



October 2016

Questions and Answers: An Overview of Inspections Conducted under the Horse Protection Act for the Management of Horse Shows, Exhibitions, Sales, and Auctions

Q. What is the Horse Protection Act?

A. Congress enacted the Horse Protection Act¹ (HPA or Act) to end the cruel and inhumane practice of soring horses.² 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.

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 management³ of horse shows, exhibitions, sales, and auctions with ensuring that sore horses do not unfairly compete with horses that are not sore. The HPA imposes penalties and other sanctions for violations, after notice and an opportunity for a hearing.

Q. I am a new show manager. What are my responsibilities under the HPA?

A. The HPA requires management to disqualify sore horses from being shown or exhibited and prohibit their sale or auction. Management may elect to appoint and retain non-governmental inspectors, known as “Designated Qualified Persons” (DQPs), to inspect horses on its behalf, and to detect and diagnose sore horses. Management utilizing DQPs may be held liable for failing to disqualify from being shown or exhibited or prohibit from being sold or auctioned “any horse (1) which is sore, and (B) after having been notified by such person or the

¹ 15 U.S.C. § 1821-1831.

² This Tech Note is intended to summarize provisions of the HPA and regulations (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.

³ 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.

Secretary that the horse is sore or after otherwise having knowledge that the horse is sore.”⁴ Management that does not use DQPs may be held liable for failing to disqualify from being shown or exhibited or prohibit from being sold or auctioned “any horse which is sore.”⁵

In addition, the HPA and its regulations entrust management with providing the USDA with adequate space and facilities to conduct inspections, maintaining and providing accurate records and information to the USDA, and other responsibilities. For more information about 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

Q. I am interested in appointing and retaining a DQP to conduct inspections at a horse show I manage. How can I find out who is a DQP?

A. DQPs are licensed by USDA-certified horse industry organizations and associations (HIOs). APHIS maintains a list of certified HIOs on its website at: https://www.aphis.usda.gov/animal_welfare/hp/downloads/hio/HIOLIST_2014.pdf. Additionally, APHIS maintains a list of DQPs that are licensed by the certified HIOs. This list can be found on the Internet at: https://www.aphis.usda.gov/animal_welfare/hp/downloads/hio/DQPLIST_2017.pdf.

Q. Will APHIS notify management in advance if it intends to conduct inspections at a horse show, exhibition, sale, or auction?

A. No. APHIS representatives conduct unannounced inspections at horse shows, exhibitions, sales, and auctions to assess compliance with the HPA and the HPA regulations. The management of every horse show, exhibition, sale, or auction, must provide, without fee, sufficient space and facilities for APHIS representatives to

carry out their duties under the Act and regulations.

Q. If APHIS conducts inspections at a horse show I manage, will APHIS inform me of any horse allegedly found to be in violation of the HPA?

A. Pursuant to the HPA, the responsibility for disqualifying sore horses is placed solely on the management of horse shows, exhibitions, sales, and auctions. If, following an inspection of a horse, an APHIS representative has evidence that a horse is sore, APHIS will notify management, so that management can make a decision as to whether to disqualify the horse.

Q. If I appoint and retain a DQP to conduct inspections on my behalf, will the DQP notify me of any horses allegedly found to be in violation of the Act or regulations?

A. Pursuant to the HPA regulations, DQPs are to immediately inform management of each case regarding any horse that, in his opinion, is allegedly in violation of the Act or regulations.

Q. What if management does not agree with the results of an inspection by a DQP or APHIS representative?

A. Management retains sole responsibility for determining whether to disqualify the horse and must make its own informed decision as to whether to disqualify a horse from being shown, exhibited, sold, or auctioned in a horse show, exhibition, sale, or auction. If a sore horse is shown, exhibited, sold, or auctioned, and management had knowledge that the horse is sore, management may be subject to penalties and other sanctions under the HPA, after notice and an opportunity for a hearing.

Q. What are the penalties 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 \$2,200⁶ for each violation.

⁴ 15 U.S.C. § 1824(5)-(6).

⁵ 15 U.S.C. § 1824(3)-(4).

⁶ The Secretary of Agriculture, pursuant to the Federal Civil Inflation Adjustment Act of

- The HPA also authorizes the Secretary to disqualify violators from 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 \$4,300⁷ 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.

Q. I do not want to be held liable for allowing a person who is under disqualification to show at my horse show. How can I find out who is currently under disqualification?

A. APHIS maintains a list of persons that 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.

Additional Information

For more information contact:
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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)).

⁷ See Footnote 9.