind horses and shipping any horse on a double-deck trailer are specifically prohibited.

APHIS drafted its regulations to require the humane transport of slaughter horses; however, the agency has little recourse if owner/shippers who have been fined do not pay their penalties.

⁴⁰ Of the 68 horses observed at the border crossing facility, we observed that the shipper rejected one horse and that the foreign veterinarian rejected five other horses. These rejected horses were not allowed to travel across the border for slaughter.

⁴¹ 9 CFR Part 88.

⁴² 9 CFR Part 88.6.

APHIS cannot deny subsequent shipments until the owner/shipper pays. Instead, when an individual refuses to pay a fine levied for inhumane handling, APHIS' collections department attempts to collect the debt for 180 days. If the Department cannot collect the full amount, it forwards the debt to the Treasury Department, where the debt begins accruing interest. The Treasury Department attempts to collect the debt for 1 year, then collects bids from private debt collection agencies for the case, and sells off the debt. The private collection company contacts the individual who owes the penalty and attempts collection for 1 year, and if it is not successful, the company sells the case to another private collection agent, who attempts to collect the debt for another year. If this collection company is not successful in collecting the debt, the case returns to the Government, where it is held for 10 years, beginning from the date the fine was originally applied. If the debt is not repaid in that time period, the Internal Revenue Service can pursue collection of approximately 30 percent of the debt, essentially the taxes on the unearned income. When a case sits in holding for up to 10 years, it is possible for personnel to lose track of it before it reaches the end of the 10-year statute. In this manner, owners are able to continue violating humane transport regulations without paying the fines assessed by APHIS. From 2005 to 2009, a total of 43 violators⁴³ incurred nearly \$174,000 in unpaid fines, yet APHIS allowed these violators to continue shipping horses.

APHIS could greatly enhance its ability to enforce the humane handling regulations of the Slaughter Horse Transport Program if it could withhold documents required to ship horses across the border to slaughter from owners and shippers who have unpaid fines. APHIS officials agreed that such improvements would encourage more compliance from owners. Officials stated that they would need to provide AVICs with a list of all owners who have outstanding fines or penalties so that the AVICs could check the list before approving any shipping documents.

Recommendation 9

Revise Slaughter Horse Transport Program regulations to allow APHIS to withhold endorsement of shipping documents from individuals who violate humane handling regulations and who have fines outstanding.

Agency Response

APHIS stated that it agrees with the intent of the recommendation and agrees that those who have violated the humane handling regulations and failed to pay any assessed penalties should not receive endorsement of any subsequently requested shipping documents. APHIS will seek advice from the USDA Office of the General Counsel (OGC) to determine the best way to effectuate this concept for the Slaughter Horse Transport Program. Initial conversations with OGC indicate that there may be some legal issues with singling out violators of selected animal health regulations and not all violators of all other Agency regulations. APHIS will work with OGC to evaluate the best options to revise those regulations necessary that will establish an agency wide policy that those who have violated the humane handling regulations and failed to pay the associated penalties shall not receive endorsement of any subsequently requested shipping documents. APHIS will complete this evaluation by May 31, 2011.

⁴³ Per APHIS' Investigative and Enforcement Services.

OIG Position

We accept management decision for this recommendation.

Recommendation 10

Develop and maintain a control (database or list) of all individuals who have violated the regulations of the Slaughter Horse Transport Program and have not paid the associated fines and provide the data to all APHIS officials and private veterinarians endorsing shipping documents for horses being shipped to slaughter.

Agency Response

APHIS stated that it agrees with the intent of the recommendation and agrees that those who have violated the humane handling regulations and failed to pay any assessed penalties should not receive endorsement of any subsequently requested shipping documents. APHIS will seek advice from the USDA OGC to determine the best way to effectuate this concept for the Slaughter Horse Transport Program. Initial conversations with OGC indicate that there may be some legal issues with singling out violators of selected animal health regulations and not all violators of all other Agency regulations. APHIS will work with OGC to evaluate the best options to revise those regulations necessary that will establish an agency wide policy that those who have violated the humane handling regulations and failed to pay the associated penalties shall not receive endorsement of any subsequently requested shipping documents. APHIS will complete this evaluation by May 31, 2011.

OIG Position

We accept management decision for this recommendation.

Finding 4: APHIS Needs to Strengthen its Controls over Backtags for the Transport of Horses to Slaughter

When owner/shippers transport horses to slaughter, APHIS requires them to apply backtags once the animals have passed inspection by a USDA-accredited veterinarian.⁴⁴ That inspection is intended to verify that the horse is fit to be transported, according to Federal regulations; the backtag is supposed to allow APHIS to trace horses back to their owner. We found, however, that owner/shippers could acquire tags and apply them to horses that were not inspected by an accredited veterinarian, or that failed inspections, and are not fit to travel. This occurred because current regulations do not outline effective controls over the distribution, use, and tracking of backtags.⁴⁵ When officials drafted the regulations, they were informed that accredited veterinarians, who would be completing health certificates for slaughter horses being shipped across U.S. borders, would not be willing to apply backtags or oversee the application of backtags to the horses when they were prepared for loading. Although APHIS officials stated that they would have preferred to issue tags to an accredited veterinarian, they felt that their only

⁴⁴ A "USDA-accredited veterinarian" is not the same as APHIS' Area Veterinarian In-Charge, or AVIC. The accredited veterinarian is a veterinarian in private practice that is periodically paid to perform various tasks for USDA, such as inspecting horses and signing health certificates. AVICs are USDA employees.

⁴⁵ 9 CFR Part 88.

option was to provide backtags to owners. Due to control weaknesses relating to these backtags, owners can transport uninspected horses that are not fit for shipment. While border inspections may catch some horses that are not fit to travel, an APHIS inspector is not present at every border crossing facility and foreign inspectors may not reject horses that are unfit to travel. The APHIS field coordinator—who alone is responsible for administering this program in the field at every border crossing facility on both the Canadian and Mexican borders—stated that he has observed instances where it appears horses that do not meet transport regulations are being transported, yet were wearing backtags that are supposed to indicate that they are fit to travel.

During our visit to a border crossing facility, we observed two loads (68 horses) bound for slaughter in Mexico. Of these 68 horses, the shipper removed one horse because it did not match the description listed on shipping documents for the backtag it was wearing. Also, the foreign veterinarian rejected five other horses because they did not meet Slaughter Horse Transport Program regulations, yet four of these five had backtags that indicated they met the requirements. The fifth horse had lost its backtag during transport to the border and was not allowed to cross the border without a backtag.

Horses being transported across U.S. borders for slaughter in foreign facilities must be identified by USDA-issued slaughter backtags. These bright green backtags each have a unique identifying tag number that APHIS can use to trace a specific animal back to the individual who received the tag.⁴⁶

Currently, when an owner prepares a group of horses for shipment to a foreign slaughter facility, the horses are inspected by a USDA-accredited veterinarian no more than 30 days prior to shipment. The accredited veterinarian checks each horse offered for shipment for health and exposure to infectious diseases, and completes a health certificate stating that the horses are healthy and fit for travel.⁴⁷ This form contains the USDA slaughter horse backtag number and a general description of the age, sex, and color of the horses. Immediately prior to loading, the horses must be provided with not less than 6 hours of unlimited access to food, water, and rest, and the USDA backtag is to be attached to each animal. Owners are to apply the backtag to each horse that is deemed healthy enough for travel. The owner must also complete the “USDA Owner/Shipper Certificate,” certifying the date and time the horses were loaded on the conveyance, the backtag number and description of each horse loaded, and the destination of the load of horses.⁴⁸ The owner/shipper must also certify on the form that the horses were provided the required food, water, and rest prior to shipment, that the horses can all bear weight on all four limbs, are not blind in both eyes, that no pregnant mare is likely to foal (i.e., give birth) during the trip, and that no foals under 6 months of age are included on the shipment. The owner/shipper must then have the health certificate and shipping certificate endorsed by the AVIC in the State where the horses were loaded for shipment.⁴⁹

Upon arrival at the border crossing facilities, the shipping documents and horses are inspected by animal health veterinarians from the receiving country (i.e., Canada or Mexico). If the host

⁴⁶ 9 CFR 88.4(a)(2).

⁴⁷ VS Form 17-140, United States Origin Health Certificate.

⁴⁸ VS Form 10-13, Owner/Shipper Certificate, Fitness To Travel To a Slaughter Facility.

⁴⁹ 9 CFR Parts 88.4(a)(2), 88.4(a)(3)(vi), and 88.5(c); VS Memorandum 555.18 Sections III.A.2, IV.B, VI.A.1, and VIII; and VS Form 17-140, United States Origin Health Certificate.

country veterinarian accepts the load of horses, they are allowed entry into the country and are to be taken directly to the slaughter facility. If a single horse or load of horses is rejected, the rejected animals are not allowed entry into the foreign country and must return to the owner.

The owner/shipper certificate was designed as a trace-back tool to investigate and document program violations. Regardless of whether horses from the United States are processed in Canada or Mexico, the owner/shipper certificates are to be returned to APHIS headquarters where the certificate information is maintained and documented violations from the certificates are subject to investigation for enforcement or fines by APHIS. Individual backtag numbers affixed to the horses are recorded on the shipping documents.

We found that there were three weaknesses in APHIS controls over slaughter horse backtags. Based on our review, we found that owners can apply backtags to horses that were not examined and may not be fit to travel; that owners can circumvent humane handling regulations by designating horses as pleasure horses rather than slaughter horses; and that owners can use tags without being tracked by APHIS.

- Since owners apply the tags to horses they want to transport without verification by APHIS, they could apply the tag to a horse that was not examined and may not be fit to travel humanely. APHIS officials stated that they recently prosecuted an individual for sending shipping and health documents with a load of horses where tag numbers on the animals matched the documents, but the descriptions on the shipping documents did not match the horses. This could have been caused by owner/shippers putting tags on the wrong horses, or an accredited veterinarian signing health documents for horses that were not examined. Owners have a financial incentive to transport sick or injured horses that can be presented as if they were fit to travel. If an owner/shipper can include a few extra sick or injured horses into loads of otherwise healthy ones, the profit margin goes up because more horses were shipped across the border at once.
- Owners can also attempt to circumvent humane handling regulations by taking horses over the border without backtags. If horses are designated as pleasure horses or rodeo horses, then they require only basic health certificates and immunization records to cross the border. Once they are in a foreign country, they might then be sent to a slaughter facility without inspection by a USDA-accredited veterinarian or without the appropriate backtag and USDA shipping documents. As a result, owners may not truthfully designate their intentions when transporting horses for slaughter. APHIS officials stated that this practice is frequently used to get horses across the border without following humane handling regulations. The APHIS Slaughter Horse Transport Program Field Coordinator stated that foreign slaughter plants should question a load of U.S. horses that arrive without backtags and shipping documents, but that it was likely that they would simply accept the horses for slaughter.
- Since backtags are intended to be used to trace a horse back to its owner, the tags are designed to be accountable items. When APHIS provides these tags to owners, APHIS personnel record which numbered tags are being issued to the individual. The tags are intended to track who received the tag, when the horse crossed the border with the tag, and when the horse arrived at the slaughter facility.

We found, however, that the APHIS database that was intended to collect information from the Owner/Shipper Certificate, including backtag numbers, is not operational, and APHIS is currently using a scanning system to maintain copies of completed shipping documents. Personnel can still determine who received each tag in the event of a violation, but they cannot track any other details about the horse, such as when it reached the border or the slaughter facility. In 2006, program officials were directed to discontinue the use of the data tracking system, and the two data entry positions dedicated to entering slaughter horse data into the tracking system were eliminated. APHIS officials stated that they believed that the database did not provide beneficial information that justified the cost involved in maintaining the database. Officials stated that as U.S. horse slaughter plants closed, the Slaughter Horse Transport Program received less funding, and thus they decided to cut these positions. However, the current paperwork system does not allow users to easily search the data for violations and evidence for enforcement, so tracking backtags is difficult. The area office can determine who received each backtag and when the tags were issued, but it does not track the tag beyond issuance to an owner.

APHIS officials agree that an automated database where information could be entered and maintained for each horse shipped to slaughter would make investigating possible violations easier, and would allow program personnel to obtain such information as buying trends and common shipping routes. However, officials stated that they preferred to focus their resources on compliance with regulations rather than a database that may not provide adequate benefit for the cost involved in developing and maintaining such a tracking system. Officials stated that they currently rely on the paperwork being returned from the foreign veterinarian, which should identify any horses that did not meet the regulations. They do not, however, have a way to reconcile that all horses that were approved for shipping to slaughter were inspected.

We concluded that the control weaknesses relating to the backtags and the transportation of horses for slaughter in foreign facilities were significant enough to prevent APHIS from ensuring that these tags are applied only to horses that are fit to travel, according to its regulations.

APHIS has drafted a proposed rule that would increase its authority over slaughter horses being transported throughout the United States, which OIG agrees would provide improvements to the current Slaughter Horse Transport Program. Currently, the program's regulations apply only to horses being shipped directly to a slaughter facility—these animals are not covered by the regulations on other portions of their journey, such as to a feedlot or other intermediate holding facilities. For example, under the current version of the regulations, shippers can transport horses from across the country to a holding facility within a few miles of the border without complying with these transport regulations. Once at the holding facility, the horses must now be transported the few miles to the border in accordance with the slaughter horse transport rules. The proposed rule would ensure that horses would be identified as slaughter horses at the sale barn, auction, or other market, and that the humane handling regulation would apply to all designated slaughter horses from that point forward, including horses that are delivered to

feedlots or intermediate holding facilities before being shipped across the border for slaughter.⁵⁰ Because horses must be transported greater distances to reach foreign slaughter facilities, the proposed rule would be valuable in improving the humane transport of horses for slaughter.

Controls could be strengthened if APHIS personnel, other qualified animal health technicians, or veterinarians inspect slaughter horses before they are loaded, and themselves apply backtags to the horses to properly identify each horse being shipped to slaughter. APHIS officials stated that with their limited funding—the program receives \$400,000 annually—they could not hire additional personnel to perform these inspections. In addition, portions of the Slaughter Horse Transport Program budget have been redirected to other agency needs.

At present, the Slaughter Horse Transport program's budget is barely sufficient to pay the field coordinator's salary and cover day-to-day expenses. In fiscal year 2008, the Slaughter Horse Transport Program's budget was reduced to approximately \$245,000; in fiscal year 2009, the program's annual budget was reduced to approximately \$120,000. Officials stated that the most feasible option to increase control over backtags is to revise APHIS regulations to issue backtags to USDA-accredited veterinarians or other qualified personnel so they can apply the tags or oversee the application of the tags at the time of inspection. Officials stated that they would modify the 30-day inspection window that currently exists to require that the accredited veterinarians inspect the horses just prior to movement. Officials believe that this change will add more control over the backtags and will prevent owners or shippers from applying tags to horses that do not comply with Slaughter Horse Transport Program regulations.

Overall, OIG concluded that APHIS is operating this program with extremely limited resources. To some extent, the agency can strengthen some of its controls over the Slaughter Horse Transport Program at little or no cost, but ultimately APHIS will need to reallocate or obtain the resources it needs to accomplish its mission.

Recommendation 11

Revise regulations or implement adequate controls to ensure that APHIS provides backtags to qualified personnel who can inspect horses bound for slaughter and apply, or oversee the application of, backtags when approving transport documentation.

Agency Response

APHIS stated that it agrees with the recommendation, is committed to implementing the changes, and will evaluate various options including:

- Reviewing the proposed rule to evaluate what changes are possible and/or necessary to require that Accredited Veterinarians and/or State animal health officials (in addition to the owner/shipper) either fill out the 10-13's (VS Form 10-13, Owner/Shipper Certificate, Fitness To Travel To a Slaughter Facility) and apply backtags themselves, or sign the 10-13's.

⁵⁰ This proposed rule has not yet been published as a final rule. It was published for comment on November 7, 2007, with the comment period ending on January 7, 2008.

- Requesting that the Canadian Food Inspection Agency (CFIA) require that the USDA accredited veterinarian certify the following on the VS 17-140 (U.S. Origin Health Certificate):
 - Match attestations from the 10-13, specifically that:
 - Pregnant mares are not likely to foal;
 - Foals are older than 6 months of age;
 - Horses are able to bear weight on all 4 limbs;
 - Horses are not blind in both eyes;
 - Horses are able to walk unassisted;
 - Make a statement that the horses are fit to travel.
 - State that the inspection was conducted at some length of time less than the traditional 30 days.

This evaluation will be completed by December 31, 2010.

OIG Position

We accept management decision for this recommendation.

Recommendation 12

Develop and implement an appropriate control to track individual horses by backtag number on all shipping documents approved so that reconciliation can be performed, violations can be investigated, and enforcement action can be initiated against the horse's owner and shipper.

Agency Response

APHIS stated that it agrees with the recommendation, is committed to implementing the changes, and will evaluate several options including:

- Evaluating the possibility of enforcing the Slaughter Horse Transport Program regulations by Veterinary Services personnel at ports of export, or discuss the possibility of this activity being conducted by another U.S. Federal Agency. This evaluation will be completed by May 2011.
- Having CFIA consider a reduced list of ports through which slaughter horses may be imported into Canada. The length of time for this evaluation is unknown as it is dependent on a foreign governmental entity.

- Evaluating the possibility of duplicating the horse identification information from the 10-13 onto the 17-140, or to simply merging all of the information from the 10-13 on to the 17-140 and having one document that is certified by an accredited veterinarian. This evaluation will be completed by December 2010.

These evaluations will generate recommendations to allow APHIS to more effectively track individual horses. Once the evaluations are complete, APHIS will implement appropriate follow-up actions within 6 months.

OIG Position

We accept management decision for this recommendation.

Recommendation 13

Implement the proposed rule that would broaden the scope of the regulation of slaughter horses being shipped to foreign slaughter facilities.

Agency Response

APHIS agrees with this recommendation. APHIS is in the process of publishing a final rule based on comments received on the proposed rule. APHIS anticipates that the rule will be published by the end of the calendar year. Implementation of this regulation will occur immediately upon publication.

OIG Position

We accept management decision for this recommendation.

Scope and Methodology

Our review assessed APHIS' oversight of the humane treatment of horses, including supervision of the DQP program to inspect for violations of the Horse Protection Act and supervision of the humane transportation of horses across U.S. borders to foreign slaughter facilities.

We performed fieldwork from August 2008 through August 2009. Our review was conducted at the APHIS National offices in Washington, D.C., and Riverdale, Maryland, as well as the OGC in Washington, D.C. In addition, we completed field visits to horse shows in Florida, Kentucky, Missouri, South Carolina, and Tennessee. We also observed border crossing activities along the U.S.-Mexico border in Texas.

Based on our need to visit a number of shows before the end of the show season, we judgmentally selected three horse shows to attend with APHIS veterinarians present to evaluate how the DQPs were inspecting horses. We attended the 2008 Tennessee Walking Horse National Celebration in Shelbyville, Tennessee, on August 29 and 30, 2008; the Heart of America Walking Horse Association Fall Championship in Springfield, Missouri, on September 18, 19, and 20, 2008; and the South Carolina State Racking Horse Association⁵¹ Championship and Walking Horse Show in Green Sea, South Carolina, on October 11, 2008.⁵² Also, based on our time constraints and the end of the horse show season, we judgmentally selected two additional shows to attend without any APHIS personnel present so that we could observe the performance of DQPs without APHIS oversight. We attended the Walking Horse Owners Association Show in Tampa, Florida, on October 17, 2008; and the Ohio Valley Walking Horse Association Fall Festival in Shelbyville, Kentucky, on October 18, 2008. We also accompanied the APHIS VS Slaughter Horse Transport Program Field Coordinator to visit the Eagle Pass and Del Rio border-crossing facilities used to transport horses across the U.S. border into Mexico.

To accomplish our objectives, we reviewed APHIS laws, regulations, procedures, and inspection protocols relating to oversight of DQPs and oversight of slaughter horse transportation across U.S. borders. To complete our review, we:

- Interviewed responsible APHIS Animal Care and VS program officials to understand how they ensure oversight of their respective programs;
- Reviewed available laws, regulations, procedures, and program documents to verify and evaluate program implementation;
- Interviewed personnel from APHIS Investigative and Enforcement Services to better understand their role in the collection of evidence for Federal cases;
- Interviewed OGC officials to better understand their processes for evaluating potential cases for enforcement and their processes for prosecuting and closing Federal cases

⁵¹ A racking horse is similar to the Tennessee walking horse. It has a smooth, natural gait known as the "rack," which is a four-beat gait also known as the "singlefoot" because only one foot strikes the ground at a time.

⁵² Show managers at this event cancelled the show—citing unfavorable weather—after we arrived with APHIS personnel but before any horses were presented for inspection.

related to violations of the Horse Protection Act or slaughter horse transportation regulations;

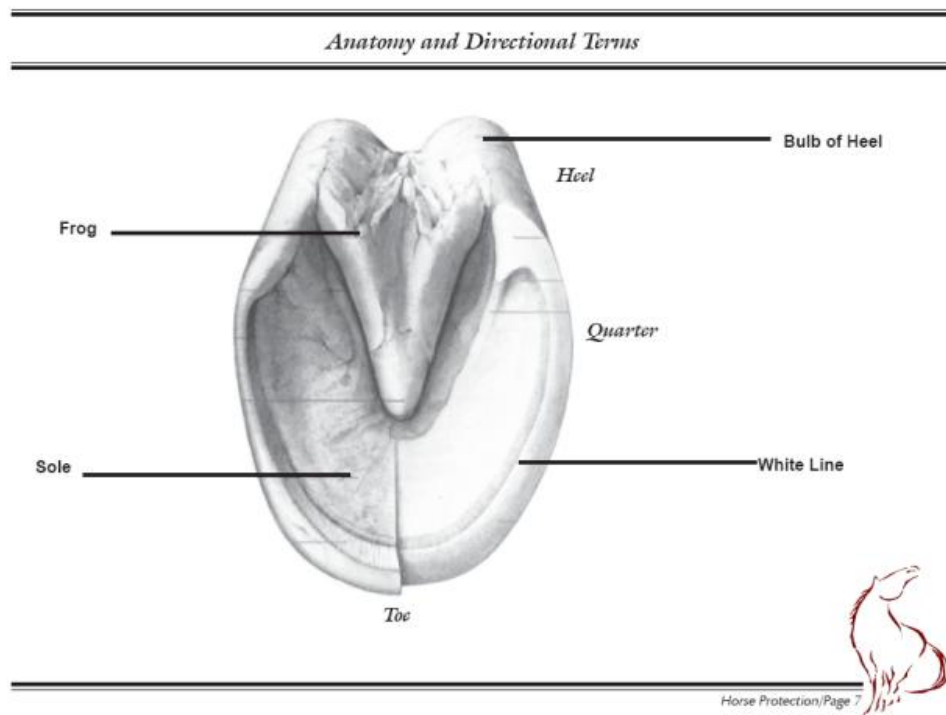
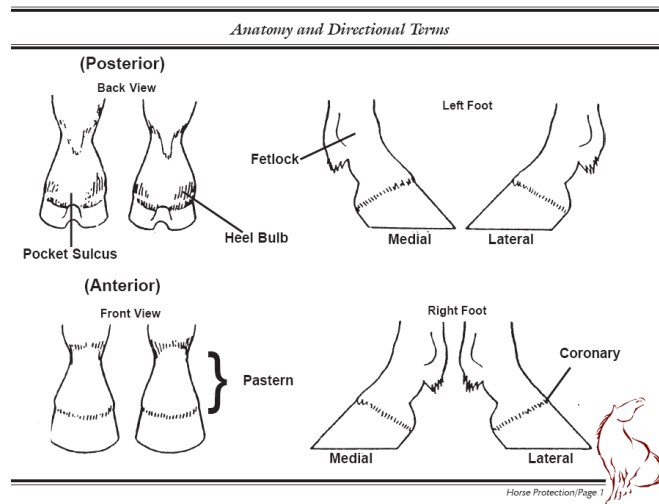
- Interviewed APHIS Review and Analysis Branch personnel regarding horse industry organization record reviews performed and their study of the violation rate disparity that exists when APHIS veterinarians are and are not present at shows, sales, or exhibitions;
- Reviewed show and sale reports for 34 shows attended in 2008 to identify problems noted by the veterinarians relating to such things as DQP performance and the issuance of violation tickets;
- Interviewed an official from a horse industry organization to discuss problems noted with APHIS' oversight of the DQP program and possible improvements that can be made;
- Interviewed two DQPs to discuss problems noted with APHIS' oversight of the DQP program and possible improvements that can be made; and
- Attended a training seminar hosted by APHIS for walking horse trainers concerning the use of thermography in inspections and other issues relating to the 2009 show season to learn about new inspection procedures and to observe APHIS personnel interacting with industry trainers.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

Abbreviations

| | |
|-------------|--|
| AHPA..... | Animal Health Protection Act |
| APHIS | Animal and Plant Health Inspection Service |
| AVIC | Area Veterinarian In Charge |
| CFIA | Canadian Food Inspection Agency |
| CFR..... | Code of Federal Regulations |
| DQP..... | Designated Qualified Person |
| HPA..... | Horse Protection Act |
| OGC | Office of the General Counsel |
| OIG..... | Office of Inspector General |
| U.S.C..... | U.S. Code |
| USDA..... | U.S. Department of Agriculture |
| VS..... | Veterinary Services |

Exhibit A: Diagram of a Horse's Lower Leg and Hoof



These diagrams are included in training materials for DQPs and veterinary medical officers.

Exhibit B: Penalties for Horse Protection Act (HPA) Soring Violations

The following tables show the established penalties for the Horse Protection Act violations listed. Penalties outlined below are located in the Horse Protection Operating Plan, dated July 20, 2007.

HPA Soring Violations

| Violation | First Offense | Second Offense | Third Offense | Fourth & Subsequent Offense |
|--------------------------------|----------------------|-----------------------|----------------------|--|
| Pressure Shoeing ⁵³ | Five (5) years | Life | N/A | N/A |
| Bilateral Sore ⁵⁴ | Eight (8) months | Two (2) years | Five (5) years | Life |
| Unilateral Sore | Thirty (30) days | Two (2) months | One (1) year | Two (2) years |
| Scar Rule ⁵⁵ | Two (2) weeks | Two (2) months | One (1) year | Two (2) years |

Suspension Violations

Six (6) months for each occurrence

Other HPA Violations

| | |
|----------------------------------|---|
| Foreign Substance – Pre Show | Disqualification from Class (non-correctable) |
| Foreign Substance – Post Show | Two (2) weeks for each occurrence |
| Equipment Violations – Pre Show | Disqualification from Class (non-correctable) |
| Equipment Violations – Post Show | Two (2) weeks for each occurrence |

Unruly/Fractus Horse

Disqualification from Class (non-correctable)

When a person is suspended or disqualified because of a HPA violation, that individual may not participate in certain activities related to horse shows, sales, auctions, exhibitions, or other horse-related events. Specifically, a suspended or disqualified individual cannot:

1. enter a horse⁵⁶ for the purposes of showing, exhibiting, or selling at auction,
2. show or exhibit a horse at a horse show, public auction, or exhibition such as a college football game or parade,
3. judge a horse show,
4. enter the show ring during the course of a horse show,
5. enter the inspection area or warm-up area where previously inspected horses are allowed to await ring or sale entry, during the course of a horse show or sale,
6. coach any trainer, owner, or exhibitor anytime during the show or exhibit,

⁵³ Pressure Shoeing and Bilateral Sore Violations—In assessing penalties for pressure shoeing and bilateral sore violations, signatory horse industry organizations have elected to voluntarily suspend the horse involved if the exhibitor of the horse is determined to have allowed an activity in violation of the Act. If such a determination has been made, the horse shall be suspended for the period of time defined in the chart above.

⁵⁴ See the previous footnote, which addresses both pressure shoeing and bilateral sore violations.

⁵⁵ Scar Rule Violations—In assessing penalties for the scar rule, signatory horse industry organizations have elected voluntarily to suspend the horse involved in addition to the exhibitor as outlined in Exhibit 2 (of the Operating Plan). The horse industry organizations shall keep records to track violations for each horse suspended in this manner. Enhanced penalties for subsequent scar rule violations for an owner, trainer, and/or exhibitor must involve the same horse, except for circumstances in which an individual receives more than two first offense violations with different horses. Notwithstanding anything contained herein to the contrary, for the purposes of determining penalties for scar rule violations, a subsequent violation will become cumulative in accordance with the table above only if it occurs within 12 months after a suspension is served. The signatory horse industry organizations agree to annually review the implementation and effectiveness of this scar rule penalty framework.

⁵⁶ As defined in the Operating Plan, to “enter a horse” means to perform any of the activities that are required to be completed before a horse can actually be shown or exhibited.

7. transport horses to shows, exhibitions, or public auctions,
8. prepare a horse on the sale, show, auction, or exhibition grounds, or
9. serve as a horse show official.

USDA'S

**ANIMAL AND PLANT HEALTH INSPECTION
SERVICE**

RESPONSE TO AUDIT REPORT



United States
Department of
Agriculture

Animal and Plant
Health Inspection
Service

Washington, DC
20250

MEMORANDUM

September 20, 2010

TO: Gil H. Harden
Assistant Inspector General
for Audit

FROM: Cindy J. Smith /s/
Administrator

SUBJECT: APHIS Response and Request for Management
Decisions on OIG Report, "APHIS Administration
of the Horse Protection Program and the Slaughter
Horse Transport Program" (33601-02-KC)

Thank you for the opportunity for the Animal and Plant Health Inspection Service (APHIS) to comment on this report. We have addressed each Recommendation with our completed or planned corrective actions and the timeframes for implementation of these actions.

Recommendation 1: Abolish the current DQP system, and obtain the authority, if needed, to charge show managers the cost of providing independent, accredited veterinarians to perform inspections at sanctioned horse shows, sales, and other horse-related events.

APHIS Response: APHIS agrees with the intent of this recommendation. APHIS will propose a regulatory change to abolish the current Designated Qualified Persons (DQPs) licensing system and propose that the Agency license DQPs. Under the proposed regulations, APHIS would require and provide a minimum of 14 hours of specialized training to individuals pursuing DQP licensing. The proposed regulations will also establish strict qualifications and criteria to prohibit conflicts of interest. DQPs having close ties with the horse show industry would be excluded from licensing. Horse Industry Organizations (HIOs) would continue to be responsible for hiring and compensating the DQPs to inspect horse shows, but would have to use APHIS-licensed DQPs.

Additionally, we will provide more outreach and recruitment activities to license independent, accredited veterinarians as DQPs. We will display the USDA Horse Protection Program exhibit at the American Association of Equine Practitioners (AAEP) Annual Convention in Baltimore, MD in December 2010. We will conduct a tabletop discussion session at the convention to inform the AAEP members about the efforts USDA is making to eliminate soring at horse shows and other related events. We will meet with other associations and organizations such



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as, but not limited to, the American Horse Council and National Institute of Animal Agriculture. We attended the World Equestrian Games in Lexington, KY in September 2010, to discuss the Horse Protection Act with many of the accredited veterinarians that will be in attendance.

APHIS will submit the work plan by January 1, 2011, but cannot predict the timing or the final outcome of rulemaking.

Recommendation 2: Seek the necessary funding from Congress to adequately oversee the Horse Protection Program.

APHIS Response: APHIS agrees with this recommendation. APHIS requested a \$400,000 increase in funding for FY 2011 which will bring the Horse Protection budget to \$900,000. APHIS will develop a budget and staffing plan to phase in the resources needed to adequately oversee the Horse Protection program, and continue to evaluate funding needs in future fiscal years.

Recommendation 3: Revise the Agency's regulations so that independent and APHIS veterinarians can directly issue violations much as DQP's do in the current system.

APHIS Response: APHIS agrees with the intent of this recommendation. However, by creating an improved and more accountable DQP program, the Agency will be better able to ensure that HIOs assess appropriate penalties. APHIS has mandated a penalty protocol for every HIO to implement and enforce in order to maintain USDA certification. APHIS will require each HIO to include the penalty protocol in their rule book and implement the penalty protocol by January 1, 2011. Each HIO will be required to submit their rule book to APHIS for review and approval before it is implemented during the 2011-2012 show season. Since APHIS will have direct responsibility for the licensing of DQPs, APHIS will be able to hold DQPs accountable for issuing violation findings.

The HIOs are responsible for enforcing HPA penalties, with APHIS overseeing the process. Show management will be held liable and responsible if a HIO DQP is not utilized during the horse show, sale, or other related event. APHIS will submit a work plan to propose a regulatory change to decertify a HIO that fails to enforce the HPA and penalties set forth by APHIS. With enhanced authority, APHIS will establish criteria and procedures to immediately suspend the operation of an HIO.

APHIS will submit the work plan by January 1, 2011, but cannot predict the timing or the final outcome of rulemaking.

APHIS will continue to conduct yearly HIO office audits. The audit results will be used for risk analysis to determine the performance level of the HIOs enforcing the HPA, future shows to monitor, and if the HIO followed the auditors'

recommendations. The audit reports will continue to be posted on the APHIS AC website.

Recommendation 4: Revise its regulations so that APHIS can discipline inspectors who do not examine horses according to the agency's standards, which would include revoking the USDA accreditation of any veterinarian who does not adequately inspect horses

APHIS Response: APHIS agrees with this recommendation. Within the proposed regulations for a new DQP licensing program, we will incorporate APHIS' authority to directly discipline DQPs, including DQPs who are accredited veterinarians. APHIS will develop a work plan to add enforcement of the Horse Protection Act under duties for accredited veterinarians by January 1, 2011. Therefore, the accreditation for a veterinarian will be suspended or revoked if they do not carry out their duties under HPA. The license of a DQP who is not an accredited veterinarian can be suspended or revoked by APHIS if they fail to enforce the HPA. APHIS will submit a work plan to propose a regulatory change to directly discipline DQPs by January 1, 2011, but cannot predict the timing or the final outcome of rule making.

APHIS is utilizing intermittent and full time field personnel to: (1) increase the number of shows/sales attended by APHIS; (2) to monitor the inspections of the DQPs; (3) to develop and implement additional training for the APHIS inspectors and DQPs; and (4) to monitor the HIOs implementation of the penalty protocol.

APHIS will reiterate to the HIOs in 2011 that all parties responsible for the horse (trainer, owner, rider, transporter, custodian, etc) will be penalized under the APHIS penalty protocol. APHIS will monitor the HIOs process of penalizing the violators of the HPA by reviewing the HPA database. APHIS will also verify that the penalty protocol is implemented during the yearly HIO office audits.

In the interim, we will continue to monitor the DQPs who are licensed and certified by the HIOs and recommend letters of warning (LOW) and cancellation of licenses when APHIS observes lack of performance by DQPs during unannounced visits to horse shows and related events.

Recommendation 5: Develop and implement protocols to more consistently negotiate penalties with individuals who are found to be in violation of the HPA.

APHIS Response: APHIS agrees with this recommendation. We developed a penalty protocol that every HIO will be required to include in their rule books. The HIOs will also be required to submit their rule books to APHIS for review and approval. APHIS will implement this requirement on January 1, 2011.

APHIS is utilizing intermittent and full time field personnel to conduct unannounced visits to horse shows to monitor DQPs' issuance of tickets and to ensure the DQPs are completely and accurately collecting the information on the violators during the show or other related event.

APHIS will closely monitor the appeal hearing process conducted by HIOs by attending, unannounced, randomly selected appeal hearings. We will require HIOs to submit written justification of a dismissed violation. APHIS will also verify that the hearing protocol was followed during their yearly HIO office audits.

Recommendation 6: Develop and implement a searchable database of individuals with HPA violations to verify that individuals suspended from horse shows, sales, or exhibitions do not participate in events. In addition, APHIS should include a process for receiving accurate, timely information regarding suspended individuals from horse industry organizations, and accurate, timely information regarding participants from horse show organizers.

APHIS Response: APHIS agrees with this recommendation. As of July 19, 2010, we developed and implemented a new web-interfaced database that each HIO is required to utilize to submit the required information under the regulations. Information from the database will be used to hold the management of horse shows, sales, etc., accountable for their responsibilities under 9 CFR 11.20. On February 2, 2010, APHIS began posting online current HPA suspension lists on the USDA website. We will create an online searchable database of HIO suspensions to be available to the public by November 1, 2010.

Recommendation 7: Require that APHIS employees, independent veterinarians (or DQP's and horse show organizers) check all participants responsible for the conditions of horses entered in the event against the database of suspended individuals.

APHIS Response: APHIS agrees with this recommendation. On February 2, 2010, APHIS began posting online current HIO suspensions on the USDA website for APHIS employees, independent veterinarians, DQPs and horse show organizers to identify people on suspension and prohibit them from showing. APHIS is currently in the process of gathering the data necessary to initiate investigations on show managers who have allowed people on suspension to show. APHIS anticipates completing the process of gathering the data and requesting an investigation by October 1, 2010.

APHIS will propose a work plan to require that show managements conducting horse shows or related events post the suspension lists and manually check the list against those participating in the horse shows or related events prior to exhibiting horses. APHIS cannot predict the timing or the final outcome of rulemaking. We will submit the work plan by January 1, 2011.

On August 12, 2010, APHIS sent a memo to all HIO coordinators, reminding them that HIO suspensions and USDA disqualifications are to be enforced by all HIOs and show managers. APHIS developed a fact sheet entitled "Responsibilities of Horse Show Management". This fact sheet will be sent to show managers to emphasize their responsibility to follow the regulations, and to ensure that individuals who have violated the HPA do not exhibit horses at the show or related event. We will distribute the notice by January 1, 2011.

Recommendation 8: Revise regulations to prohibit horses identified with HPA violations from competing in all classes at a horse show, exhibition, or other horse-related event.

APHIS Response: APHIS agrees with this recommendation. APHIS currently has the authority and enforces regulations to keep horses from competing in subsequent events after inspectors detect a violation. Beginning March 1, 2010, we emphasized to all show managers, HIOs, and DQPs that any horse found in violation at a horse show will be prohibited from competing in any further classes at the horse show, exhibition, or horse-related event. To better ensure that horses found to be in violation do not compete in later events at a show, we will propose regulatory changes to require that each horse be clearly and uniquely identified by a reliable, objective, and permanently attached or embedded accurate device. APHIS will submit the work plan by January 1, 2011, but cannot predict the timing or the final outcome of rulemaking.

In the interim, APHIS will continue to conduct yearly HIO office audits with emphasis on determining if horses found in violation at a horse show or related event continued to show or be exhibited. By January 1, 2011, APHIS will establish and implement procedures to decertify a HIO that has been found to allow horses to continue to exhibit during a show. The criteria and procedures will include a provision to immediately suspend the operation of a HIO. APHIS will propose a regulatory change to suspend the operations of a HIO that fails to enforce the HPA and requirements set forth by APHIS.

APHIS will submit the work plan by January 1, 2011, but cannot predict the timing or the final outcome of rulemaking.

Recommendation 9: Revise SHTP regulations to allow APHIS to withhold endorsement of shipping documents for individuals who violate humane handling regulations and who have fines outstanding.

Recommendation 10: Develop a control (database or list) of all individuals who have violated the regulations of the SHTP and have not paid the associated fines, and provide the data to all APHIS officials and private veterinarians endorsing shipping documents.

APHIS Response: APHIS agrees with the intent of the recommendations and agrees that those who have violated the humane handling regulations and failed to pay any assessed penalties should not receive endorsement of any subsequently requested shipping documents. APHIS will seek advice from the USDA Office of General Counsel (OGC) to determine the best way to effectuate this concept for the Slaughter Horse Transport Program. Initial conversations with OGC indicate that there may be some legal issues with singling out violators of selected animal health regulations and not all violators of all other Agency regulations. APHIS will work with OGC to evaluate the best options to revise those regulations necessary that will establish an agency wide policy that those who have violated the humane handling regulations and failed to pay the associated penalties shall not receive endorsement of any subsequently requested shipping documents. We will complete this evaluation by May 31, 2011.

Recommendation 11: Revise regulations or implement adequate controls to ensure that APHIS provides backtags to qualified personnel who can inspect horses bound for slaughter and apply, or oversee the application of, backtags when approving transport documentation.

APHIS Response: APHIS agrees with this recommendation, is committed to implementing the changes, and will evaluate various options including:

- Reviewing the proposed rule to evaluate what changes are possible and/or necessary to require that Accredited Veterinarians and/or State animal health officials (in addition to the owner/shipper) either fill out the 10-13's and apply backtags themselves, or sign the 10-13's
- Requesting that the Canadian Food Inspection Agency (CFIA) require that the USDA accredited veterinarian certify the following on the VS 17-140 (US Origin Health Certificate):
 - Match attestations from the 10-13, specifically that:
 - Pregnant mares are not likely to foal;
 - Foals are older than 6 months of age;
 - Horses are able to bear weight on all 4 limbs;
 - Horses are not blind in both eyes;
 - Horses are able to walk unassisted;
 - Make a statement that the horses are fit to travel;
 - State that the inspection was conducted at some length of time less than the traditional 30 days.

This evaluation will be completed by December 31, 2010

Recommendation 12: Develop and implement an appropriate control to track individual horses by backtag number on all shipping documents approved so that reconciliation can be performed, violations can be investigated, and enforcement action can be initiated against the horse's owner and shipper.

APHIS Response: APHIS agrees with the recommendation, is committed to implementing the changes, and will evaluate several options including:

- Evaluating the possibility of enforcing the SHTP regulations by Veterinary Services personnel at ports of export, or discuss the possibility of this activity being conducted by another U.S. Federal Agency. This evaluation will be completed by May 2011.
- Having CFIA consider a reduced list of ports through which slaughter horses may be imported into Canada. The length of time for this evaluation is unknown as it is dependent on a foreign governmental entity.
- Evaluating the possibility of duplicating the horse identification information from the 10-13 onto the 17-140, or to simply merging all of the information from the 10-13 on to the 17-140 and having one document that is certified by an accredited veterinarian. This evaluation will be completed by December 2010.

These evaluations will generate recommendations to allow us to more effectively track individual horses. Once the evaluations are complete, APHIS will implement appropriate follow-up actions within six months.

Recommendation 13: Implement the proposed rule that would broaden the scope of the regulation of slaughter horses being shipped to foreign slaughter facilities.

APHIS Response: APHIS agrees with this recommendation. We are in the process of publishing a final rule based on comments received on the proposed rule. We anticipate that the rule will be published by the end of the calendar year. Implementation of this regulation will occur immediately upon publication.