



Tech Note

www.aphis.usda.gov/animal_welfare/

Animal and Plant Health Inspection Service
Animal Care

October 2016

Questions and Answers: Responsibilities of Horse Exhibitors¹ and Transporters under the Horse Protection Act

Q. What is the Horse Protection Act?

A. Congress enacted the Horse Protection Act² (HPA or Act) to end the cruel and inhumane practice of soring horses.³ The practice of soring is intended to improve the performance of a horse at horse shows and exhibitions by altering its gait through the use of a device, substance, or other physical practice that causes the horse to suffer, or reasonably be expected to suffer, pain, inflammation, or lameness while walking, trotting, or moving. This practice can produce a high-stepping gait that has been prized in certain competitions involving Tennessee Walking Horses and other breeds. This practice is not only cruel and inhumane, but also results in unfair competition that damages the integrity of the breed.

¹ 9 C.F.R. § 11.1.

² 15 U.S.C. § 1821-1831.

³ This Tech Note is intended to summarize provisions of the HPA and regulations issued thereunder (9 C.F.R. § 11.1 *et seq.*). It does not supersede the HPA or regulations, any other law or regulation, or any applicable policy or procedure.

Q. How does the HPA combat soring?

A. The HPA establishes a multi-tiered structure to end the practice of soring. First, it makes it unlawful for any person to show, exhibit, sell, or transport sore horses, or to use any prohibited equipment, device, paraphernalia, or substance in horse shows, exhibitions, sales, or auctions. Second, it holds horse owners responsible for allowing such unlawful activities. Third, it entrusts management⁴ of horse shows, exhibitions, sales, and auctions with ensuring that sore horses do not unfairly compete with horses that are not sore.⁵ The HPA imposes penalties and other sanctions for violations, after notice and an opportunity for a hearing.

Q. I enter horses and ride them in horse shows. Do I need to comply with the HPA?

A. Yes. The HPA and the regulations established thereunder⁶ apply to any person

⁴ Management means any person or persons who organize, exercise control over, or administer or are responsible for organizing, directing, or administering any horse show, horse exhibition, horse sale or horse auction and specifically includes, but is not limited to, the sponsoring organization and show manager.

⁵ For an overview of management's responsibilities under the HPA, please refer to Animal Care's Tech Note entitled, "Responsibilities of Management of Horse Shows, Exhibitions, Sales, and Auctions, which is available on the Internet at: https://www.aphis.usda.gov/publications/animal_welfare/2016/October-2016-HPA-management-tech-note-final-102116.pdf

⁶ The HPA regulations are available on the Internet at: <http://www.ecfr.gov/cgi-bin/text-idx?SID=7102da78cdb431b318e706ab608140cc&mc=true&node=pt9.1.11&rgn=div5>.

who enters a horse in a horse show or exhibition for the purpose of showing or exhibiting the horse. Entering is a continuing process, not merely a single event, and encompasses all of the activities that must be completed before a horse can actually be shown or exhibited, including completing the entry form, paying the entry fee, and presenting the horse for inspection. In addition, the HPA applies to any person who shows or exhibits a horse in a horse show or exhibition, such as the rider of a horse.

Q. I own horses and allow my trainer to enter and show my horses in horse shows. Do I need to comply with the HPA?

A. Yes. The HPA and regulations also apply to any person who allows a horse that he or she owns to be entered for the purpose of showing or exhibiting the horse in a horse show or exhibition. In addition, the HPA and regulations apply to any person who allows a horse that he or she owns to be shown or exhibited in a horse show or exhibition.

Q. I sell horses that I own at private and public sales and auctions. Do I need to comply with the HPA?

A. Yes. The HPA and regulations apply to any person who sells or auctions horses, or offers them for sale in a public or private horse sale or auction. It also applies to any person who allows a horse that he or she owns to be sold, auctioned, or offered for sale in a public or private horse sale or auction.

Q. I transport horses to horse shows, but I do not work for a commercial carrier or transportation business. Do I need to comply with the HPA?

A. Yes. Except for common or contract carriers and their employees, the HPA and regulations apply to any person who ships, transports, or otherwise moves, or delivers or receives for movement any horse with reason to believe the horse may be shown, exhibited, sold, or auctioned at a horse show, exhibition, sale, or auction. For common or contract carriers and their employees, the HPA applies if a horse is shipped, transported, moved, or delivered in the usual

course of the carrier's business or employee's employment.

Q. Does the HPA apply to horses other than Tennessee Walking Horses and racking horses?

A. Yes. The HPA applies to any horse, regardless of its breed. However, certain requirements contained in the HPA regulations only apply to Tennessee Walking Horses and racking horses, including the prohibitions on the use of certain substances⁷ and the competition restrictions and minimum rest periods for 2 year-old horses⁸ at horse shows, exhibitions, sales, and auctions.

Q. The HPA applies to the activities that I engage in with horses. What do I need to know to comply with the HPA?

A. Congress enacted the HPA to end the cruel and inhumane practice of soring horses. To this end, the HPA makes it unlawful for any person to:

- Enter a horse for the purpose of showing or exhibiting it in a horse show or exhibition, if the horse is sore, or if the horse is wearing or bearing any equipment, device, paraphernalia, or substance prohibited by regulation;
- Show or exhibit a horse in a horse show or exhibition, if the horse is sore, or if the horse is wearing or bearing any prohibited equipment, device, paraphernalia, or substance; and
- Sell, auction, or offer to sell a horse in a horse sale or auction, if the horse is sore, or if the horse is wearing or bearing any prohibited equipment, device, paraphernalia, or substance.

In addition, the HPA makes it unlawful for the owner of such a horse to allow these prohibited activities, thus ensuring that the owner is a guarantor that his or her horse will not be sore when participating in a horse show, exhibition, sale, or auction. Finally, the HPA prohibits any common or contract carrier and its employees from shipping,

⁷ 9 C.F.R. § 11.2(c).

⁸ 9 C.F.R. § 11.2(d).

transporting, moving, delivering, or receiving a horse, if the carrier or employee has reason to believe the horse is sore. For other transporters, the HPA prohibits the shipping, transporting, moving, delivering, or receiving of a sore horse, if the person has reason to believe that the horse while it is sore may be shown, exhibited, entered for the purpose of being shown or exhibited, sold, auctioned, or offered for sale, in any horse show, horse exhibition, or horse sale or auction.

Q. What equipment, devices, paraphernalia, and substances are prohibited under the HPA regulations?

A. First and foremost, the HPA regulations prohibit the use of any device, method, practice, or substance with respect to any horse at a horse show, exhibition, sale, or auction, if such use causes or can reasonably be expected to cause the horse to be sore. The HPA regulations further enumerate 19 prohibitions on the use of specific devices, equipment, and practices on any horse at a horse show, exhibition, sale, or auction. These specific prohibitions include, among others, the use of chains weighing more than 6 ounces each (including the weight of the fastener), pads that are not made of leather, plastic, or a similar pliant material, and any object or material inserted between the pad and hoof other than acceptable hoof packing. The HPA regulations also prohibit the use all substances on the extremities above the hoof of any Tennessee Walking Horse or racking horse while being shown, exhibited, or offered for sale at any horse show, exhibition, sale, or auction, except for lubricants that are controlled and furnished by management and meet certain other restrictions. The full list of prohibited equipment, devices, paraphernalia, and substances contained in the HPA regulations is available on the Internet at: http://www.ecfr.gov/cgi-bin/text-idx?SID=d790e595727e6f2bc5f1a8e444b0fb65&mc=true&node=pt9.1.11&rgn=div5#se9.1.11_140.

Q. At a recent horse show, show management disqualified a horse I own from being shown due to a noncompliance with the scar rule. Is a

horse that does not meet the scar rule criteria considered to be a sore horse?

A. Yes. A horse that fails to meet the scar rule criteria contained in the HPA regulations is considered to be sore and is subject to the same prohibitions. The scar rule criteria are as follows:

- The anterior and anterior-lateral surfaces of the fore pasterns (extensor surface) must be free of bilateral granulomas⁹, other bilateral pathological evidence of inflammation, and, other bilateral evidence of abuse indicative of soring including, but not limited to, excessive loss of hair.
- The posterior surfaces of the pasterns (flexor surface), including the sulcus or “pocket” may show bilateral areas of uniformly thickened epithelial tissue if such areas are free of proliferating granuloma tissue, irritation, moisture, edema, or other evidence of inflammation.

Q. I would like to start showing my horse in horse shows and am looking for a trainer. Where can I find information about a trainer’s compliance with the HPA?

A. APHIS maintains a list of persons who, because of alleged violations of the HPA or who have been found in violation of the HPA, are disqualified by order of the Secretary from showing or exhibiting a horse, or judging or managing any horse show, exhibition, sale, or auction. This list can be found on the Internet at: https://www.aphis.usda.gov/aphis/ourfocus/business-services/ies/hpa_disqualification_list. In addition, APHIS’ Freedom of Information Act (FOIA) Electronic Reading Room contains documents specifically identified for inclusion by the FOIA and documents for which it has received multiple FOIA requests, which include certain HPA-related enforcement actions and regulatory correspondence. The APHIS FOIA Electronic Reading Room can be found on

⁹ Granuloma is defined as any one of a rather large group of fairly distinctive focal lesions that are formed as a result of inflammatory reactions caused by biological, chemical, or physical agents.

the Internet at:
https://www.aphis.usda.gov/aphis/resources/foia/ct_foia_reading_room.

Q. I entered my horse and intend to ride it in a horse show for the first time. What can I expect if my horse is inspected by APHIS representatives for compliance with the HPA and regulations?

A. Each horse owner, exhibitor, trainer, or other person having custody of, or responsibility for, a horse at a horse show, exhibition, sale, or auction, must allow APHIS representatives to reasonably inspect the horse at all reasonable times and places the APHIS representatives may designate. These inspections may be required of any horse which is stabled, loaded on a trailer, being prepared or exercised, or otherwise on the grounds of, or present at, a horse show, exhibition, sale, or auction. The horse must not be moved from the horse show, exhibition, sale, or auction until the inspection has been completed and the horse has been released by an APHIS representative.

If, after inspecting the horse, APHIS has a evidence that the horse is sore, it will information the management of the horse show, exhibition, sale, or auction, as well as the owner, trainer, exhibitor, or other person having immediate custody of or responsibility for the horse. Pursuant to the HPA, the responsibility for disqualifying a sore horse is placed solely on the management of horse shows and exhibitions, not APHIS.

Q. What if I wish to contest the results of an inspection by an APHIS representative? Can I request a reexamination?

A. Yes. Under the HPA regulations, the owner, trainer, exhibitor, or other person having custody of or responsibility for any horse believed to be in violation of the HPA or regulations, and who has been notified of such alleged violation by an APHIS representative, may request reexamination and testing of the horse. The request must be made to the APHIS Show Veterinarian immediately after the horse has been examined by the APHIS representative and before the horse has been removed from the APHIS inspection facilities. If the APHIS

Show Veterinarian determines that sufficient cause for reexamination and testing exists, the horse will be maintained under APHIS supervisory custody until the reexamination and testing is completed.

Q. Show management disqualified my horse from showing at a horse show after a non-governmental inspector (referred to as a Designated Qualified Person or DQP) or APHIS representative notified management the horse was sore. Can I contest this disqualification by management?

A. Yes. The United States district courts and courts of the U.S. territories are vested with jurisdiction specifically to enforce, and to prevent and restrain violations of the HPA and have jurisdiction in all other kinds of cases arising under the HPA, except for civil penalties and orders of disqualification assessed by the Secretary.¹⁰ Accordingly, any person who wishes to contest management's disqualification of a horse under the HPA may bring suit against management in the appropriate court. Additionally, if management of a horse show, exhibition, sale, or auction appoints and retains a DQP who is licensed by a certified horse industry organization or association (HIO), the HIO may have a process set forth in their rulebook for challenging disqualifications made by management.

Q. What are the penalties and other sanctions for violating the HPA?

A. The HPA provides for both civil and criminal penalties for violations, including the following:

- A person who violates the Act is subject to a civil penalty of not more than \$2,200¹¹ for each violation.
- The HPA also authorizes the Secretary to disqualify violators from

¹⁰ 15 U.S.C. 1825(d)(6).

¹¹ The Secretary of Agriculture, pursuant to the Federal Civil Inflation Adjustment Act of 1990, as amended (28 U.S.C. § 2461 note), adjusted the civil penalty that may be assessed under the HPA for each violation of 15 U.S.C. § 1824 occurring after June 23, 2005 by increasing the maximum civil penalty from \$2,000 to \$2,200 (7 C.F.R. § 3.91(b)(2)(viii)) and \$3,000 to \$4,300 (7 C.F.R. § 3.91(b)(2)(ix)).

- showing or exhibiting horses and from judging or managing horse shows, exhibitions, sales, and auctions for a period of not less than one year for the first violation, and for a period of not less than five years for any subsequent violation.
- Any person who knowingly fails to obey an order of disqualification is subject to a civil penalty of not more than \$4,300¹² for each violation.
 - The management of any horse show, exhibition, sale, or auction, which knowingly allows any person who is under a disqualification order to show or exhibit any horse, to enter for the purpose of showing or exhibiting any horse, to take part in the managing or judging, or otherwise participate in any horse show, exhibition, sale, or auction in violation of a disqualification order is subject to a civil penalty of not more than \$3,000 for each violation.
 - Any person who knowingly violates the Act is subject to a fine of not more than \$3,000, and/or imprisonment of not more than one year for the first violation, and a fine of not more than \$5,000 and/or imprisonment of not more than two years after one or more prior convictions.

It is important to be aware that no civil or criminal penalty will be assessed for a violation of the HPA without notice and an opportunity for a hearing.

Additional Information

For more information contact:

USDA Animal Care

2150 Centre Ave.

Building B, Mailstop 3W11

Fort Collins, CO 80526-8117

E-mail: horseprotection@usda.gov

Phone: (970) 747-7478

USDA is an equal opportunity provider and employer.

¹² See Footnote 9.