

Horse Protection Act - New Regulations Take Effect Soon

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January 2025

Agricultural Law and Taxation Blog, by Roger McEowen: <https://lawprofessors.typepad.com/agriculturallaw/>
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Overview

The Horse Protection Act (HPA) of 1970. (15 U.S.C. §§ 1821 et seq.) was intended to end the inhumane practice by owners, trainers and exhibitors of deliberately making sore the feet of the Tennessee Walking Horse. But starting February 1, 2025, new regulations take effect that will expand the HPA to all breeds of horse and all types of horse events, including 4-H events.

New regulations under the HPA – it's the topic of today's blog post.

Background

As noted, the HPA was intended to stop certain inhumane practices impacting Tennessee Walking Horses. This type of horse is characterized by the high stepping of the forelegs. Trainers "sore" the horses either by applying chemicals or by placing a painful collar around the top of the hoof that causes the animal to step up in a pronounced fashion. The HPA outlawed those procedures and made it an inhumane practice if it was done in interstate commerce. The HPA was amended in 1976 to strengthen its enforcement provisions. While the HPA does not prohibit the soring of horses, it does prohibit sored horses from being entered in horse shows, exhibitions, sales and auctions and moving in interstate commerce or substantially affecting commerce. The HPA was also extended in 1976 to intrastate commerce.

If a horse has the appearance of being scarred, the scar itself is enough to indicate that the horse has been sored, triggering the statute's application. Presently, violations of the HPA, if not settled by the USDA, are subject to civil penalties of up to \$5,000 for each violation and an order disqualifying the violator from showing or exhibiting horses for a period of at least one year for the first violation and at least five years for any subsequent violation. 15 U.S.C. § 1825(b)(1). Civil penalties of up to \$5,000 can be assessed for a violation of an order of disqualification. 15 U.S.C. §1825(c). Knowing violations are subject to criminal penalties, including fines of up to \$3,000 and one year in prison for a first offense." 15 U.S.C. § 1825(a)(1). Each subsequent violation may result in fines of up to \$5,000 and imprisonment for up to two years. 15 U.S.C. §1825(a)(2).

Under the HPA, liability can extend to trainers for entering a sored horse in a show, and owners who "allow" sored horses to be entered. See, e.g., *Derickson v. United States Department of Agriculture*, 546 F.3d 335 (6th Cir. 2008). Whether an owner is liable for the entry of a sored horse regardless of knowledge or fault is an unsettled issue in the courts. The USDA's position is that an owner is liable regardless of knowledge or fault for a sore horse. Thus, the USDA interprets the Act in a manner that does not



require them to prove that the owner is somehow responsible for the soring (either by direct authorization or otherwise). However, the statute appears to differentiate between those who directly enter, show or exhibit horses and those who do not. See 15 U.S.C. § 1824(2)(B) and (2)(D).

In late 2003, the U.S. Court of Appeals for the Tenth Circuit adopted the USDA's position that an owner is liable regardless of knowledge or fault for a sore horse." *McCloy v. United States Department of Agriculture*, 351 F.3d 447 (10th Cir. 2003), cert. denied, 543 U.S. 810 (2004).

Effective February 1, 2025, significant revisions to the HPA took effect. 9 CFR Part 11, 89 Fed. Reg. 39194 (May 8, 2024). The revised rules are the result of animal activists seeking more regulation of the Tennessee Walking Horse Industry and an expanded definition of "soring" to encompass as much of the horse industry as possible. This despite the compliance rate with the HPA exceeding 90 percent.

The revisions aim to strengthen enforcement against soring and promote the humane treatment of horses across all breeds and disciplines.

The revisions make the following significant changes:

- **Event management responsibilities:**
 - **Advance notification:** Event managers must notify the USDA's Animal and Plant Health Inspection Service (APHIS) at least 30 days before their event, indicating whether they have appointed a USDA Horse Protection Inspector (HPI) or requested an APHIS Veterinary Medical Officer (VMO) to conduct inspections.
 - **Updates and reporting:** Any event updates should be provided 15 days in advance. Additionally, managers must report any HPA violations to the regional director of APHIS within five days after the event concludes.
 - **Identification and recordkeeping.** A horse event manager must verify the identity of each horse entered at a show, exhibition, sale or auction, and maintain all horse show and exhibition records for 90 days and make those records available to inspectors.
- **Inspection protocols:**
 - **HPIs:** The USDA will train and authorize HPIs, who will be licensed veterinarians or individuals with extensive equine experience. These inspectors will be responsible for conducting inspections at events. Event managers are liable for any HPA violations if they choose not to hire an inspector. HPIs are to have free and uninhibited access to records, barns, horse trailers, stables, stalls, arenas and all other show or exhibition grounds.
- **Elimination of DQP program:**
 - The Designated Qualified Person (DQP) program and the role of Horse Industry Organizations (HIOs) in inspections will be discontinued. Only APHIS VMOs and HPIs will conduct inspections under the revised regulations.



- **Equipment and substance restrictions:**
 - **Ban on action devices and pads:** The use of action devices and pads by Tennessee Walking Horses and racking horses during competition is prohibited. Weighted shoes and bands are still permitted.
- **Prohibition of substances:**
 - All substances applied to the extremities above the hoof of Tennessee Walking Horses or racking horses during competition are banned, including lubricants, to prevent masking of soring.
- **Scar rule modification:**
 - **Inspection criteria:** The revised Scar Rule provides a list of dermatologic conditions indicative of soring. Inspectors will use their judgment to determine if a horse exhibits signs of soring based on these conditions.
- **Specific rules for horse owners:**
 - Anything that could make a horse sore, lame, or irritated are prohibited. Sore muscles from a focused training session or a small rub from an incorrectly fitted bell boot could be equated to intentional soring.
 - Any substance that could make a horse sore or have an inflammatory reaction is prohibited, including therapeutic liniment
 - No substances may be used on the limbs of a horse, including skin and hair conditioners or fly spray
 - Horse owners are not the only ones liable. Any participant with horses is subject to liability, including agents, haulers, trainers, vendors, supporters, and sponsors.
 - Mandatory rest periods must be observed during shows, exhibitions, sales, and auctions.
 - Any information requested must be provided to inspectors on demand.
 - Horses' legs must be blemish-free, including dermatologic conditions such as irritation, moisture, edema, swelling, redness, epidermal thickening, loss of hair, or other evidence of inflammation.
 - Horse inspections may include, but are not limited to, "visual inspection of a horse and review of records, physical examination of a horse, including touching, rubbing, palpating, and observation of vital signs, and the use of any diagnostic device or instrument, and may require the removal of any shoe or any other equipment, substance, or paraphernalia from the horse when deemed necessary by the professional conducting such inspection.
 - Horses can be detained by HPIs for 24 hours.
 - Therapeutic treatments, including massage, chiropractic treatments, and PMF must be administered or overseen by qualified veterinarians
 - Complete veterinary records must be kept and maintained for horses receiving therapeutic treatment of any kind.



- Requirements for shipping and transporting horses.
- Any horse winning first place in a class is required to be re-inspected.
- Horses that receive a rub or blemish while competing are subject to HPA violations, even if the horse passed inspection prior to entering the ring.

Note: The 2025 revised rule extends the HPA's prohibition against sored horses participating in shows, exhibitions, sales and auctions to events involving all horse breeds. The reach of the revisions also extends to all shows involving horses, from local 4-H playdays to annual international competitions. Also, while the new rule dramatically increases the scope of the HPA the USDA has simultaneously reduced the number of possible inspectors by eliminating the use of third-party DQP program, thus creating a shortage of qualified inspectors. This means that under the revised rule the APHIS is solely responsible for training and employing inspectors who must be licensed veterinarians or veterinary technicians.

Conclusion

The new regulations effective February 1, 2025, will likely have a substantial impact on horse shows, including 4-H horse events. The impact could possibly be even broader than horse shows. Time will tell.

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