



October 25, 2016

Docket ID: APHIS-2011-0009
Bernadette Juarez,
Deputy Administrator, Animal Care (AC) Program
Regulatory Analysis and Development
PPD, APHIS, Station 3A-03.8
4700 River Road, Unit 118
Rockville, MD 20737-1238

Re: Docket ID: APHIS-2011-0009. Horse Protection Act:
Licensing of Designated Qualified Persons and Other Amendments

Dear Deputy Administrator Juarez :

The American Horse Council (AHC) appreciates the opportunity to submit these comments to the U.S. Department of Agriculture (USDA), Animal and Plant Health Inspection Service (APHIS), on the proposed changes to the Horse Protection Act (HPA) regulations. The AHC supports APHIS' efforts to strengthen enforcement of the HPA; however, the AHC and the horse industry have serious concerns regarding some provisions of the proposed rule.

The American Horse Council

The AHC is a Washington-based association that represents individual members and over 130 equine organizations before Congress and the federal regulatory agencies. AHC member organizations include breed registries, national and state equine associations, state horse councils, recreational associations, and organizations representing race tracks, horsemen, horse shows, veterinarians, farriers, rodeos, and other equine-related stakeholders. The AHC also includes individual horse owners and breeders, veterinarians, farriers, trainers, professional, amateur, and recreational riders, and commercial suppliers. Individually, and through our organizational members, the AHC represents hundreds of thousands of horse owners and others involved in all sectors of the horse industry.

The Horse Industry

The horse industry, in all its segments of racing, showing, recreation and work horses, involves 9.2 million horses, nearly 2 million horse owners, has a \$102 billion impact on the U.S. economy and supports 1.4 million full-time jobs. It involves agriculture, sport, entertainment, gaming, recreation, and work horses, all built on the breeding, training, use

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and enjoyment of horses and horse activities. The horse show industry by itself involves 2.7 million horses, has a \$28.7 billion economic impact and supports 380,416 jobs.

HPA Proposed Rule

The AHC supports taking action to end the soring of Tennessee Walking Horses, Racking Horses, and Spotted Saddle Horses. The AHC has always opposed soring and supported the enforcement of the HPA. There is no question that soring is an abusive practice that should not be tolerated or allowed to continue. Since the enactment of the HPA forty-six years ago, there have been numerous efforts to stop the soring of so-called “big lick” walking horses, yet these efforts have not accomplished the purpose of the 1970 Act – to end soring. We can no longer allow this abusive practice to continue and improvements to the HPA enforcement program are clearly needed and justified.

There is no doubt that the continued prevalence of soring is damaging the walking horse industry and driving competitors, spectators and sponsors away from these breeds. So long as the soring problem is not addressed, all segments of the Tennessee Walking Horse, Racking Horse and Spotted Saddle Horse industries will continue to be negatively impacted. Once the stigma of soring is eliminated, the Tennessee Walking Horse, Racking Horse, and Spotted Saddle Horse industries will again attract individuals to these unique and gentle breeds.

The soring of Tennessee Walking Horses, Racking Horses, and Spotted Saddle Horses also negatively affects the entire show horse industry. The show horse industry is very diverse with many different breeds and disciplines. Consequently, individuals outside of the industry often do not understand the difference between the “big lick” walking horses and other breeds and disciplines, especially those disciplines that compete using animated gaits. Even though soring is limited to a subset of the walking horse industry, any instances of abuse negatively influence perceptions of all segments of the horse industry. Additionally, the welfare of all horses is of paramount importance to the AHC and the entire horse industry.

However, it is equally important that any new HPA regulations be narrowly focused on the practice of soring and do not adversely impact or unnecessarily burden other segments of the horse show industry. No other segments of the horse show industry have problems with soring or have a history of soring horses.

The AHC is especially concerned that certain provisions of the proposed rule are too broadly written, not sufficiently defined, and could cause confusion for the horse show industry. Like all industries, the horse show industry requires clarity in any regulatory regime that impacts its operation. Soring is a problem that is well defined and limited to

a very specific segment of the horse industry; however, as written, the proposed rule is unclear regarding exactly which breeds or disciplines the USDA plans to extend the proposed ban on actions, practices, devices, and substances. This is unacceptable to the horse industry and must be clarified.

The PAST Act (S. 1121/ HR 3268), which is supported by most major horse show organizations and a majority of Congress, includes prohibitions similar to the proposed rule. However, the PAST Act explicitly limits such prohibitions to Tennessee Walking Horses, Racking Horses, and Spotted Saddle Horses. This specificity not only ensures that the problem of soring is addressed, but makes it certain that the rest of the horse show industry is not negatively impacted.

AHC Specific Comments

Prohibited actions, practices, devices, and substances.

The AHC supports a ban on action devices, weighted shoes, stacks and performance packages, and chains, on Tennessee Walking Horses, Racking Horses, and Spotted Saddlehorses. These three breeds have a documented history of soring and a continuing problem with soring that justifies prohibiting these items because of the manner they are used as part of the soring process on those three breeds.

However, the proposed rule would ban the use of action devices, weighted shoes, stacks and performance packages, chains and substances on “Tennessee Walking Horses, Racking Horses, or related breeds that perform with an accentuated gait that raises concerns about soring at any horse show, horse exhibition, horse sale, or horse auction.” This provision is poorly constructed and is causing considerable confusion in the show horse industry because it is unclear which breeds these prohibitions might be applied to now or in the future.

There are several horse breeds besides Tennessee Walking Horses, Racking Horses, and Spotted Saddle Horses that could be said to have an “accentuated gait.” such as Saddlebreds, Morgans, Hackneys, and others. These breeds have never been cited for violations of the HPA and do not perform the “big lick” that is the primary motivation for soring. Furthermore, because these breeds must be able to compete at a trot, soring would be counterproductive by rendering them lame and otherwise harm their ability to perform in the show ring. However, because the term “raises concerns about soring,” is subjective and undefined, it is unclear whether or not these new provisions of the rule might be extended to such breeds now or in the future.

No other breed competes with action devices, chains, or stacks like those that are used on Tennessee Walking Horses, Racking Horses, and Spotted Saddlehorses, but other breeds such as Saddlebreds, Morgans, Hackneys, and others sometimes utilize pads, wedges and hoof bands. These pads, and wedges are nothing like the “stacks” or “performance packages” used in the walking horse industry and are not used to sore horses.

Furthermore, other breeds do not use caustic chemicals and substances to sore their horses, but they do use substances such as soap, fly spray, etc. for other legitimate medical reasons. The AHC understands caustic substances are integral to soring and that other substances such as numbing agents are used to prevent detection of soring. This justifies a total ban of substances on Tennessee Walking Horses, Racking Horses, and Spotted Saddle Horses, but not other breeds.

Because the proposed rule does not explicitly name the breeds these prohibitions would affect and uses an expansive definition of “substance” and uses common terms like “pad” it raises concerns that the use of common non-harmful items and substances by other breeds could now or in the future be considered a violation of these proposed HPA regulations.

We appreciate the fact that USDA would like to have discretion in applying the regulations given the long history by segments of the walking horse industry to evade the law and regulations. However, we do not believe it is appropriate for USDA to have the ability to unilaterally extend new prohibitions or requirements to any gaited breed based solely on “concerns of soring” and not an actual documented history of soring.

For these reasons, it is extremely important that any final rule limit all new prohibitions and requirements to the three named breeds that have a documented history and continuing problem with soring. We strongly urge USDA make the following changes to the prohibited actions, practices, devices, and substances section of the rule.

The AHC specifically requests USDA modify section 11.2 to read:

- “The use of the following equipment or practices is specifically prohibited with respect to Tennessee Walking Horses, Racking Horses, and Spotted Saddlehorses.”

And to use this phrase throughout the rule. This would be the simplest and most straightforward manner to address most of the concerns of the wider horse show industry. We strongly urge USDA to make this change to provide clarity for the horse industry and to ensure support for any final rule.

Listing the three named breeds in the rule would in no way prevent the USDA from enforcing the HPA if incidents of soring were ever detected in other breeds nor would it allow individuals to evade the rule by simply claiming that a Tennessee Walking Horse, Racking Horse, or Spotted Saddle Horse was another breed. We would also point out that previous rules have specifically named Tennessee Walking Horses and Racking Horses.

Weighted shoes

The AHC is concerned the proposed rule lacks a ban on weighted horse shoes on Tennessee Walking Horses, Racking Horses, and Spotted Saddle Horses. If no such ban is included in the final rule it would open the door for the use of excessively heavy shoes that, in conjunction with other practices, could be used to sore walking horses.

The AHC recommends the USDA prohibit the use of a weighted shoe on a Tennessee Walking Horse, a Racking Horse, or a Spotted Saddle Horse at a horse show, horse exhibition, or horse sale or auction that is constructed to artificially alter the gait of such a horse.

Horse Protection Inspectors (HPIs)

The AHC strongly supports USDA's decision to eliminate the current Designated Qualified Person (DQP) program and remove Horse Industry Organizations (HIOs) from having a role in enforcement of the HPA. In 2010, the USDA Office of Inspector General (OIG) issued its report on the enforcement of the HPA Program. The OIG report found that DQP inspectors used at shows often were involved in the walking horse industry, had a conflict of interest, and did not always inspect horses in accordance with the HPA and regulations; that DQPs did not always issue violations to the responsible individual and in general identified the DQP program as a major defect in enforcement efforts. The AHC supports the creation of the new Horse Protection Inspector (HPI) program and strong safe guards to prevent conflicts of interests.

The AHC hopes as USDA establishes this new program, it will be mindful of the cost and burdens it could place on smaller "flat shod" walking horse shows. Many of these shows are striving to follow the law and prevent soring at their shows. The AHC supports a strong inspection program, but believes it must be affordable for these types of horse shows.

The AHC supports the use of veterinarians and veterinarian technicians as HPIs. We believe such individuals will have the appropriate background to competently perform inspections at walking horse shows with proper training. The benefits of licensing veterinarians to perform inspections is obvious and we hope shows that can afford to hire veterinarian as HPIs will do so. We think it is important that USDA also license adequate numbers of HPIs who are veterinarian technicians to control the cost of hiring HPIs.

The AHC also suggests that USDA consider including language that would allow it to have discretion to license other qualified individuals who are qualified free of conflicts of interests. If USDA is not able to identify sufficient numbers of veterinarians and veterinarian technicians to license as HPIs such discretion may be necessary to ensure walking horse shows are able to hire inspectors.

Minimum number of HPIs and farrier requirement

The AHC understands why USDA has proposed requiring walking horse shows that choose to hire HPIs, hire a minimum of two HPIs, and no less than three HPIs if more than 150 horses are entered in a show. Because of the extensive efforts to evade detection of soring and the intimidation of inspectors by walking horse exhibitors, all of which has been documented by USDA, the requirement of a minimum of two HPIs seems reasonable. However, not all walking horse shows have a history of soring and many smaller “flat shod” shows might find it difficult to afford the cost of two HPIs.

Smaller “flat shod” shows may only have 30 or fewer horses and the cost to hire two HPIs could make such shows economically unpractical. The AHC requests that in the final rule, the USDA include a process for such shows to apply for a waiver to hire only one HPI. USDA could base the acceptance of an application for a waiver on a history of compliance with the HPA, the compliance history of the sponsoring organization, and other criteria. We believe that such a process would help control costs at smaller shows where the USDA believes the potential for soring is low, but also ensure compliance with the regulation.

Additionally, requiring all shows who utilize HPIs to also hire a farrier to assist in the inspection process would be cost prohibitive for smaller shows. We request that this provision be changed to only require a farrier to be made available at the request of an HPI. Such a change would guarantee a farrier could be on call if needed, but would not require a show to hire a farrier at every horse show which chooses to employ an HPI.

Record keeping requirement

The rule would require horse shows to collect and maintain certain records for six years. It is unclear if USDA intends this requirement to only apply to walking horse shows or all horse shows. We believe USDA should limit this requirement to Tennessee Walking Horse, Racking Horse, and Spotted Saddle Horse shows and only require that records be kept for three years. Requiring records be kept for six years would impose an unnecessary burden on smaller and volunteer managed shows.

Conclusion

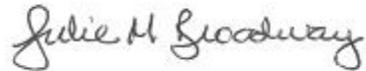
The AHC supports APHIS’ efforts to strengthen enforcement of the HPA. Changes to the HPA regulations are clearly needed and justified. However, USDA must make certain any final rule is narrow and targeted. We strongly urge USDA to explicitly limit all new provisions relating to prohibited actions, practices, devices, and substances to Tennessee Walking Horses, Racking Horses, and Spotted Saddle Horses. As noted earlier, soring is not and has never been a problem in the wider horse show industry. We understand that the HPA applies to all breeds and disciplines; however, USDA’s mandate is to prohibit the showing, exhibiting, or transport of any horse that is sore. Soring is clearly and demonstrably limited to segments of Tennessee Walking Horse, Racking Horse, and Spotted Saddle Horse industry. We believe making this change to the rule will fulfill the

purpose and intent of the HPA as well as make certain other segments of the horse industry are not unintentionally impacted or burdened by the regulation.

We also hope USDA will take into consideration the costs the proposed rule could impose on the smaller “flat shod” walking horse shows that make a good faith effort to comply with the HPA, and make accommodations for such shows.

Thank you for the opportunity to submit these comments. If you have any questions or need additional information, please contact us.

Sincerely,

A handwritten signature in cursive script that reads "Julie M. Broadway".

Julie M. Broadway CAE ®
President,