

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection
Service

[9 CFR Part 11]

DEVICES AND SUBSTANCES FOR USE ON HORSES AT CERTAIN HORSE SHOWS

Proposed Prohibitions

Notice is hereby given in accordance with the administrative provision in 5 U.S.C. 553, that, pursuant to the provisions of the Horse Protection Act of 1970 (15 U.S.C. 1821-1831), the Animal and Plant Health Inspection Service is considering amending Part 11, Subchapter A, Chapter I, Title 9, Code of Federal Regulations, with respect to prohibitions concerning devices and substances for use on horses at certain horse shows.

Statement of considerations. After passage of the Horse Protection Act of 1970, meetings held with various segments of the affected industry and humane officials provided the Department with many divergent views and considerable factual information as to possible methods of diagnosing sore horses and enforcement of the Act. Consideration was given to the views expressed, and the initial regulations were based on all information available at the time the regulations were issued, to become effective on January 28, 1972. Since the regulations were first published, experiments, tests, clinics, and experience have developed additional data which indicate the regulations should be amended.

The Department sought additional data after enforcement problems related to the regulations arose on a continuing basis and representatives of the concerned industry complained that portions of the regulations placed unnecessary and detrimental restrictions on the industry. Enforcement problems arose when numerous alleged violations were documented concerning boots which were prohibited by the regulations, e.g. exceeding the 16 ounce weight limitation (see 9 CFR 11.3). In some cases the horses wearing such boots showed no evidence of being sore. Also, enforcement experience revealed evidence which appears to support the horse industry's claim that adverse weather conditions could result in a "legal boot becoming illegal." It appears that boots permitted under the regulations which are exposed to water may gain weight, and wet leather boots may shrink when exposed to excessive heat. The regulation boots actually may be a soring device under certain other conditions. The 2½ inch height, permitted for boots under the regulations, may be excessive for a young horse with a small, short pastern and

could cause loss of hair and boot rubs (abrasions) due to friction between the ill fitting boot and the horse's pastern. In some instances the 16-ounce boot weight may be excessive for a young horse with tender skin, and the horse industry claimed the 16-ounce weight was not sufficient to properly "balance" a mature horse. Weights, including the weight of action devices such as boots, are used to "balance" a horse in a manner similar to the use of weights in balancing automobile tires. The horse industry also claimed that USDA's restrictions against allowing action devices, other than the 16-ounce bell boot and the hinged quarter boot, placed detrimental restrictions on the industry because certain horses would not (or could not) perform while wearing the bell boot or hinged quarter boot. Further, the horse industry claimed that USDA's restrictions on allowing any foreign substance on the pastern and fetlock areas of horses were excessively restrictive. The industry maintained that lubricant-type substances, if allowed, would protect and prevent damage to a horse's leg.

In an effort to resolve enforcement problems and to properly evaluate complaints concerning the regulations, the Department conducted a 7-day, fact-finding clinic on soring, training devices, and aids such as lubricants, boots, chains, etc., in which the Department, industry, and humane group representatives worked cooperatively to gather data. In addition, the Department conducted extensive factfinding tests and experiments on live horses at the Veterinary Services Laboratory in Ames, Iowa, for the purpose of establishing the reliability of infrared thermography to detect soring and to test the effects of lubricants and various types of training devices and aids under diverse conditions. Evaluation of enforcement data provided information based on actual problems related to the regulations that have been experienced by Department personnel. Data gathered at the factfinding tests, experiments, and clinics, along with information gathered by experience in enforcing the Act, provided a basis for determining the effect of lubricants and various types of boots, chains, and other devices on horses. The factfinding clinic and test results were substantiated through the use of the Department's infrared thermography equipment.

The fact-finding clinic, tests, experiments, and enforcement experience revealed that current regulations may be excessively restrictive in prohibiting the use of all chains, in imposing a weight limitation of 16 ounces and a 2½-inch minimum width on bell boots, and in ex-

cluding all lubricants on horses' pasterns and too permissive with respect to certain methods and devices. The clinic, experiments, tests, and enforcement experience revealed that individual horses may be affected differently by certain methods or devices and that such methods or devices may cause, or reasonably be expected to cause, physical pain, extreme physical distress, or inflammation to some horses and not to other horses. It appears that with respect to such methods or devices an evaluation must be made in each specific case. However, there appears to be a rational basis for believing that use of certain other methods and devices such as chains weighing more than 10 ounces each would cause one or more of these effects in any horse, and if used on a horse for the purpose of affecting its gait would result in the horse being sore. The fact-finding clinic, experiments, and tests also revealed that the use of certain lubricants, such as liquid petrolatum, may greatly decrease the possibility of friction damage to a horse's leg by boots, chains, or other devices. However, unless the lubricants are applied after pre-show inspection by the horse show representative, they may mask cracks, abrasions or other abnormalities indicative of soring which such inspection is meant to detect. Unless the lubricant used is clear and transparent, its presence could so greatly interfere with subsequent inspection by Department inspectors for physical evidence or soring as to outweigh the beneficial effects achieved by allowing the use of such lubricants. Further, the requirement that the lubricants be applied under the control of the show representative and that only lubricants furnished by the show management be used, would appear to be necessary to assure that only permitted lubricants are used and to facilitate sampling of the lubricants in enforcement of the Act. Further, it appears that the use of therapeutic substances should not be allowed on the pastern areas of a horse during showing or exhibition since they also can mask evidence of soring. Therefore, based on the knowledge gained from experience, tests, experiments, and studies involving infrared thermovision equipment, the fact-finding clinic, experiments, and tests conducted at the Veterinary Services Laboratory in Ames, Iowa, various field studies, and other experience gained in enforcing the Act, the Department proposes to amend the regulations to prohibit the use of certain methods and devices which it appears may reasonably be expected to cause physical pain, extreme physical distress, or inflammation

to any horse upon which they are used; to delete the provisions specifying permitted boots and thereby eliminate the 16-ounce weight limitation and 2½-inch width requirement for bell boots; to modify provisions for the use of therapeutic treatments; and to allow the use of clear and transparent lubricants under certain conditions when controlled by show management, as follows:

1. In § 11.2, paragraphs (b), (c), and (d), would be revised respectively to read:

§ 11.2 Prohibitions concerning exhibitors.

(b) No chain, boot, or other method or device shall be used with respect to any horse at any horse show or exhibition if such use causes the horse to be sore.

(c) The use of any of the following devices on any horse for the purpose of affecting its gait at any horse show or exhibition is prohibited:

(1) All trotting devices, including but not limited to rollers and similar devices;

(2) Chains weighing in excess of 10 ounces each including the weight of the fastener;

(3) Chains which are not smooth and free of projections, protrusions, rust, corrosion, or rough or sharp edges;

(4) Boots, or any other device, with protrusions, swellings, or rough or sharp edges, seams or other surfaces that may contact a horse's leg.

(d) All substances are prohibited on the extremities, above the hoof (but below the fetlock) of any horse while being shown or exhibited at any horse show or exhibition, except clear and transparent lubricants, including, but not limited to glycerine, petrolatum, and mineral oil, or mixtures thereof: *Provided*, That:

(1) Any such lubricant is applied after the horse is inspected by the show manager or his representative and the lubricant is applied under the control of the show management.

(2) Show management furnishes to the exhibitors at their request and maintains control over all lubricants for use at the horse show or exhibition;

(3) Show management makes such lubricants available for Department personnel to obtain samples for laboratory analysis.

§ 11.3 [Deleted]

2. The present § 11.3 would be deleted in its entirety.

§ 11.1 [Amended]

3. In present § 11.1(b)(1)(iv), the last sentence would be amended to read: "Although a horse given therapeutic treatment by a veterinarian to relieve pain, lameness, or disability, or to restore its normal gait shall not be considered sore, the use of any substances above hoof but below the fetlock of any horse while being shown or exhibited at any horse show or exhibition is prohibited by

§ 11.2(d) except as permitted therein." Any person who wishes to submit written data, views, or arguments, concerning this proposal may do so by filing them with the Deputy Administrator, Animal and Plant Health Inspection Service, United States Department of Agriculture, Federal Building, Hyattsville, Maryland 20782, before March 10, 1975.

All written submissions made pursuant to this notice will be made available for public inspection at times and places and in a manner convenient to the public business (7 CFR 1.27(b)).

Comments submitted should bear a reference to the date and page number of this issue in the FEDERAL REGISTER.

Done at Washington, D.C., this 12th day of February, 1975.

J. M. HEJL,
Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service.

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 73]

[Airspace Docket No. 75-GL-5]

RESTRICTED AREA

Proposed Designation

The Federal Aviation Administration (FAA) is considering an amendment to Part 73 of the Federal Aviation Regulations that would designate a joint-use restricted area three miles wide across Lake Michigan from Manitowoc, Wis., to Ludington, Mich., and from Ludington to Milwaukee, Wis., to enable the University of Wisconsin to conduct a meteorological study of the lower atmosphere across Lake Michigan.

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Great Lakes Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 2300 East Devon, Des Plaines, Ill., 60018. All communications received on or before March 20, 1975, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received.

An official docket will be available for examination by interested persons at the Federal Aviation Administration, Office of the General Counsel, Attention: Rules Docket, 800 Independence Avenue SW., Washington, D.C. 20591. An informal docket also will be available for examination at the office of the Regional Air Traffic Division Chief.

The proposed amendment would designate a two part joint-use restricted area identified as R6905A and R6905B across Lake Michigan as follows:

1. R6905A within 1½ NM. on each side of a direct line between coordinates latitude 44°05' N., longitude 87°38' W., and latitude 43°57' N., longitude 86°28' W., excluding the area within 5 NM of the shoreline.
2. R. 6905B within 1½ NM. on each side of a direct line between coordinates latitude 43°57' N., longitude 86°28' W., and latitude 43°02' N., longitude 87°52' W., excluding the area within 5 NM. of the shoreline at Ludington, and the area southwest of the southern boundary of R6903.

R6905A and R6905B

Designated altitudes. Surface to 6,000 MSL.
Time of designation. As activated by NOTAM, 12 hours in advance.

Controlling agency. Federal Aviation Administration, Chicago ARTC Center.

Using agency. University of Wisconsin.

The University of Wisconsin plans to conduct a scientific program of studying the meteorological conditions of the air in the lowest mile of the atmosphere, called the boundary layer, over Lake Michigan.

This Boundary Layer Study will last about a year and will be conducted by flying a tethered balloon system from a ferry boat operating between Manitowoc, Wis., Ludington, Mich., and Milwaukee, Wis. Up to five instrument package units will be attached at meteorologically interesting levels to the tether line. These units will be suspended from a helium-filled balloon at both fixed and varying levels, from the lake surface to 1500 meters (4,922 ft.). The balloon will have a length of 8 meters (20 ft.) and a diameter of 3 meters (10 ft.). It will be equipped with a radio controlled rapid deflation device in the event the tether line severs. These instrument package units weigh 1.9 pounds and are 28 inches long and 8 inches in diameter. The balloon and packages will be towed at 18 knots across the lake. One to three days of intensive 24 hour operation followed by a one to two week break for data reduction and analysis is envisioned during the summer months and on an irregular basis during the winter months. There will be 12 hours notification before any operation starts and communications capability will be available from the boat during operation. The proposed width of 3NM allows for maximum horizontal tether line displacement from the boat, maximum course deviation and position information tolerance under normal conditions. During abnormal weather conditions, i.e., severe weather, the balloon system will not be flown.

The Chicago ARTC Center will be the controlling agency and the restricted airspace will be available to the public when balloon operations are not being conducted.

This amendment is proposed under the authority of section 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a)) and section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).