

USDA HORSE PROTECTION PROGRAM 2010 POINTS OF EMPHASIS

(continuation of 2009 Points of Emphasis)

Dismissal from Show, Exhibition, Sale or Auction

Horse Protection Act (HPA) § 1823 (a)

Horse Protection Regulations (HPR) § 11.20(a), (b); § 11.22(d)

HIOs must dismiss a horse found in violation of HPA from participating in any remaining portion of horse show, horse exhibition, horse sale or auction (rather than just the individual class).

- HIO will track horses appropriately so horses cannot enter into another class inspection throughout the show, exhibition, sale, or auction.
- DQPs will collect class sheets and entry forms for each show. HIO offices must keep these records for 1 year and make them available for yearly USDA audits to confirm that horses found in violation of the HPA did not participate in any classes and shows.

Dismissal from Arena

HPA § 1823 (a); § 1824

HPR § 11.20

Horses dismissed from the show arena, either by a judge, steward or rider of the horse, must report directly to the inspection area for follow-up inspection.

Inspections will be conducted on all horses, regardless of breed, that are going to perform an accentuated gait.

HPA § 1821(3)

HPR § 11.1

Horses in parades, trail rides, timed or rodeo events do not need to be inspected. Horses in classes considered to be versatility may not require inspection if the HIO submits a class list to USDA for review and USDA provides approval (prior to the class) for non-inspection. Breeds participating in a multi-breed class will be subject to inspection. HIOs may apply more stringent inspection requirements if deemed necessary.

Detention

HPA §1825(e)

HPR § 11.4; § 11.21(c)

A USDA representative may detain a horse, up to 24 hours, for additional inspection if they have reason to believe the horse is sore.

Protective Boots

HPA § 1824(7)

HPR § 11.2(b)(7)(i),(ii)

Soft rubber or soft leather bell boots and quarter boots used as protective devices are allowed unless the protective device appears to be functioning as an action device

and/or can reasonably be expected to cause a horse to be sore, in which case the horse will be in violation of the HPA. Boots, collars, or any other devices that weigh more than 6 ounces are prohibited.

Leg Wraps

HPA § 1821(3); § 1824(7)

HPR § 11.2(c)

Plastic, cotton, or any materials thereof that are on horses' legs while they are on showgrounds may be subject to immediate inspection and sampling for foreign substance (*please refer to 2009 Point of Emphasis*).

Digital Imaging Findings

HPA § 1821(3)

HPR § 11.1, § 11.2(12),(13)

Horses found with coffin bone rotation of more than 5 degrees are in violation of the HPA and considered sore.

Horses found with materials other than permitted materials within the package will be found in violation of the HPA.

Inspection Findings

HPA § 1823(c), (e); § 1825(c)

HPR § 11.7(e), (f)

If the USDA representative finds a horse in violation of the HPA/HPR after the DQP has inspected the horse, all individuals who participated in the entry and/or showing of that horse will be subject to a federal case.

- The USDA representative will advise the DQP of his/her findings and the DQP can recheck the horse and/or apply the penalty through the HIO.
- Any licensed DQP who violates the rules, regulations, by-laws, or standards of conduct set forth by their HIO; who fails to follow the inspection procedures set forth in the Horse Protection regulations or; who otherwise fail to carry out his duties and responsibilities in a less than satisfactory manner, shall be subject to a letter of warning, or cancellation of their DQP licenses by their HIO or USDA.

USDA Disqualifications and HIO Suspensions

HPA § 1825(c)

HPR § 11.7(d)(5)

A violator on disqualification or suspension may only participate as a spectator at the horse show, horse exhibition, horse sale, or horse auction.

- Violators are disqualified or suspended from showing, exhibiting, or entering any horse, directly or indirectly through any agent, employee, family member, corporation, partnership, or other device, and from judging, managing, or otherwise participating in any horse show, horse exhibition, or horse sale or auction, directly or indirectly through any agent, employee, family member, corporation, partnership, or other device.
 - "Participating" means engaging in any activity beyond the activities of a spectator, and includes, without limitation: (a) transporting or arranging for the transportation of horses to or from any horse show, horse exhibition, horse sale, or horse auction; (b) personally giving instructions to exhibitors; (c)

being present in the warm-up areas, inspection areas, or other areas where spectators are not allowed at any horse show, horse exhibition, horse sale, or horse auction; and (d) financing the participation of others in any horse show, horse exhibition, horse sale, or horse auction.

HIOs should share their HIO suspension and disqualification lists with all HIOs via email, postal mail or webpage.

HIOs should honor suspension and disqualification lists from other HIOs.

Designated Qualified Persons (DQPs)

HPA § 1823(c)

HPR § 11.7

USDA certified HIO must provide all DQPs with annual in person training (i.e., an annual continuing education program of not less than 4 hours and new DQP applicant training program of 14 hours) with oversight by a USDA representative prior to conducting inspections for the show season.

No DQP will be licensed if such person has been convicted of any violation of the HPA or the regulations occurring after July 13, 1976, or paid any fine or civil penalty in settlement of any proceeding regarding a violation of the HPA or the regulations occurring after July 13, 1976, for a period of at least 2 years following the first such violation, and for a period of at least 5 years following the second such violation and any subsequent violation.

Horse Protection Database

HPA § 1823(d)

HPR § 11.7(d), § 11.22(a), § 11.24(a), (b)

All HIOs will submit the required information to USDA utilizing the 2010 USDA Horse Protection database.

- HIOs will provide all information required in HPR section 11.7(d)(1) concerning violators directly to the database or via their HIO database coordinator within 72 hours after the horse show, horse exhibition, or horse sale or auction has ended.
- HIOs will place in the database the identity of all horse shows, horse exhibitions, or horse sales or auctions as described in HPR section 11.7(d)(3), which have retained the services of the HIOs' DQPs **no later than 30 days prior to the event** with assigned DQPs identified.
- Within 30 days following the conclusion of the horse show, horse exhibition, or horse sale or auction, HIOs will place, in the database, information of all horses at each horse show, horse exhibition, or horse sale or auction that their licensed DQPs disqualified or excused. The information will include registered name of horse and name of trainer, exhibitor, or other person having custody of such horse.
- HIOs will also place in the database the information contained in the detail show report that is outlined HPR section 11.22 (a).

Letter of Warnings (LOWs) to DQPs

HPA § 1823(c)

HPR § 11.7(f)(1)

If the USDA recommends that a HIO give a LOW to its DQP, the HIO will have 30 days to either issue the LOW to its DQP or provide sufficient justification, in writing, explaining why the HIO did not issue the LOW.

Means to Control Crowds

HPA § 1825(a)(2)(C)

HPR § 11.6(c)

Show management is responsible for controlling crowds and onlookers in the inspection area and warm up area.

- If an excess number of people are permitted in the inspection or warm up areas and their presence impedes the inspection process, the HIO and show management will be in violation of the HPA.

Each horse in the inspection and warm up area may have up to 3 individuals with the horse which include trainer, rider and/or custodian.

- Official guests of the HIO or show management, such as elected officials, legislators, technical advisors, may be authorized for entrance to the inspection and warm up area on a case-by-case basis for limited periods of time.

Show Management Records

HPA §1823(d)

HPR § 11.5(a)(1), § 11.22(c)

Show management must provide USDA with any records that the USDA requests at the horse show or within 90 days. If show management does not provide records when requested, it will be in violation of the HPA and the regulations.

False Information and Swapping of Horses

HPA § 1825 (a)(2)(b)

HPR § 11.2(e)

Anyone who provides false information requested by USDA may be subject to a criminal penalty.

Anyone who swaps horses before or after USDA inspections may be subject to a criminal penalty.

Indian Reservations

Indian reservations are subject to the laws of the United States unless a treaty provides otherwise.

Refer to: Santa Clara Pueblo v. Martinez, 436 U.S. 49 citing Worcester v. Georgia, 31 U.S. (6 Pet.) 515 (1832) and Donovan v. Coeur d'Alene Tribal Farm, 751 F.2d. 1113 (7th Cir. 1989).

Therefore, inspections required at horse shows to enforce the Horse Protection Act, are required, as well, on an Indian reservation by a USDA-certified HIO DQP or a USDA representative.

2010 Horse Protection Penalty Protocol

USDA has established the following penalty structure for implementation by the HIO for enforcement of the HPA and HPR. The HIO may apply more stringent penalties but not less than minimum requirements set forth in the penalty structure.

- If an HIO imposes and enforces a penalty that USDA believes effectuates the purpose of the Act and the regulations, USDA will not initiate a Federal case against the violator.
- USDA may initiate a federal case against any persons who participated in the entry, showing and, if appropriate, transportation of a sore horse (including, for example, the owner, custodian, trainer, rider, and/or transporter), if it is determined that the HIO has not enforced a penalty that effectuates the purpose of the Act and the regulations.
- PLEASE NOTE:** USDA retains primary jurisdiction to pursue cases when it deems appropriate.

SUSPENSIONS	1ST OFFENSE	2ND OFFENSE	3RD OFFENSE
Bilateral sore	1 year	2 years	4 years
Unilateral sore	60 days	120 days	1 year
Scar Rule	2 weeks	60 days	1 year

Foreign substance (Pre Show) – Horse dismissed from horse show, exhibition, sale or auction

Foreign substance (Post Show) – Two weeks suspension and horse dismissed from rest of horse show, exhibition, sale or auction

Equipment violation (Pre Show) – Horse dismiss from horse show, exhibition, sale or auction

Equipment violation (Post Show) – Two weeks suspension and horse dismissed from rest of horse show, exhibition, sale or auction

Shoeing violation – Horse dismissed from horse show, exhibition, sale or auction

Heel-Toe Ratio – Horse dismissed from horse show, exhibition, sale or auction

Unruly/fractious horse – Horse dismissed from individual class

Suspension violation – Six (6) months for each occurrence

Repeated Violations

Multiple or subsequent violations that incur suspension penalties must be served consecutively. For example, if the violator received a bilateral sore violation and a scar rule violation at the same show or a separate show, the violator will have a one year suspension followed by a 2 week suspension.

Appeals

Violators will have the right to appeal a HIO ticket.

- USDA will closely monitor the HIO appeal process.
 - o By March 1 of the 2010 show season, HIOs must submit a description of their appeal process.
 - o HIOs must submit to USDA their decisions for ticket appeals within 30 days of the appeal decision completion.
- Violators will need to have the appeal process completed or begin serving the imposed penalty within 60 days of the date of the violation.