

**DEPARTMENT OF AGRICULTURE****Animal and Plant Health Inspection Service****9 CFR Part 11**

[Docket No. 88-079]

**Horse Protection; Interim Rule****AGENCY:** Animal and Plant Health Inspection Service, USDA.**ACTION:** Interim rule and request for comments.

**SUMMARY:** We are amending the Horse Protection Regulations to remove a 16-ounce limit on horseshoes used on horses other than yearlings, and the prohibition of certain weights used on horses other than yearlings. Additionally, we are reinstating certain restrictions on the placement of lead and other weights on horses. We are requesting comments concerning how to restrict the use of weights, including horseshoes. This action is necessary to enable us to develop adequate information on how the weight on horses' feet should be limited. We are also removing a 6-ounce weight limit on boots used to protect horses. This action is warranted to allow the use of certain boots weighing more than 6 ounces that are used to protect horses.

**DATE:** This interim rule is effective April 28, 1988. Consideration will be given only to comments postmarked or received on or before June 27, 1988.

**ADDRESSES:** Send an original and three copies of written comments to APHIS, USDA, Room 1143, South Building, P.O. Box 96464, Washington, DC, 20090-6464. Please state that your comments refer to Docket No. 88-079. Comments received may be inspected at room 1141 of the South Building between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

**FOR FURTHER INFORMATION CONTACT:** Dr. R.L. Crawford, Animal Care Staff, VS, APHIS, USDA, Room 756, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-7833.

**SUPPLEMENTARY INFORMATION:****Background Information**

On April 26, 1988, we published an interim rule in the *Federal Register* (FR 53 14778-14782) that amended the Horse Protection regulations in 9 CFR Part 11 (referred to below as the regulations) to prohibit and restrict certain devices and practices to prevent the soring of horses. Among other things, we established a 16-ounce weight limit on horseshoes used on all horses, prohibited the use of weights on all horses, and established a

6-ounce weight limit on boots used on horses. In this interim rule, we are removing those weight limits, and are requesting comments on the most appropriate limits on the use of weights, including horseshoes.

**Horseshoes and Other Weights**

The restrictions and prohibitions we established regarding horseshoes and other weights in our April 26 interim rule were based on findings, discussed in that interim rule, that indicated that weights added to a horse's foot may cause inflammation. In promulgating the interim rule, we prohibited the use of weights and established a 16-ounce weight limit for horseshoes, applicable to all horses. However, since the publication of that interim rule, considerable information has been generated regarding the appropriateness of the prohibition and of the 16-ounce weight limit. Although the comments and information received to date are not exhaustive, and although they contain certain conflicting opinions, it is clear to us that additional information needs to be compiled concerning appropriate limits on the use of weights on horses' feet and on the weight of horseshoes.

We have received a comment in the form of a recommendation that was approved by representatives of a significant number of horse industry organizations, and by representatives of the American Horse Protection Association (AHPA), that suggests that we remove the prohibition on the use of certain weights and the 16-ounce limit on the weight of horseshoes—except with regard to yearling horses, reinstate prior restrictions on the placement of weights, and request comments regarding these issues. In addition to the AHPA, the recommendation was approved by, among others, representatives of the American Saddlebred Horse Association, the United Professional Horsemen's Association, the National Show Horse Registry, the American Horse Council, the American Farriers Association, the California State Horsemen's Association, the Walking Horse Trainers Association, the Kentucky Walking Horse Association, the Racking Horse Breeders Association, the Friends of the Show Horse Association, the American Morgan Horse Association, the International Arabian Horse Association, the Wild Horse Sanctuary—California, Equines Ltd., and the Wild Horse Alliance.

Additional information we have received suggests that a 16-ounce limit may not be appropriate, and indeed may be inappropriate, for some horses. It appears, for example, that the 16-ounce

limit may be inappropriate for large horses, such as draft horses, and for other breeds of horses.

We are therefore removing the prohibition of certain weights and the 16-ounce weight limit on horseshoes used on horses other than yearling horses.

We are requesting comments concerning necessary limits on the use of weights, including horseshoes, both to prevent soring and to accommodate the needs of different breeds and sizes of horses.

For yearling horses, a prohibition on the use of any weights and a 16-ounce limit on horseshoes was in effect prior to the publication of the April 26 interim rule. These restrictions were removed only because we established a rule applicable to all horses. Because we are removing the across-the-board restrictions, it is necessary to again establish the 16-ounce limit and the prohibition of weights for yearlings to protect them from soring. Additionally, we are reinstating certain restrictions on the placement of weights on horses' feet.

**Weight Limits on Boots**

In our April 26 interim rule, we limited the weight of all boots used on horses to 6 ounces. Based on information we have received, however—including the recommendation discussed above—we believe that certain protective boots that weigh more than 6 ounces will not lead to soring. Therefore, we are removing the 6-ounce weight limit on soft rubber or soft leather bell boots and on quarter boots used as protective devices.

**Emergency Action**

The Administrator of the Animal and Plant Health Inspection Service has determined that an emergency situation exists, which warrants publication of this interim rule without prior notice and opportunity for public comment.

On April 26, 1988, we published an interim rule in the *Federal Register*. Information we have received since that date has indicated to us that the restrictions established in that rule may not be appropriate to all breeds and sizes of horses. Because it is possible that limiting some horses to a 16-ounce shoe may be inappropriate, and may possibly affect large horses, such as draft horses, adversely, it is necessary that we remove this weight limit as soon as possible, until more information regarding this subject can be gathered. We also need further information concerning necessary limitations on the use of other weights on horses' feet. Additionally, the April 26 interim rule limited the weight of all boots, including

protective boots, to 6 ounces. However, information we have received since that date has indicated that some protective boots weigh more than 6 ounces. To allow use of these protective boots, it is necessary that we remove the weight restriction on these boots as soon as possible.

Since prior notice and other public procedures with respect to this interim rule are impracticable and contrary to the public interest under these emergency conditions, there is good cause under 5 U.S.C. 553 for making this interim rule effective upon signature. We will consider comments postmarked or received on or before June 27, 1988. Any amendments we make to this interim rule as a result of these comments will be published in the Federal Register as soon as possible following the close of the comment period.

**Executive Order 12291 and Regulatory Flexibility Act**

We are issuing this interim rule in conformance with Executive Order 12291 and Departmental Regulation 1512-1, and have determined that it is not a "major rule." Based on information compiled by the Department, we have determined that this rule will have an effect on the economy of less than \$100 million; will not cause a major increase in costs or prices for consumers, individual industries, Federal, state, or local government agencies, or

geographic regions; and will not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The changes to the regulations made by this interim rule will affect all horses equally, and will allow continued equitable competition among show horses.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have significant economic impact on a substantial number of small entities.

**Paperwork Reduction Act**

This interim rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

**List of Subjects in 9 CFR Part 11**

Animal welfare, Horses, Humane animal handling, Soring of horses.

**PART 11—HORSE PROTECTION REGULATIONS**

Accordingly, 9 CFR Part 11 is amended as follows:

1. The authority citation for Part 11 continues to read as follows:

Authority: 15 U.S.C. 1823, 1824, 1825, and 1826; 44 U.S.C. 3506.

2. Section 11.2 is amended by revising paragraphs (b)(7) and (b)(9) and by adding new paragraph (b)(19) to read as follows:

**§ 11.2 Prohibitions concerning exhibitors.**

- (b) \* \* \*
- (7)(i) Boots, collars, or any other devices, with protrusions or swellings, or rigid, rough, or sharp edges, seams or any other abrasive or abusive surface that may contact a horse's leg; and
- (ii) Boots, collars, or any other devices that weigh more than 6 ounces, except for soft rubber or soft leather bell boots and quarter boots that are used as protective devices.

(9) Any weight on yearling horses, except a keg or similar conventional horseshoe, and any horseshoe on yearling horses that weighs more than 16 ounces.

(19) Lead or other weights attached to the outside of the hoof wall, the pad, or on the outside surface of the horseshoe.

Done in Washington, DC this 28th day of April 1988.

James W. Glosser,  
Administrator, Animal and Plant Health Inspection Service.

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