

August 22, 2023

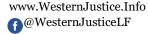
Proposed Amendments to the Horse Protection Act Can Make Every Horse Owner a Criminal

On August 21, 2023, the USDA's Animal and Plant Health Inspection Service plans to release a 129-page document with proposed rule changes to amend the Horse Protection Act (HPA). To protect our industry and to keep animal extremist ideologues with no experience in equine animal husbandry from controlling our every move, all horse owners must pay attention to the proposed new language and participate during the comment period.

Laws Protecting Horses Have Been In Place for Decades, But; Animal Extremist Groups Want to Make Owning and Exhibiting Horses Difficult

The Horse Protection Act has been in place for decades. Its original intention was to regulate practices found primarily in the Tennessee Walking Horse industry. Despite the language in the Horse Protection Act making the soring of Tennessee Walking horses illegal, animal extremist groups have been vying to expand their reach to encompass the entire horse industry for years. They aim to use the Horse Protection Act to insert their animal extremist ideology by changing the verbiage. Groups like the HSUS and PETA and supposed equine advocates such as the American Horse Council and the American Association of Equine Practitioners are behind these numerous attempts to push the verbiage change.

For those still in denial about the HSUS and other animal rights organizations' involvement in working to destroy the horse industry, it is noted in the document that the HSUS filed a lawsuit over the HPA in 2019. The document states, "On August 13, 2019, the Humane Society of the United States and other nongovernmental organizations filed a lawsuit. HSUS argued that the 2017 HPA final rule had been duly promulgated and could not be withdrawn without first providing public notice in the Federal Register and an opportunity for public comment. On July 27, 2020, the U.S. District Court for the District of Columbia dismissed the suit, holding that a rule becomes final upon publication in the Federal Register." More details about the lawsuit, appeals, etc., can be found in the document on page 23.





Ideology – The Horse Industry is In a Boiling Pot of Water

Understanding the goals and ideology of the people behind the proposed new rule will help horse enthusiasts fully understand the impact of the new proposed language. The fundamental belief of animal extremists is that animals should not be in human care. They believe any use of animals is akin to slavery and, therefore, abuse.

Another critical point is that these groups have been patient, incrementally making changes to suit their agenda. The horse industry is in a pot of water on the stove, and animal extremist ideologues are manning the burners.

HPA Summary and Opening

Pay attention to the vague, broad language, which opens the doors to control all activities with horses by unelected "government officials".

The summary states:

"We proposed to amend the horse protection regulations to provide that the Animal and Plant Health Inspection Service will screen, train, and authorize qualified persons to conduct inspections at horse shows, horse exhibitions, horse sales, and horse auctions to ensure compliance with the Horse Protection Act (the Act)."

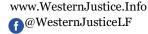
The proposed new language then opens with: "Under the Horse Protection Act, the Secretary of Agriculture is authorized to promulgate regulations to prohibit the movement, showing, exhibition, or sale of sore horses. "

Points to consider:

- Who are these "authorized, qualified persons"?
- The summary lists all horse industry activities.
- The summary is NOT breed-specific; it uses the word "horse."
- The definition of a "sore" horse.

Further Verbiage Which Encompasses All Horse Breeds

Page 3 of the amended Horse Protection Act once again clearly states that the intention of the new verbiage is expanded to all breeds of horses. It says, "Soring has been used primarily in the training of Tennessee Walking Horses and racking horses to produce an exaggerated gait in competition. However, the HPA's prohibition against sored horses participating in shows, exhibitions, sales, and auctions applies to all horse breeds. In addition to declaring that the soring of horses is cruel and inhumane, Congress further found that the movement, showing, exhibition, or sale of sore horses in intrastate commerce adversely affects and burdens interstate and foreign commerce and creates unfair competition."





It further states that every horse owner must comply, and every person involved in any sector of the horse industry must also comply with the new proposed language. "Under the HPA, it is 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. The HPA holds horse owners responsible should they allow any such unlawful activities to occur, and requires management of horse shows, exhibitions, sales, and auctions (referred to as "management" or "event management" below) to ensure that sore horses do not compete or otherwise participate in these events."

Exhibit 4, page 106, states, "Horse means any member of the species Equus caballus."

The language on page 112 of the HPA document clearly divides rules that apply to all breeds and rules that apply specifically to Tennessee Walking Horses. <u>It should be noted that most of the rules and regulations listed apply</u> to all horses according to the language.

Vague and Broad Sweeping Definitions Will Implicate Every Horse Owner

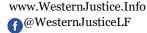
Section 2 of the Act is purposely vague, and its context can be expanded to apply to the entire horse industry. Below we will provide the language that classifies soring and then everyday occurrences that could fall under the HPA:

Language: "An irritating or blistering agent has been applied by a person on any limb of a horse."

Real-Life Application: Some horses are allergic to certain shampoos, lineaments, drawing agents, and insect repellents. Will this apply to those horses and horse owners if the horse develops an allergic reaction with peeling, sores, or hives from applications of products that are commonly used on horses?

Language: "The forelimbs and hindlimbs of the horse must be free of dermatologic conditions that are indicative of soring. Examples of such dermatologic conditions include, but are not limited to, irritation, moisture, edema, swelling, redness, epidermal thickening, loss of hair (patchy or diffuse) or other evidence of inflammation. Any horse found to have one or more of the dermatologic conditions set forth herein shall be presumed to be "sore" and be subject to all prohibitions."

Real-Life Application: This regulation would apply to hundreds of thousands of horses who have: fly bite dermatitis, fungus, old injuries, cellulitis, stocking up, and more.





Language: "Any burn, cut, or laceration has been inflicted by a person on any limb of a horse."

Real-Life Application: Horses injure themselves in the wild and can injure themselves under the best of human care. For example, they can cut themselves on a fence, cut themselves with their shoes, pull back when tied up and cut their legs or cause sores on their body, get rope burns from getting tangled in lead ropes or lunge lines, or hurt themselves in a horse trailer. Horseshoers cut away hooves during the trimming and shoeing process, and they use a forge/fire to set shoes and to seal hooves. How is "inflicted by a person" going to be interpreted? By animal extremist definition, horses in human care are already akin to slaves and, therefore, subject to abuse. By animal extremist definition, anything that happens to horses in human care is "inflicted by a person."

Language: "Any tack, nail, screw, or chemical agent has been injected by a person into or used by a person on any limb of a horse or,"

Real-Life Application: Horseshoes are applied with nails, screws, or glue. All of these words are key, including the word "or."

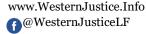
Language: "Shoeing a horse, trimming a horse's hoof, or paring the frog or sole in a manner that will cause such horse to suffer, or can reasonably be expected to cause such horse to suffer pain or distress, inflammation, or lameness when walking, trotting, or otherwise moving. Bruising of the hoof or any other method of pressure shoeing is also prohibited."

Real-Life Application: How does the HPA apply if a farrier accidentally trims a horse too short? What about a rider that rides a horse across hard, rocky ground, and the horse accidentally gets a bruise? What about an owner who turns a horse out in a pasture, and the horse returns with a bruised sole?

Language: "Any other substance or device has been used by a person on any limb of a horse or person has engaged in a practice involving a horse, and, as a result of such application, infliction, injection use, or practice, such horse suffers, or can reasonably be expected to suffer, physical pain or distress, inflammation, or lameness when walking, trotting or otherwise moving..."

Real-Life Application: This definition is so broad-sweeping that the scenarios are endless. What happens if a horse is injured by being cast in its stall? Will "person has engaged in a practice involving a horse" be applied to that scenario? Will the horse owner or caretaker be criminally charged with breaking federal law because they put their horse in its stall that it has been living in injury-free for years?

How will "practice involving a horse" and "application" and "injection" be applied? Are farriers going to be charged criminally for violating the HPA if they accidentally drive a hot nail on a client's horse? What happens when a bandage applied by the horse owner, trainer, or caretaker slips and constricts because a human being made a mistake or the horse chewed and pulled on it?





What about a cinch sore from fungus? What about scratches from wearing protective boots during the summer months? What about a horse stepping on a dropped rein and catching its mouth with the bit?

Horses in sport are athletes and can get injured playing in the pasture or while being worked. Is a horse owner or caretaker in violation if they turn a horse out in the pasture and it pulls a suspensory ligament running and playing? By this definition, and by the definition of animal ownership by animal rights ideologues, any injury or soreness from turnout to physical work applies. Currently, Tennessee Walking Horses that receive a rub or blemish in the show ring while competing are subject to HPA violations.

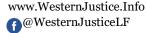
And it's important to keep in mind that recently, during a DQP training session officiated by APHIS, a USDA Veterinary Medical Officer suggested that APHIS was contemplating the act of "riding a horse" to be a form of soring.

Requirements Listed in HPA Which Will Now Be Expanded to All Horse Breeds

In addition to the broad-sweeping definitions, the current HPA, primarily applied to Tennessee Walking Horses, will now be applied to all horse breeds. On page 91, the document states, "These requirements allow APHIS to establish a broader record of events covered under the Act, allowing for adjustments to enforcement should noncompliance with the Act become an issue in current or emerging horse breeds."

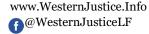
The HPA document is 129 pages long, and we encourage horse owners to read it thoroughly. In reference to space, we will bullet point and summarize some of the egregious and overreaching regulations that all horse owners and organizers who participate in shows, exhibitions, and sales will be subject to:

- The prohibition of any equipment, practice, or method that could make a horse sore, lame, or irritated.
- The prohibition of any application of substance that could make a horse sore or have an inflammatory reaction
- Prohibition of any use of substances on the limbs; this includes skin and hair conditioners, fly spray, or anything else that could diminish the signs of soring.
- Persons subject to liability are "participants," which include the following activities: direct participant, agent, transporter, instructor, coach, trainer, vendors, supporters, and <u>sponsors.</u>
- Mandatory rest periods during shows, exhibitions, sales, and auctions.
- Providing any and all information requested on demand.
- Application of new language which essentially requires a horse's legs to be free from any blemishes. " The forelimbs and hindlimbs of the horse must be free of dermatologic conditions that are indicative of soring. Examples of such dermatologic conditions include, but are not limited to, irritation, moisture, edema, swelling, redness, epidermal thickening, loss of hair (patchy or diffuse) or other evidence of inflammation. Any horse found to have one or more of the dermatologic conditions set forth herein shall be presumed to be 'sore'".





- Inspection and detention of horses. Such inspection, "may include, but is not limited to, visual inspection of a horse and review of records, physical examination of a horse, including touching, rubbing, palpating, and observation of vital signs, and the use of any diagnostic device or instrument, and may require the removal of any shoe or any other equipment, substance, or paraphernalia from the horse when deemed necessary by the professional conducting such inspection."
- Horses can be detained by "Horse Protection Inspectors" for 24 hours.
- Show and event management must provide ample space on grounds for inspections and detentions to take place.
- Testing and evaluating horses at horse exhibitions, horse shows, sales, or auctions by newly hired APHIS personnel given the title "Horse Protection Inspectors."
- Allow free and uninhibited access of APHIS inspectors to records, barns, compounds, horse trailers and vans, stables, stalls, paddocks, and all other show or exhibition grounds.
- Warm-up areas must be policed.
- Identity of each horse entered at a show, exhibition, sale, or auction must be verified.
- All horse show and exhibition records must be maintained for 90 days. Data collected ranges from judges' score sheets to owner and sponsor information and more. Copies of all records must be made available to "Horse Protection Inspectors."
- Records must be collected and maintained for horses receiving therapeutic care, i.e., pads, special shoes, or other medications. Complete veterinary medical information must be collected, including the entire diagnosis and treatment plan as well as the cessation of date of treatment, the state license number of the veterinarian, and much more.
- Notifying APHIS 30 business days in advance of events and 15 business days in advance of any changes to the event.
- If a "Horse Protection Inspector" is unavailable on the show dates, a variance must be requested within 15 days of the start of the horse show.
- Management of any horse show, exhibition, sale, or auction that does <u>NOT</u> include Tennessee Walking
 horses must report to the APHIS regional director of the state <u>within five days of any horse</u> that was
 disqualified from being exhibited or sold because it was found to be sore.
- Requiring a quarterly and yearly report to APHIS of all horses and owners within an organization who have been disqualified at any show, exhibition, sale, or auction.
- Requirements for shipping and transporting horses.
- Subject to lameness examinations before showing, exhibiting, or entering a sale, including evaluating the horse's movement, posture, and palpation of the limbs to detect local pain and inflammation.
- Any horse winning first place in a class is required to be re-inspected.
- Horses that receive a rub or blemish while in the ring competing are subject to HPA violations.
- Prohibitions regarding holding horses for inspection horses' reins cannot be held any closer than 18"
 away from the bit, nor can the bit be pulled on during an inspection.
- Prohibition of any device, method, practice, or substance that hides or masks a sore horse.





- Prohibition of devices, pads, wedges, and substances on the limbs or feet. Any boot, collar, chain, roller beads, bangles, or other device that encircles or is placed upon the lower extremity of the leg of a horse in such a manner that it can either rotate around the leg or slide up and down the lag so as to cause frictions or which can strike the hoof, coronet band or fetlock joint.
- Inspectors must be veterinarians or veterinary technicians, and farriers must be on the grounds or on call at any event, depending on the number of horses. Inspectors will be APHIS employees, titled Horse Protection Inspectors.
- Therapeutic treatment or practices applied to any horse covered under HPA are administered or overseen by qualified veterinarians only (this would include saltwater baths, cryotherapy massage, PMF, and chiropractic).

Reports of Non-Compliance, Conflict of Interest, and Impossible Solutions

The HPA document goes in depth about non-compliance with regulations at certain inspected events. It also focuses on the fact that there were discrepancies in reporting violations. Based on the definitions of the rules, it is easy to see how there would be discrepancies in interpretation as well as increased violations with certain inspectors since the rules are exceptionally vague and far-reaching.

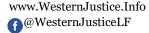
Requiring Horse Industry Experts Who Do Not Participate in the Horse Industry

The document also describes what is called a "conflict of interest," lack of training, and inattention. This so-called conflict of interest also has a broad definition since experts in the horse industry know and work with each other on a generational basis. The new language requires that this "industry expert" evaluating horses at shows, exhibitions, sales, or auctions not participate in shows, exhibitions, sales, or auctions of horses or act a judge or farrier. This rule also extends to the person's family or employer. Where they will find these "industry experts" who do not participate in the horse industry is a mystery of epic proportions.

Critical Shortage of Practicing Equine Veterinarians

Additionally, the document recommends that only licensed veterinarians or veterinary technicians that are large animal specialists or members of the American Association of Equine Practitioners be hired as inspectors. There is a shortage of equine practitioners available to care for ill and emergent horses. This shortage is considered a crisis by the American Association of Equine Practitioners, which has a dedicated commission to address the issue.

"The equine veterinary profession is in crisis," said AAEP President Dr. Emma Read. "In order to transform equine practice, we must address the pain points which are driving exceptional horse doctors away. Without change, future veterinary care for our nation's horses will be greatly jeopardized."





Since basic equine veterinary care is at a crisis level, there certainly will not be equine practitioners available for the thousands of horse exhibitions, shows, auctions, and sales that occur every day across the United States. The idea that APHIS will have a team of new equine veterinarians and veterinary technicians to send to shows nationwide is naive at best.

The HPA Authors Are Unfamiliar with Most of the Horse Industry

The authors of the new HPA rules have increased their scope to include all breeds of horses and every sector of the horse industry where horse exhibitions, shows, sales, and auctions occur. It is evident they are unfamiliar with the entirety of the horse show and exhibition industry by their incorrect statement that most horse shows and exhibitions are one-day events. This is far from the case, as many events comprise of multiple days. Some of the most prestigious and well-attended events in the nation range from 2 to 4 weeks in length (NCHA Futurity, NRHA Futurity, and Derby, NRCHA Futurity and Derby, AQHA World Championship Shows, Three-Day Eventing, Pony-Club Rallies, Barrel, and Rope Horse Futurities, National Finals Rodeo and more). The documents also state that most of the events are set up during the day, and competitions are in the evening! This is also far from factual.

Tribal Impact

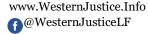
The HPA document claims the new proposed rules will not have tribal implications. This statement is simply inaccurate since, in numerous areas of the document, the statement is made that the HPA applies to <u>all horse breeds</u>. Tribes across the continent breed, train, show, exhibit, sell, and auction horses. The Indian National Finals Rodeo is an event that exhibits horses. The idea that the HPA can cover all breeds of horses and all horses that are shown, exhibited, sold, or auctioned and not impact First Nation Tribes is simply unfounded.

HPA Authors Readily Admit that the Language is Problematic

The document is entirely contradictory. It states that the HPA regulations cover all breeds and proposes more Tennessee Walking Horse industry restrictions. The document even concedes that the National Academy of Science found that some of the rules outlined in the HPA are not scientifically enforceable.

Buried on page 43 of the proposed new HPA is the admission by the authors that the provisions they have outlined and the rules which list all breeds do not line up. The document states, "... While all horse breeds are subject to provisions of the Act, soring imparts little to no advantage to competitors at these shows." This is a correct statement; in every discipline in the horse industry, horsemen and women are looking for ways to keep their horses healthy and sound, not sore, yet the HPA insists on encompassing all breeds of horses in numerous sections of the HPA document.

Additional statements demonstrate the kitchen-sink approach of the HPA and its new proposed language, "We considered prohibiting all non-therapeutic pads, action devices, substances, and other practices for all breeds at all covered events, but in doing so, we would unfairly conflate those breeds that do not sore for competitive advantage with those that do." Then it states, "This is not to imply that pads were directly responsible for





soring these horses. Rather, the performance classes in which soring confers the greatest benefit (an unnatural high-stepping gait) require that the horse wear pads."

Further, the authors stated that almost 35,000 flat shod entries were inspected with a compliance rate of 99% or above. Since this is the case, it seems ridiculous to further amend the HPA with more regulations. Excerpt from the document on page 44:

'We acknowledge that at many, if not most, shows featuring Tennessee Walking Horses and racking horses, the majority of entrants are exhibiting or performing with so-called "flat shod" horses (those that do not normally use the pads and action devices this proposed rule would seek to prohibit). Some shows featuring Tennessee Walking Horses and racking horses are entirely flat-shod in nature and already prohibit pads and action devices. We note that in 2022, almost 35,000 flat shod entries were inspected by DQPs and APHIS representatives combined, with a compliance rate above 99 percent. We do not consider such shows to be high risk with respect to noncompliance with the Act and regulations."

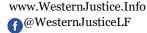
The document's authors argue for amending the HPA, yet they readily admit in the document itself that the language they have proposed is problematic. Add to that the facts in the HPA amendments show that most TWH are competing flat shod and that 35,000 entries were 99+% compliant. Therefore, the argument must be made that these amendments do not benefit the welfare of TWH and other breeds since there is little evidence of soring.

Soring Would Never Benefit Other Breed Associations and Disciplines – High Stepping Action Not Desired

Another factor to consider is that most other horse breeds and discipline associations that the amended HPA language would impact do not want their horses to exhibit high-stepping action. They also experience no benefits from soring. They do everything they can to keep a horse from being sore during competitions and exhibitions.

Rodeos and rodeo/gymkhana events where speed is required are exempt from classification as exhibitions and shows. The breeds and disciplines, and associations that avoid high-stepping action in the performance, show, or exhibition of horses are as follows:

- Conformation classes
 - American Quarter Horses (largest breed registry in the nation), American Paint Horses,
 Appaloosa Horses, Buckskin, Palomino
- Western Pleasure (All breeds)
- Hunter/Jumper (All breeds)
- Western Trail (All breeds)
- Western Horsemanship (All breeds)
- Hunt Seat Equitation/Horsemanship (All breeds)
- Western Riding





- Working Cowhorse (All breeds)
- Cutting (All breeds)
- Reining (All breeds)
- Versatility Ranch Horse (All breeds)

Horse Owners and Industry Experts Are the Best Stewards of Welfare, Not Animal Extremism

There are already laws on the books in every state regarding the welfare of animals. The care and welfare of horses should not be mandated from desks in Washington, DC.

We must not dismiss the fact that the HSUS and other such animal rights organizations are vying to end the use of horses and even the existence of horses in human care. We should not allow animal extremist ideologues to present themselves as stakeholders and allow their agenda to be championed through federal lawmaking. They are not stakeholders since they wish to eliminate horse ownership.

This document's kitchen-sink conflation of rules and regulations shows that the language is too broad, restrictive, and egregious. It unnecessarily puts horsemen and women in the crosshairs of APHIS and criminal federal charges. The language will also stifle and damage an industry contributing \$122 billion annually to our American economy.

THE COMMENT PERIOD OPENS ON AUGUST 21ST

ADDRESSES: You may submit comments by either of the following methods:

- Federal eRulemaking Portal: Go to www.regulations.gov. Enter APHIS-2022-0004 in the Search field. Select the Documents tab, then select the Comment button in the list of documents.
- Postal Mail/Commercial Delivery: Send your comment to Docket No. APHIS-2022-0004, Regulatory Analysis, and Development, PPD, APHIS, Station 3A-03.8, 4700 River Road Unit 118, Riverdale, MD 20737-1238. Supporting documents and any comments we receive on this docket may be viewed at www.regulations.gov or in our reading room, which is located in room 1620 of the USDA South.

The document is scheduled to be published in the Federal Register on 08/21/2023 and available online at federal register.gov/d/2023-17814, and on govinfo.gov Building, 14th Street and Independence Avenue SW., Washington, DC.

Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799-7039 before coming.

