



Kevin Shea

Administrator
U.S. Department of Agriculture
Animal and Plant Health Inspection Service
Room 312-E, Whitten Building
1400 Independence Avenue, S.W.
Washington, DC 20250

September 29, 2014

Re: Docket No. APHIS–2014–Notice of Request for Revision to and Extension of Approval of an Information Collection; Commercial Transportation of Equines for Slaughter

Dear Mr. Shea:

The American Society for the Prevention of Cruelty to Animals (ASPCA), Front Range Equine Rescue (FRER), and The Humane Society of the United States (HSUS) thank you for this opportunity to comment on the information collection activities of the Animal and Plant Health Inspection Service (APHIS) related to regulation of the commercial transport of equines for slaughter. *See* 7 U.S.C. 1901; 9 C.F.R. § 88.1 *et seq.* APHIS regulations require anyone transporting equines to slaughter to complete an owner-shipper certificate for each equine transported. *See* 9 C.F.R. § 88.4(a)(3). This certificate should be modified to provide for better administration of the APHIS's commercial horse transport program, to address several concerns expressed by USDA's Office of Inspector General (OIG) in its 2010 audit of the program, and to support USDA's statutory mandate to ensure that adulterated meat does not enter the food supply. *See* 21 U.S.C.A. § 610(c). We recommend that APHIS modify the owner-shipper certificate to require (1) a record acquisition date and all of the horse's prior owners, (2) a record of all drugs, treatments, and substances administered to the horse since birth, (3) verification that the horse has at no time been administered any substance prohibited by federal law for use in animals slaughtered for use as food, and (4) certification that the transporter is not subject to any outstanding fines under the Agency's commercial transport regulatory scheme.

A. Requiring Ownership and Medical Treatment History Would Advance Food Safety.

APHIS should modify the owner-shipper certificate to harmonize and strengthen APHIS's commercial horse transport program and the Food Safety Inspection Service's (FSIS)

food safety program. Although complete medical treatment histories are necessary to prevent the sale, transportation, and offer for sale or transportation of adulterated meat derived from horses, FSIS currently does not have a mechanism for obtaining this information.

Virtually all American horses sold for slaughter, who end up being purchased at auction by “killer-buyers” (often acting as middlemen to the final auctioneer or stockyard), spend most of their lives in highly-managed, highly-medicated home and stable environments. Their lives, before their final weeks or months as commodities in the slaughter industry, are both privately controlled out of the public eye and almost completely unregulated. They are treated as pets or as valuable commodities, and they therefore routinely are administered numerous chemical substances. Most of these substances are prohibited by federal law for administration to horses slaughtered for human consumption because of the detrimental or unknown side effects to humans.¹

Exhibit 1 to these comments, “Banned And Dangerous Substances Commonly Given To Horses Sent To Slaughter,” is an illustrative list of drugs and other substances that are routinely administered to American horses throughout their lives, through injection, ingestion, or topical application. Exhibit 1 includes (1) drugs that are expressly prohibited (by law or by label) from use in food animals; (2) drugs and other substances that are known to be harmful to humans when eaten; and (3) drugs and other substances that have never been tested in humans, so that the potential dangers from ingestion of horsemeat laced with the residue of these substances creates a frightening unknown possibility of medical consequences. The substances listed on Exhibit 1 are only illustrations of some of the more commonly used drugs and additives that may potentially be lurking poisons in horsemeat. There are multiple products and brand name compounds that may incorporate many of the items listed on Exhibit 1.

Modifying the owner-shipper form to include previous owner histories, acquisition dates, and a lifetime medical history for each horse would provide valuable food safety information for

¹ Aside from meeting domestic food safety requirements, horsemeat from American horses currently cannot meet other nations’ food safety restrictions. For example, the European Union, one of the largest importers of horsemeat, bans horsemeat from horses that have ever been treated with any of a list of prohibited substances and categories of substances in order to protect public health and avoid environmental contamination. *See* Commission Regulation (EU) 37/2010 (L 15), Table 2; Council Directive 96/23/EC (L 125/10, Annex 1). Table 1 of Regulation 37/2010 also establishes maximum residue limits for pharmacologically active substances permitted in food-producing animals, including horses slaughtered for food, and sets up procedures for testing those animals to ensure compliance with the regulation. Pursuant to these European Commission rules and related regulations and directives, such as Commission Regulation 853/2004 (L 139), countries exporting horses and horsemeat to the EU must submit to the European Commission (1) a “residue control plan” establishing guarantees equivalent to those applicable to EU member states and (2) an “action plan” with information sufficient to assess whether the importer has implemented specific measures to ensure that it does not export any contaminated animals or meat. At this point, the U.S. has not established a system to comply with the EU requirements for an action plan and currently cannot comply with the EU requirements due, in part, to USDA’s failure to verify the medical treatment history of horses sold for slaughter.

use by FSIS, as well as importers of meat derived from American horses. Providing this additional information would not impose an unforeseen or unnecessary burden on transporters, because they already are required to maintain this information by federal law.²

B. Requiring Transporters to Attest That They Have No Outstanding Fines or Violations Would Advance Enforcement Efforts.

APHIS has failed to establish adequate controls to penalize transporters for violations of its transport regulations and prevent them from continuing to transport horses. A 2010 OIG audit criticized APHIS for having “little recourse if owners/shippers who have been fined do not pay their penalties.”³ USDA responded to OIG’s recommendation by agreeing to consult with USDA’s Office of General Counsel (OGC) to address this failure of enforcement. However, despite its considerable enforcement authority, APHIS has refused to withhold shipping certificates from violators with outstanding fines. And APHIS has not identified alternative methods for penalizing transporters who flout the law.

Modifying the certificate to require transporters to attest that they have no outstanding violations or fines would provide USDA with a new avenue for enforcement against violators. Title 18, Section 1001 and Title 43, Section 1212 of the United State Code make it a crime for any person to knowingly make a false statement to any federal agency about any matter in its jurisdiction. A transporter who fraudulently states that he has no outstanding fines would be subject to penalty under these sections.

This slight modification also would help APHIS-Investigative Enforcement Services (IES) address difficulties in collecting evidence for use against violators. A review of IES cases brought for transport violations reveals a substantial number of cases closed due to insufficient evidence. Future cases of fraud would be easy to prove using the signed owner-shipper certificate and the agency’s record of violation. This would provide an effective means for targeting repeat violators.

We thank you for this opportunity to comment and for your consideration.

Sincerely,

² See, e.g., U.S. Food and Drug Administration Warning Letter, Three L Farm 12/19/13, No. NYK-2014-14, *available at*

<http://www.fda.gov/ICECI/EnforcementActions/WarningLetters/2013/ucm379652.htm>

(explaining that meat is adulterated and, therefore, prohibited for sale or transport in interstate or foreign commerce, when complete medical treatment records are not maintained for the animal from whom it is derived).

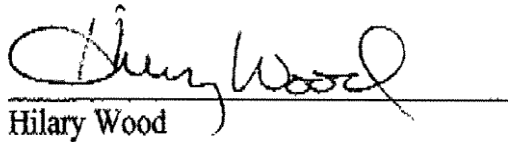
³ Animal and Plant Health Inspection Service Administration of the Horse Protection Program and the Slaughter Horse Transport Program, September 2010, USDA Office of Inspector General Audit Report 33601-2-KC, at 26.



Deborah Dubow Press

Senior Manager, Regulatory Affairs

American Society for the Prevention of Cruelty to Animals



Hilary Wood

President and Founder, Front Range Equine Rescue



Tracie Letterman

Director, Regulatory Affairs

The Humane Society of the United States

Cc: Brenda_Aguilar, Office of Information and Regulatory Affairs