

Subpart A—General

§ 4.1 Scope and applicability of rules of practice.

The Uniform Rules of Practice for the Department of Agriculture promulgated in subpart H of part 1, subtitle A, title 7, Code of Federal Regulations, are the Rules of Practice applicable to adjudicatory, administrative proceedings under section 19 of the Animal Welfare Act (7 U.S.C. 2149). In addition, the Supplemental Rules of Practice set forth in subpart B of this part shall be applicable to such proceedings.

Subpart B—Supplemental Rules of Practice

§ 4.10 Summary action.

(a) In any situation where the Administrator has reason to believe that any person licensed under the Act has violated or is violating any provision of the Act, or the regulations or standards issued thereunder, and he deems it warranted under the circumstances, the Administrator may suspend such person's license temporarily, for a period not to exceed 21 days, effective, except as provided in § 4.10(b), upon written notification given to such person of the suspension of his license pursuant to § 1.147(b) of the Uniform Rules of Practice (7 CFR 1.147(b)).

(b) In any case of actual or threatened physical harm to animals in violation of the Act, or the regulations or standards issued thereunder, by a person licensed under the Act, the Administrator may suspend such person's license temporarily, for a period not to exceed 21 days, effective upon oral or written notification, whichever is earlier. In the event of oral notification, a written confirmation thereof shall be given to such person pursuant to § 1.147(b) of the Uniform Rules of Practice (7 CFR 1.147(b)) as promptly as circumstances permit.

(c) The temporary suspension of a license shall be in addition to any sanction which may be imposed against said person by the Secretary pursuant to the Act after notice and opportunity for hearing.

§ 4.11 Stipulations.

(a) At any time prior to the issuance of a complaint seeking a civil penalty under the Act, the Administrator, in his discretion, may enter into a stipulation with any person in which:

(1) The Administrator gives notice of an apparent violation of the Act, or the regulations or standards issued thereunder, by such person and affords such person an opportunity for a hearing regarding the matter as provided by the Act;

(2) Such person expressly waives hearing and agrees to pay a specified penalty within a designated time; and

(3) The Administrator agrees to accept the specified penalty in settlement of the particular matter involved if it is paid within the designated time.

(b) If the specified penalty is not paid within the time designated in such a stipulation, the amount of the stipulated penalty shall not be relevant in any respect to the penalty which may be assessed after issuance of a complaint.

PART 11—HORSE PROTECTION REGULATIONS

Sec.

- 11.1 Definitions.
- 11.2 Prohibitions concerning exhibitors.
- 11.3 Scar rule.
- 11.4 Inspection and detention of horses.
- 11.5 Access to premises and records.
- 11.6 Inspection space and facility requirements.
- 11.7 Certification and licensing of designated qualified persons (DQP's).
- 11.20 Responsibilities and liabilities of management.
- 11.21 Inspection procedures for designated qualified persons (DQP's).
- 11.22 Records required and disposition thereof.
- 11.23 Inspection of records.
- 11.24 Reporting by management.
- 11.40 Prohibitions and requirements concerning persons involved in transportation of certain horses.
- 11.41 Reporting required of horse industry organizations or associations.

AUTHORITY: 15 U.S.C. 1823–1825 and 1828; 7 CFR 2.22, 2.80, and 371.7.

SOURCE: 44 FR 25179, Apr. 27, 1979, unless otherwise noted.

§ 11.1 Definitions.

For the purpose of this part, unless the context otherwise requires, the following terms shall have the meanings assigned to them in this section. The singular form shall also impart the plural and the masculine form shall also impart the feminine. Words of art undefined in the following paragraphs shall have the meaning attributed to them by trade usage or general usage as reflected by definition in a standard dictionary, such as "Webster's."

Act means the Horse Protection Act of 1970 (Pub. L. 91-540) as amended by the Horse Protection Act Amendments of 1976 (Pub. L. 94-360), 15 U.S.C. 1821 *et seq.*, and any legislation amendatory thereof.

Action device means any boot, collar, chain, roller, or other device which 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 leg so as to cause friction, or which can strike the hoof, coronet band or fetlock joint.

Administrator means the Administrator, Animal and Plant Health Inspection Service, or any person authorized to act for the Administrator.

Animal and Plant Health Inspection Service (APHIS) means the Animal and Plant Health Inspection Service of the United States Department of Agriculture.

APHIS representative means any employee of APHIS, or any officer or employee of any State agency who is authorized by the Administrator to perform inspections or any other functions authorized by the Act, including the inspection of the records of any horse show, horse exhibition, horse sale or horse auction.

APHIS Show Veterinarian means the APHIS Doctor of Veterinary Medicine responsible for the immediate supervision and conduct of the Department's activities under the Act at any horse show, horse exhibition, horse sale or horse auction.

Department means the United States Department of Agriculture.

Designated Qualified Person or DQP means a person meeting the requirements specified in § 11.7 of this part who has been licensed as a DQP by a

horse industry organization or association having a DQP program certified by the Department and who may be appointed and delegated authority by the management of any horse show, horse exhibition, horse sale or horse auction under section 4 of the Act to detect or diagnose horses which are sore or to otherwise inspect horses and any records pertaining to such horses for the purposes of enforcing the Act.

Exhibitor means (1) any person who enters any horse, any person who allows his horse to be entered, or any person who directs or allows any horse in his custody or under his direction, control or supervision to be entered in any horse show or horse exhibition; (2) any person who shows or exhibits any horse, any person who allows his horse to be shown or exhibited, or any person who directs or allows any horse in his custody or under his direction, control, or supervision to be shown or exhibited in any horse show or horse exhibition; (3) any person who enters or presents any horse for sale or auction, any person who allows his horse to be entered or presented for sale or auction, or any person who allows any horse in his custody or under his direction, control, or supervision to be entered or presented for sale or auction in any horse sale or horse auction; or (4) any person who sells or auctions any horse, any person who allows his horse to be sold or auctioned, or any person who directs or allows any horse in his custody or under his direction, control, or supervision to be sold or auctioned.

Horse means any member of the species *Equus caballus*.

Horse exhibition means a public display of any horses, singly or in groups, but not in competition, except events where speed is the prime factor, rodeo events, parades, or trail rides.

Horse industry organization or association means an organized group of people, having a formal structure, who are engaged in the promotion of horses through the showing, exhibiting, sale, auction, registry, or any activity which contributes to the advancement of the horse.

Horse sale or horse auction means any event, public or private, at which horses are sold or auctioned, regardless

§ 11.1

9 CFR Ch. I (1–1–07 Edition)

of whether or not said horses are exhibited prior to or during the sale or auction.

Horse show means a public display of any horses, in competition, except events where speed is the prime factor, rodeo events, parades, or trail rides.

Inspection means the examination of any horse and any records pertaining to any horse by use of whatever means are deemed appropriate and necessary for the purpose of determining compliance with the Act and regulations. Such inspection may include, but is not limited to, visual examination of a horse and records, actual 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, pad, action device, or any other equipment, substance or paraphernalia from the horse when deemed necessary by the person conducting such inspection.

Lubricant means mineral oil, glycerine or petrolatum, or mixtures exclusively thereof, that is applied to the limbs of a horse solely for protective and lubricating purposes while the horse is being shown or exhibited at a horse show, horse exhibition, horse sale or horse auction.

Management means any person or persons who organize, exercise control over, or administer or are responsible for organizing, directing, or administering any horse show, horse exhibition, horse sale or horse auction and specifically includes, but is not limited to, the sponsoring organization and show manager.

Person means any individual, corporation, company, association, firm, partnership, society, organization, joint stock company, or other legal entity.

Regional Director means the APHIS veterinarian who is assigned by the Administrator to supervise and perform official duties of APHIS under the Act in a specified State or States.¹

¹Information as to the name and address of the Regional Director for the State or States concerned can be obtained by writing to the Animal and Plant Health Inspection Service, Animal Care, 4700 River Road Unit 84, Riverdale, MD 20737-1234.

Secretary means the Secretary of Agriculture or anyone who has heretofore or may hereafter be delegated authority to act in his stead.

Show manager means the person who has been delegated primary authority by a sponsoring organization for managing a horse show, horse exhibition, horse sale or horse auction.

Sore when used to describe a horse means:

(1) An irritating or blistering agent has been applied, internally or externally by a person to any limb of a horse.

(2) Any burn, cut, or laceration has been inflicted by a person on any limb of a horse.

(3) 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

(4) Any other substance or device has been used by a person on any limb of a horse or a 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, except that such term does not include such an application, infliction, injection, use, or practice in connection with the therapeutic treatment of a horse by or under the supervision of a person licensed to practice veterinary medicine in the State in which such treatment was given.

Sponsoring organization means any person under whose immediate auspices and responsibility a horse show, horse exhibition, horse sale, or horse auction is conducted.

State means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, or the Trust Territory of the Pacific Islands.

[44 FR 1561, Jan. 5, 1979, as amended at 53 FR 14782, Apr. 26, 1988; 53 FR 28372, July 28, 1988; 56 FR 13749, Apr. 4, 1991; 59 FR 67612, Dec. 30, 1994; 63 FR 62927, Nov. 10, 1998]

§ 11.2 Prohibitions concerning exhibitors.

(a) *General prohibitions.* Notwithstanding the provisions of paragraph (b) of this section, no chain, boot, roller, collar, action device, nor any other device, method, practice, or substance shall be used with respect to any horse at any horse show, horse exhibition, or horse sale or auction if such use causes or can reasonably be expected to cause such horse to be sore.

(b) *Specific prohibitions.* The use of any of the following devices, equipment, or practices on any horse at any horse show, horse exhibition, or horse sale or auction is prohibited:

(1) All beads, bangles, rollers, and similar devices, with the exception of rollers made of lignum vitae (hardwood), aluminum, or stainless steel, with individual rollers of uniform size, weight and configuration, provided each such device may not weigh more than 6 ounces, including the weight of the fastener.

(2) Chains weighing more than 6 ounces each, including the weight of the fastener.

(3) Chains with links that are not of uniform size, weight and configuration; and, chains that have twisted links or double links.

(4) Chains that have drop links on any horse that is being ridden, worked on a lead, or otherwise worked out or moved about.

(5) More than one action device on any one limb of a horse.

(6) Chains or lignum vitae, stainless steel, or aluminum rollers which are not smooth and free of protrusions, projections, rust, corrosion, or rough or sharp edges.

(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.

(8) Pads or other devices on yearling horses (horses up to 2 years old) that elevate or change the angle of such horses' hooves in excess of 1 inch at the heel.

(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.

(10) Artificial extension of the toe length, whether accomplished with pads, acrylics or any other material or combinations thereof, that exceeds 50 percent of the natural hoof length, as measured from the coronet band, at the center of the front pastern along the front of the hoof wall, to the distal portion of the hoof wall at the tip of the toe. The artificial extension shall be measured from the distal portion of the hoof wall at the tip of the toe at a 90 degree angle to the proximal (foot/hoof) surface of the shoe.

(11) Toe length that does not exceed the height of the heel by 1 inch or more. The length of the toe shall be measured from the coronet band, at the center of the front pastern along the front of the hoof wall to the ground. The heel shall be measured from the coronet band, at the most lateral portion of the rear pastern, at a 90 degree angle to the ground, not including normal caulks at the rear of a horseshoe that do not exceed 3/4 inch in length. That portion of caulk at the rear of a horseshoe in excess of 3/4 of an inch shall be added to the height of the heel in determining the heel/toe ratio.

(12) Pads that are not made of leather, plastic, or a similar pliant material.

(13) Any object or material inserted between the pad and the hoof other than acceptable hoof packing, which includes pine tar, oakum, live rubber, sponge rubber, silicone, commercial hoof packing or other substances used to maintain adequate frog pressure or sole consistency.

(14) Single or double rocker-bars on the bottom surface of horseshoes which extend more than 1 1/2 inches back from the point of the toe, or which would cause, or could reasonably be expected to cause, an unsteadiness of stance in the horse with resulting muscle and tendon strain due to the horse's weight and balance being focused upon a small fulcrum point.²

²This prohibition is not intended to disallow corrective devices, such as Memphis

Continued

§ 11.2

9 CFR Ch. I (1–1–07 Edition)

(15) Metal hoof bands, such as used to anchor or strengthen pads and shoes, placed less than ½ inch below the coronet band.

(16) Metal hoof bands that can be easily and quickly loosened or tightened by hand, by means such as, but not limited to, a wing-nut or similar fastener.

(17) Any action device or any other device that strikes the coronet band of the foot of a horse except for soft rubber or soft leather bell boots that are used as protective devices.

(18) Shoeing a horse, or trimming a horse's hoof 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.

(19) Lead or other weights attached to the outside of the hoof wall, the outside surface of the horseshoe, or any portion of the pad except the bottom surface within the horseshoe. Pads may not be hollowed out for the purpose of inserting or affixing weights, and weights may not extend below the bearing surface of the shoe. Hollow shoes or artificial extensions filled with mercury or similar substances are prohibited.

(c) *Substances.* All substances are prohibited on the extremities above the hoof of any Tennessee Walking Horse or racking horse while being shown, exhibited, or offered for sale at any horse show, horse exhibition, or horse sale or auction, except lubricants such as glycerine, petrolatum, and mineral oil, or mixtures thereof: *Provided*, That:

(1) The horse show, horse exhibition, or horse sale or auction management agrees to furnish all such lubricants and to maintain control over them when used at the horse show, horse exhibition, or horse sale or auction.

bars which consist of a metal bar(s) crossing from the ground surface of one side of the horseshoe to the ground surface of the other side of the horseshoe, and the purpose of which is to correct a lameness or pathological condition of the foot: *Provided*, That such metal bar(s) do not act as a single fulcrum point so as to affect the balance of the horse.

(2) Any such lubricants shall be applied only after the horse has been inspected by management or by a DQP and shall only be applied under the supervision of the horse show, horse exhibition, or horse sale, or auction management.

(3) Horse show, horse exhibition, or horse sale or auction management makes such lubricants available to Department personnel for inspection and sampling as they deem necessary.

(d) *Competition restrictions—2 Year-Old Horses.* Horse show or horse exhibition workouts or performances of 2-year-old Tennessee Walking Horses and racking horses and working exhibitions of 2-year-old Tennessee Walking Horses and racking horses (horses eligible to be shown or exhibited in 2-year-old classes) at horse sales or horse auctions that exceed a total of 10 minutes continuous workout or performance without a minimum 5-minute rest period between the first such 10-minute period and the second such 10-minute period, and, more than two such 10-minute periods per performance, class, or workout are prohibited.

(e) *Information requirements—horse related.* Failing to provide information or providing any false or misleading information required by the Act or regulations or requested by Department representatives, by any person that owns, trains, shows, exhibits, or sells or has custody of, or direction or control over any horse shown, exhibited, sold, or auctioned or entered for the purpose of being shown, exhibited, sold, or auctioned at any horse show, horse exhibition, or horse sale or auction is prohibited. Such information shall include, but is not limited to: Information concerning the registered name, markings, sex, age, and legal ownership of the horse; the name and address of the horse's training and/or stabling facilities; the name and address of the owner, trainer, rider, any other exhibitor, or other legal entity bearing responsibility for the horse; the class in which the horse is entered or shown; the exhibitor identification number; and, any other information reasonably

related to the identification, ownership, control, direction, or supervision of any such horse.

[44 FR 25179, Apr. 27, 1979, as amended at 53 FR 14782, Apr. 26, 1988, 53 FR 15641, May 2, 1988, 53 FR 28372, July 28, 1988, 53 FR 41562, Oct. 24, 1988, 53 FR 45854, Nov. 14, 1988; 54 FR 7178, Feb. 17, 1989]

§ 11.3 Scar rule.

The scar rule applies to all horses born on or after October 1, 1975. Horses subject to this rule that do not meet the following scar rule criteria shall be considered to be "sore" and are subject to all prohibitions of section 5 of the Act. The scar rule criteria are as follows:

(a) The anterior and anterior-lateral surfaces of the fore pasterns (extensor surface) must be free of bilateral granulomas,⁵ other bilateral pathological evidence of inflammation, and, other bilateral evidence of abuse indicative of soring including, but not limited to, excessive loss of hair.

(b) The posterior surfaces of the pasterns (flexor surface), including the sulcus or "pocket" may show bilateral areas of uniformly thickened epithelial tissue if such areas are free of proliferating granuloma tissue, irritation, moisture, edema, or other evidence of inflammation.

[44 FR 25179, Apr. 27, 1979, as amended at 53 FR 14782, Apr. 26, 1988, 53 FR 28373, July 28, 1988]

§ 11.4 Inspection and detention of horses.

For the purpose of effective enforcement of the Act:

(a) Each horse owner, exhibitor, trainer, or other person having custody of, or responsibility for, any horse at any horse show, horse exhibition, or horse sale or auction, shall allow any APHIS representative to reasonably inspect such horse at all reasonable times and places the APHIS representative may designate. Such inspections may be required of any horse which is

stabled, loaded on a trailer, being prepared for show, exhibition, or sale or auction, being exercised or otherwise on the grounds of, or present at, any horse show, horse exhibition, or horse sale or auction, whether or not such horse has or has not been shown, exhibited, or sold or auctioned, or has or has not been entered for the purpose of being shown or exhibited or offered for sale or auction at any such horse show, horse exhibition, or horse sale or auction. APHIS representatives will not generally or routinely delay or interrupt actual individual classes or performances at horse shows, horse exhibitions, or horse sales or auctions for the purpose of examining horses, but they may do so in extraordinary situations, such as but not limited to, lack of proper facilities for inspection, refusal of management to cooperate with Department inspection efforts, reason to believe that failure to immediately perform inspection may result in the loss, removal, or masking of any evidence of a violation of the Act or the regulations, or a request by management that such inspections be performed by an APHIS representative.

(b) When any APHIS representative notifies the owner, exhibitor, trainer, or other person having custody of or responsibility for a horse at any horse show, horse exhibition, or horse sale or auction that APHIS desires to inspect such horse, it shall not be moved from the horse show, horse exhibition, or horse sale or auction until such inspection has been completed and the horse has been released by an APHIS representative.

(c) For the purpose of examination, testing, or taking of evidence, APHIS representatives may detain for a period not to exceed 24 hours any horse, at any horse show, horse exhibition, or horse sale or auction, which is sore or which an APHIS veterinarian has probable cause to believe is sore. Such detained horse may be marked for identification and any such identifying markings shall not be removed by any person other than an APHIS representative.

(d) Detained horses shall be kept under the supervision of an APHIS representative or secured under an official USDA seal or seals in a horse stall,

^{3,4} [Reserved]

⁵ Granuloma is defined as any one of a rather large group of fairly distinctive focal lesions that are formed as a result of inflammatory reactions caused by biological, chemical, or physical agents.

§ 11.5

9 CFR Ch. I (1–1–07 Edition)

horse trailer, or other facility to which access shall be limited. It shall be the policy of APHIS to have at least one representative present in the immediate detention area when a horse is being held in detention. The official USDA seal or seals may not be broken or removed by any person other than an APHIS representative, unless:

(1) The life or well-being of the detained horse is immediately endangered by fire, flood, windstorm, or other dire circumstances that are beyond human control.

(2) The detained horse is in need of such immediate veterinary attention that its life may be in peril before an APHIS representative can be located.

(3) The horse has been detained for a maximum 24-hour detention period, and an APHIS representative is not available to release the horse.

(e) The owner, exhibitor, trainer, or other person having custody of or responsibility for any horse detained by APHIS for further examination, testing, or the taking of evidence shall be allowed to feed, water, and provide other normal custodial and maintenance care, such as walking, grooming, etc., for such detained horse: *Provided*, That:

(1) Such feeding, watering, and other normal custodial and maintenance care of the detained horse is rendered under the direct supervision of an APHIS representative.

(2) Any non-emergency veterinary care of the detained horse requiring the use, application, or injection of any drugs or other medication for therapeutic or other purposes is rendered by a Doctor of Veterinary Medicine in the presence of an APHIS representative and, the identity and dosage of the drug or other medication used, applied, or injected and its purpose is furnished in writing to the APHIS representative prior to such use, application, or injection by the Doctor of Veterinary Medicine attending the horse. The use, application, or injection of such drug or other medication must be approved by the APHIS Show Veterinarian or his appointed representative.

(f) It shall be the policy of APHIS to inform the owner, trainer, exhibitor, or other person having immediate custody of or responsibility for any horse alleg-

edly found to be in violation of the Act or the regulations of such alleged violation or violations before the horse is released by an APHIS representative.

(g) The owner, trainer, exhibitor, or other person having immediate custody of or responsibility for any horse or horses that an APHIS representative determines shall be detained for examination, testing, or taking of evidence pursuant to paragraph (e) of this section shall be informed after such determination is made and shall allow said horse to be immediately put under the supervisory custody of APHIS or secured under official USDA seal as provided in paragraph (d) of this section until the completion of such examination, testing, or gathering of evidence, or until the 24-hour detention period expires.

(h) The owner, trainer, exhibitor, or other person having custody of or responsibility for any horse allegedly found to be in violation of the Act or regulations, and who has been notified of such alleged violation by an APHIS representative as stated in paragraph (f) of this section, may request reexamination and testing of said horse within a 24-hour period: *Provided*, That:

(1) Such request is made to the APHIS Show Veterinarian immediately after the horse has been examined by APHIS representatives and before such horse has been removed from the APHIS inspection facilities; and

(2) The APHIS Show Veterinarian determines that sufficient cause for reexamination and testing exists; and

(3) The horse is maintained under APHIS supervisory custody as prescribed in paragraph (d) of this section until such reexamination and testing has been completed.

(i) The owner, exhibitor, trainer, or other person having custody of, or responsibility for any horse being inspected shall render such assistance as the APHIS representative may request for purposes of such inspection.

(ii) [Reserved]

[44 FR 25179, Apr. 27, 1979, as amended at 56 FR 13750, Apr. 4, 1991]

§ 11.5 Access to premises and records.

Requirements regarding access to premises for inspection of horses and records are as follows:

(a) *Management.* (1) The management of any horse show, horse exhibition, or horse sale or auction shall, without fee, charge, assessment, or other compensation, provide APHIS representatives with unlimited access to the grandstands, sale ring, barns, stables, grounds, offices, and all other areas of any horse show, horse exhibition, or horse sale or auction, including any adjacent areas under their direction, control, or supervision for the purpose of inspecting any horses, or any records required to be kept by regulation or otherwise maintained.

(2) The management of any horse show, horse exhibition, or horse sale or auction shall, without fee, charge, assessment, or other compensation, provide APHIS representatives with an adequate, safe, and accessible area for the visual inspection and observation of horses while such horses are competitively or otherwise performing at any horse show or horse exhibition, or while such horses are being sold or auctioned or offered for sale or auction at any horse sale or horse auction.

(b) *Exhibitors.* (1) Each horse owner, exhibitor, or other person having custody of or responsibility for any horse at any horse show, horse exhibition, or horse sale or auction shall, without fee, charge, assessment, or other compensation, admit any APHIS representative or Designated Qualified Person appointed by management, to all areas of barns, compounds, horse vans, horse trailers, stables, stalls, paddocks, or other show, exhibition, or sale or auction grounds or related areas at any horse show, horse exhibition, or horse sale or auction, for the purpose of inspecting any such horse at any and all reasonable times.

(2) Each owner, trainer, exhibitor, or other person having custody of or responsibility for, any horse at any horse show, horse exhibition, or horse sale or auction shall promptly present his horse for inspection upon notification, orally or in writing, by any APHIS representative or Designated Qualified Person appointed by management, that said horse has been selected for examination for the purpose of determining

whether such horse is in compliance with the Act and regulations.

[44 FR 25179, Apr. 27, 1979, as amended at 56 FR 13750, Apr. 4, 1991]

§ 11.6 Inspection space and facility requirements.

The management of every horse show, horse exhibition, or horse sale or auction, containing Tennessee Walking Horses or racking horses, shall provide, without fee, sufficient space and facilities for APHIS representatives to carry out their duties under the Act and regulations at every horse show, horse exhibition, or horse sale or auction, containing Tennessee Walking Horses or racking horses, whether or not management has received prior notification or otherwise knows that such show may be inspected by APHIS. The management of every horse show, horse exhibition, horse sale or auction which does not contain Tennessee Walking Horses or racking horses shall provide, without fee, such sufficient space and facilities when requested to do so by APHIS representatives. With respect to such space and facilities, it shall be the responsibility of management to provide at least the following:

(a) Sufficient space in a convenient location to the horse show, horse exhibition, or horse sale or auction arena, acceptable to the APHIS Show Veterinarian, in which horses may be physically, thermographically, or otherwise inspected.

(b) Protection from the elements of nature, such as rain, snow, sleet, hail, windstorm, etc., if required by the APHIS Show Veterinarian.

(c) A means to control crowds or on-lookers in order that APHIS personnel may carry out their duties without interference and with a reasonable measure of safety, if requested by the APHIS Show Veterinarian.

(d) An accessible, reliable, and convenient 110-volt electrical power source, if electrical service is available at the show, exhibition, or sale or auction site and is requested by the APHIS Show Veterinarian.

(e) An appropriate area adjacent to the inspection area for designated

§ 11.7

horses to wait for inspection, and an area to be used for detention of horses.

[44 FR 25181, Apr. 27, 1979, as amended at 56 FR 13750, Apr. 4, 1991]

§ 11.7 Certification and licensing of designated qualified persons (DQP's).

(a) *Basic qualifications of DQP applicants.* DQP's holding a valid, current DQP license issued in accordance with this part may be appointed by the management of any horse show, horse exhibition, horse sale, or horse auction, as qualified persons in accordance with section 4(c) of the Act, to inspect horses to detect or diagnose soring and to otherwise inspect horses, or any records pertaining to any horse for the purpose of enforcing the Act. Individuals who may be licensed as DQP's under this part shall be:

(1) Doctors of Veterinary Medicine who are accredited in any State by the United States Department of Agriculture under part 161 of chapter I, title 9 of the Code of Federal Regulations, and who are:

(i) Members of the American Association of Equine Practitioners, or

(ii) Large animal practitioners with substantial equine experience, or

(iii) Knowledgeable in the area of equine lameness as related to soring and soring practices (such as Doctors of Veterinary Medicine with a small animal practice who own, train, judge, or show horses, or Doctors of Veterinary Medicine who teach equine related subjects in an accredited college or school of veterinary medicine). Accredited Doctors of Veterinary Medicine who meet these criteria may be licensed as DQP's by a horse industry organization or association whose DQP program has been certified by the Department under this part without undergoing the formal training requirements set forth in this section.

(2) Farriers, horse trainers, and other knowledgeable horsemen whose past experience and training would qualify them for positions as horse industry organization or association stewards or judges (or their equivalent) and who have been formally trained and licensed as DQP's by a horse industry organization or association whose DQP program has been certified by the De-

9 CFR Ch. I (1-1-07 Edition)

partment in accordance with this section.

(b) *Certification requirements for DQP programs.* The Department will not license DQP's on an individual basis. Licensing of DQP's will be accomplished only through DQP programs certified by the Department and initiated and maintained by horse industry organizations or associations. Any horse industry organization or association desiring Department certification to train and license DQP's under the Act shall submit to the Administrator⁶ a formal request in writing for certification of its DQP program and a detailed outline of such program for Department approval. Such outline shall include the organizational structure of such organization or association and the names of the officers or persons charged with the management of the organization or association. The outline shall also contain at least the following:

(1) The criteria to be used in selecting DQP candidates and the minimum qualifications and knowledge regarding horses each candidate must have in order to be admitted to the program.

(2) A copy of the formal training program, classroom and practical, required to be completed by each DQP candidate before being licensed by such horse industry organization or association, including the minimum number of hours, classroom and practical, and the subject matter of the training program. Such training program must meet the following minimum standards in order to be certified by the Department under the Act.

(i) Two hours of classroom instruction on the anatomy and physiology of the limbs of a horse. The instructor teaching the course must be specified, and a resume of said instructor's background, experience, and qualifications to teach such course shall be provided to the Administrator.⁶

(ii) Two hours of classroom instruction on the Horse Protection Act and regulations and their interpretation. Instructors for this course must be furnished or recommended by the Department. Requests for instructors to be

⁶ Animal and Plant Health Inspection Service, Animal Care, 4700 River Road, Unit 84, Riverdale, Maryland 20737-1234.

furnished or recommended must be made to the Administrator⁶ in writing at least 30 days prior to such course.

(iii) Four hours of classroom instruction on the history of soring, the physical examination procedures necessary to detect soring, the detection and diagnosis of soring, and related subjects. The instructor teaching the course must be specified and a summary of said instructor's background, experience, and qualifications to teach such course must be provided to the Administrator.⁶

(iv) Four hours of practical instruction in clinics and seminars utilizing live horses with actual application of the knowledge gained in the classroom subjects covered in paragraphs (b)(2)(i), (ii), and (iii) of this section. Methods and procedures required to perform a thorough and uniform examination of a horse shall be included. The names of the instructors and a resume of their background, academic and practical experience, and qualifications to present such instruction shall be provided to the Administrator.⁶ Notification of the actual date, time, duration, subject matter, and geographic location of such clinics or seminars must be sent to the Administrator⁶ at least 10 days prior to each such clinic or seminar.

(v) One hour of classroom instruction regarding the DQP standards of conduct promulgated by the licensing organization or association pursuant to paragraph (d)(7) of this section.

(vi) One hour of classroom instruction on recordkeeping and reporting requirements and procedures.

(3) A sample of a written examination which must be passed by DQP candidates for successful completion of the program along with sample answers and the scoring thereof, and proposed passing and failing standards.

(4) The criteria to be used to determine the qualifications and performance abilities of DQP candidates selected for the training program and the criteria used to indicate successful completion of the training program, in addition to the written examination required in paragraph (b)(3) of this section.

(5) The criteria and schedule for a continuing education program and the

criteria and methods of monitoring and appraising performance for continued licensing of DQP's by such organization or association. A continuing education program for DQP's shall consist of not less than 4 hours of instruction per year.

(6) Procedures for monitoring horses in the unloading, preparation, warmup, and barn areas, or other such areas. Such monitoring may include any horse that is stabled, loaded on a trailer, being prepared for show, exhibition, sale, or auction, or exercised, or that is otherwise on the grounds of, or present at, any horse show, horse exhibition, or horse sale or auction.

(7) The methods to be used to insure uniform interpretation and enforcement of the Horse Protection Act and regulations by DQP's and uniform procedures for inspecting horses for compliance with the Act and regulations;

(8) Standards of conduct for DQP's promulgated by the organization or association in accordance with paragraph (d)(7) of this section; and

(9) A formal request for Department certification of the DQP program.

The horse industry organizations or associations that have formally requested Department certification of their DQP training, enforcement, and maintenance program will receive a formal notice of certification from the Department, or the reasons, in writing, why certification of such program cannot be approved. A current list of certified DQP programs and licensed DQP's will be published in the FEDERAL REGISTER at least once each year, and as may be further required for the purpose of deleting programs and names of DQP's that are no longer certified or licensed, and of adding the names of programs and DQP's that have been certified or licensed subsequent to the publication of the previous list.

(c) *Licensing of DQP's.* Each horse industry organization or association receiving Department certification for the training and licensing of DQP's under the Act shall:

(1) Issue each DQP licensed by such horse industry organization or association a numbered identification card bearing the name and personal signature of the DQP, a picture of the DQP, and the name and address, including

§ 11.7

9 CFR Ch. I (1-1-07 Edition)

the street address or post office box and zip code, of the licensing organization or association;

(2) Submit a list to the Administrator⁶ of names and addresses including street address or post office box and zip code, of all DQP's that have successfully completed the certified DQP program and have been licensed under the Act and regulations by such horse industry organization or association;

(3) Notify the Department of any additions or deletions of names of licensed DQP's from the licensed DQP list submitted to the Department or of any change in the address of any licensed DQP or any warnings and license revocations issued to any DQP licensed by such horse industry organization or association within 10 days of such change;

(4) Not license any person as a DQP if such person has been convicted of any violation of the Act or regulations occurring after July 13, 1976, or paid any fine or civil penalty in settlement of any proceeding regarding a violation of the Act or 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;

(5) Not license any person as a DQP until such person has attended and worked two recognized or affiliated horse shows, horse exhibitions, horse sales, or horse auctions as an apprentice DQP and has demonstrated the ability, qualifications, knowledge and integrity required to satisfactorily execute the duties and responsibilities of a DQP;

(6) Not license any person as a DQP if such person has been disqualified by the Secretary from making detection, diagnosis, or inspection for the purpose of enforcing the Act, or if such person's DQP license is canceled by another horse industry organization or association.

(d) *Requirements to be met by DQP's and Licensing Organizations or Associations.* (1) Any licensed DQP appointed by the management of any horse show, horse exhibition, horse sale or auction

to inspect horses for the purpose of detecting and determining or diagnosing horses which are sore and to otherwise inspect horses for the purpose of enforcing the Act and regulations, shall keep and maintain the following information and records concerning any horse which said DQP recommends be disqualified or excused for any reason at such horse show, horse exhibition, horse sale or auction, from being shown, exhibited, sold or auctioned, in a uniform format required by the horse industry organization or association that has licensed said DQP:

(i) The name and address, including street address or post office box and zip code, of the show and the show manager.

(ii) The name and address, including street address or post office box and zip code, of the horse owner.

(iii) The name and address, including street address or post office box and zip code, of the horse trainer.

(iv) The name and address, including street address or post office box and zip code, of the horse exhibitor.

(v) The exhibitors number and class number, or the sale or auction tag number of said horse.

(vi) The date and time of the inspection.

(vii) A detailed description of all of the DQP's findings and the nature of the alleged violation, or other reason for disqualifying or excusing the horse, including said DQP's statement regarding the evidence or facts upon which the decision to disqualify or excuse said horse was based.

(viii) The name, age, sex, color, and markings of the horse; and

(ix) The name or names of the show manager or other management representative notified by the DQP that such horse should be excused or disqualified and whether or not such manager or management representative excused or disqualified such horse.

Copies of the above records shall be submitted by the involved DQP to the horse industry organization or association that has licensed said DQP within 72 hours after the horse show, horse exhibition, horse sale, or horse auction is over.

(2) The DQP shall inform the custodian of each horse allegedly found in

⁶See footnote 6 to this section.

violation of the Act or its regulations, or disqualified or excused for any other reason, of such action and the specific reasons for such action.

(3) Each horse industry organization or association having a Department certified DQP program shall submit a report to the Department containing the following information, from records required in paragraph (d)(1) of this section and other available sources, to the Department on a monthly basis:

(i) The identity of all horse shows, horse exhibitions, horse sales, or horse auctions that have retained the services of DQP's licensed by said organization or association during the month covered by the report. Information concerning the identity of such horse shows, horse exhibitions, horse sales, or horse auctions shall include:

(A) The name and location of the show, exhibition, sale, or auction.

(B) The name and address of the manager.

(C) The date or dates of the show, exhibition, sale, or auction.

(ii) The identity of all horses at each horse show, horse exhibition, horse sale, or horse auction that the licensed DQP recommended be disqualified or excused for any reason. The information concerning the identity of such horses shall include:

(A) The registered name of each horse.

(B) The name and address of the owner, trainer, exhibitor, or other person having custody of or responsibility for the care of each such horse disqualified or excused.

(4) Each horse industry organization or association having a Department certified DQP program shall provide, by certified mail if personal service is not possible, to the trainer and owner of each horse allegedly found in violation of the Act or its regulations or otherwise disqualified or excused for any reason, the following information:

(i) The name and date of the show, exhibition, sale, or auction.

(ii) The name of the horse and the reason why said horse was excused, disqualified, or alleged to be in violation of the Act or its regulations.

(5) Each horse industry organization or association having a Department

certified DQP program shall provide each of its licensed DQP's with a current list of all persons that have been disqualified by order of the Secretary from showing or exhibiting any horse, or judging or managing any horse show, horse exhibition, horse sale, or horse auction. The Department will make such list available, on a current basis, to organizations and associations maintaining a certified DQP program.

(6) Each horse industry organization or association having a Department certified DQP program shall develop and provide a continuing education program for licensed DQP's which provides not less than 4 hours of instruction per year to each licensed DQP.

(7) Each horse industry organization or association having a Department certified DQP program shall promulgate standards of conduct for its DQP's, and shall provide administrative procedures within the organization or association for initiating, maintaining, and enforcing such standards. The procedures shall include the causes for and methods to be utilized for canceling the license of any DQP who fails to properly and adequately carry out his duties. Minimum standards of conduct for DQP's shall include the following:

(i) A DQP shall not exhibit any horse at any horse show or horse exhibition, or sell, auction, or purchase any horse sold at a horse sale or horse auction at which he or she has been appointed to inspect horses;

(ii) A DQP shall not inspect horses at any horse show, horse exhibition, horse sale or horse auction in which a horse or horses owned by a member of the DQP's immediate family or the DQP's employer are competing or are being offered for sale;

(iii) A DQP shall follow the uniform inspection procedures of his certified organization or association when inspecting horses; and

(iv) The DQP shall immediately inform management of each case regarding any horse which, in his opinion, is in violation of the Act or regulations.

(e) *Prohibition of appointment of certain persons to perform duties under the Act.* The management of any horse show, horse exhibition, horse sale, or horse auction shall not appoint any

§ 11.7

9 CFR Ch. I (1-1-07 Edition)

person to detect and diagnose horses which are sore or to otherwise inspect horses for the purpose of enforcing the Act, if that person:

(1) Does not hold a valid, current DQP license issued by a horse industry organization or association having a DQP program certified by the Department.

(2) Has had his DQP license canceled by the licensing organization or association.

(3) Is disqualified by the Secretary from performing diagnosis, detection, and inspection under the Act, after notice and opportunity for a hearing,⁷ when the Secretary finds that such person is unfit to perform such diagnosis, detection, or inspection because he has failed to perform his duties in accordance with the Act or regulations, or because he has been convicted of a violation of any provision of the Act or regulations occurring after July 13, 1976, or has paid any fine or civil penalty in settlement of any proceeding regarding a violation of the Act or regulations occurring after July 13, 1976.

(f) *Cancellation of DQP license.* (1) Each horse industry organization or association having a DQP program certified by the Department shall issue a written warning to any DQP whom it has licensed who violates the rules, regulations, by-laws, or standards of conduct promulgated by such horse industry organization or association pursuant to this section, who fails to follow the procedures set forth in § 11.21 of this part, or who otherwise carries out his duties and responsibilities in a less than satisfactory manner, and shall cancel the license of any DQP after a second violation. Upon cancellation of his DQP license, the DQP may, within 30 days thereafter, request a hearing before a review committee of not less than three persons appointed by the licensing horse industry organization or association. If the review committee sustains the cancellation of the license, the DQP may appeal the decision of such committee to the Administrator within 30 days from the date of such

decision, and the Administrator shall make a final determination in the matter. If the Administrator finds, after providing the DQP whose license has been canceled with a notice and an opportunity for a hearing,⁷ that there is sufficient cause for the committee's determination regarding license cancellation, he shall issue a decision sustaining such determination. If he does not find that there was sufficient cause to cancel the license, the licensing organization or association shall reinstate the license.

(2) Each horse industry organization or association having a Department certified DQP program shall cancel the license of any DQP licensed under its program who has been convicted of any violation of the Act or regulations or of any DQP who has paid a fine or civil penalty in settlement of any alleged violation of the Act or regulations if such alleged violation occurred after July 13, 1976.

(g) *Revocation of DQP program certification of horse industry organizations or associations.* Any horse industry organization or association having a Department certified DQP program that has not received Department approval of the inspection procedures provided for in paragraph (b)(6) of this section, or that otherwise fails to comply with the requirements contained in this section, may have such certification of its DQP program revoked, unless, upon written notification from the Department of such failure to comply with the requirements in this section, such organization or association takes immediate action to rectify such failure and takes appropriate steps to prevent a recurrence of such noncompliance within the time period specified in the Department notification, or otherwise adequately explains such failure to comply to the satisfaction of the Department. Any horse industry organization or association whose DQP program certification has been revoked may appeal such revocation to the Administrator⁶ in writing within 30 days after the date of such revocation and, if requested, shall be afforded an opportunity for a hearing.⁷ All DQP licenses issued by a

⁷Hearing would be in accordance with the Uniform Rules of Practice for the Department of Agriculture in subpart H of part 1, subtitle A, title 7, Code of Federal Regulations (7 CFR 1.130 *et seq.*)

^{6,7}See previous footnotes 6 and 7.

horse industry organization or association whose DQP program certification has been revoked shall expire 30 days after the date of such revocation, or 15 days after the date the revocation becomes final after appeal, unless they are transferred to a horse industry organization or association having a program currently certified by the Department.

(Approved by the Office of Management and Budget under control number 0579-0056)

[44 FR 1563, Jan. 5, 1979, as amended at 44 FR 25182, Apr. 27, 1979; 48 FR 57471, Dec. 30, 1983; 55 FR 41993, Oct. 17, 1990; 56 FR 13750, Apr. 4, 1991; 59 FR 67612, Dec. 30, 1994; 63 FR 62927, Nov. 10, 1998]

§ 11.20 Responsibilities and liabilities of management.

(a) The management of any horse show, horse exhibition, or horse sale or auction which does not appoint and retain a DQP shall be responsible for identifying all horses that are sore or otherwise in violation of the Act or regulations, and shall disqualify or disallow any horses which are sore or otherwise in violation of the Act or regulations from participating or competing in any horse show, horse exhibition, horse sale, or horse auction. Horses entered for sale or auction at a horse sale or horse auction must be identified as sore or otherwise in violation of the Act or regulations prior to the sale or auction and prohibited from entering the sale or auction ring. Sore horses or horses otherwise in violation of the Act or regulations that have been entered in a horse show or horse exhibition for the purpose of show or exhibition must be identified and excused prior to the show or exhibition. Any horses found to be sore or otherwise in violation of the Act or regulations during actual participation in the show or exhibition, must be removed from further participation prior to the tying of the class or the completion of the exhibition. All horses tied first in each Tennessee Walking Horse or racking horse class or event at any horse show or horse exhibition shall be inspected after being shown or exhibited to determine if such horses are sore or otherwise in violation of the Act or regulations.

(b)(1) The management of any horse show, horse exhibition, horse sale or auction which designates and appoints a Designated Qualified Person (or persons) to inspect horses shall accord said DQP access to all records and areas of the grounds of such show, exhibition, sale, or auction and the same right to inspect horses and records as is accorded to any APHIS representative. Further, management shall not take any action which would interfere with or influence said DQP in carrying out his duties or making decisions concerning whether or not any horse is sore or otherwise in violation of the Act or regulations. In the event management is dissatisfied with the performance of a particular DQP, including disagreement with decisions concerning violations, management shall not dismiss or otherwise interfere with said DQP during the DQP's appointed tour of duty.⁸ However, management should immediately notify, in writing, the Department⁶ and the organization or association that licensed the DQP, as to why the performance of said DQP was inadequate or otherwise unsatisfactory. Management which designates and appoints a DQP shall immediately disqualify or disallow from being shown, exhibited, sold, or auctioned any horse identified by the DQP to be sore or otherwise in violation of the Act or regulations or any horse otherwise known by management to be sore or in violation of the Act or regulations. Should management fail to disqualify or disallow from being shown, exhibited, sold or auctioned any such horse, said management shall assume full responsibility for and liabilities arising from the showing, exhibition, sale, or auction of said horses.

(2) The DQP shall physically inspect: (i) All Tennessee Walking Horses and racking horses entered for sale or auction, (ii) all Tennessee Walking Horses and racking horses entered in any animated gait class (whether under saddle, horse to cart, or otherwise), (iii) all Tennessee Walking Horses and racking horses entered for exhibition before

⁸The duration of the show, exhibition, or sale or auction.

⁶See footnote 6 to § 11.7.

§ 11.21

9 CFR Ch. I (1–1–07 Edition)

they are admitted to be shown, exhibited, sold, or auctioned, and (iv) all Tennessee Walking Horses and racking horses tied first in their class or event at any horse show, horse exhibition, horse sale, or horse auction. Such inspection shall be for the purpose of determining whether any such horses are in violation of the Act or regulations. Such physical examination shall be conducted in accordance with the inspection procedures provided for in § 11.21 of this part. The DQP shall observe horses in the warmup ring and during actual performances whenever possible, and shall inspect any Tennessee Walking Horse or racking horse at any time he deems necessary to determine whether any such horse shown, exhibited, sold, or auctioned is in violation of the Act or regulations. If present at other shows, he shall examine any horse which he determines should be examined for compliance with the Act and regulations.

(3) The DQP shall immediately report, to the management of any horse show, horse exhibition, or horse sale or auction, any horse which, in his opinion, is sore or otherwise in violation of the Act or regulations. Such report shall be made, whenever possible, before the show class or exhibition involving said horse has begun or before said horse is offered for sale or auction.

(c) The management of any horse show, exhibition, sale, or auction that designates and appoints a DQP to inspect horses shall appoint and designate at least two DQP's when more than 150 horses are entered.

(Approved by the Office of Management and Budget under control number 0579-0056)

[44 FR 25182, Apr. 27, 1979, as amended at 48 FR 57471, Dec. 30, 1983; 55 FR 41993, Oct. 17, 1990; 56 FR 13750, Apr. 4, 1991; 57 FR 62175, Dec. 30, 1992]

§ 11.21 Inspection procedures for designated qualified persons (DQP's).

(a)(1) During the preshow inspection, the DQP shall direct the custodian of the horse to walk and turn the horse in a manner that allows the DQP to determine whether the horse exhibits signs of soreness. The DQP shall determine whether the horse moves in a free and easy manner and is free of any signs of soreness.

(2) The DQP shall digitally palpate the front limbs of the horse from knee to hoof, with particular emphasis on the pasterns and fetlocks. The DQP shall examine the posterior surface of the pastern by picking up the foot and examining the posterior (flexor) surface. The DQP shall apply digital pressure to the pocket (sulcus), including the bulbs of the heel, and continue the palpation to the medial and lateral surfaces of the pastern, being careful to observe for responses to pain in the horse. While continuing to hold onto the pastern, the DQP shall extend the foot and leg of the horse to examine the front (extensor) surfaces, including the coronary band. The DQP may examine the rear limbs of all horses inspected after showing, and may examine the rear limbs of any horse examined preshow or on the showgrounds when he deems it necessary, except that the DQP shall examine the rear limbs of all horses exhibiting lesions on, or unusual movement of, the rear legs. While carrying out the procedures set forth in this paragraph, the DQP shall also inspect the horse to determine whether the provisions of § 11.3 of this part are being complied with, and particularly whether there is any evidence of inflammation, edema, or proliferating granuloma tissue.

(3) The DQP shall observe and inspect all horses for compliance with the provisions set forth in § 11.2(a) through § 11.2(c) of this part. All action devices, pads, and other equipment shall be observed and/or examined to assure that they are in compliance with the regulations. All such equipment on horses examined postshow, and on horses examined preshow that are not clearly in compliance, shall be weighed and/or measured.

(4) The DQP shall instruct the custodian of the horse to control it by holding the reins approximately 18 inches from the bit shank. The DQP shall not be required to examine a horse if it is presented in a manner that might cause the horse not to react to a DQP's examination, or if whips, cigarette smoke, or other actions or paraphernalia are used to distract a horse during examination. All such incidents

shall be reported to the show management and the DQP licensing organization.

(b) The DQP shall inspect horses no more than three classes ahead of the time the inspected horses are to be shown, except that, in shows with fewer than 150 horses, the DQP shall inspect horses no more than 2 classes ahead of the time the inspected horses are to be shown. Inspected horses shall be held in a designated area that is under observation by the DQP or APHIS representative. Horses shall not be permitted to leave the designated area before showing. Only the horse, the rider, the groom, the trainer, the DQP(s) and APHIS representatives shall be allowed in the designated area.

(c) The DQP may carry out additional inspection procedures as he deems necessary to determine whether the horse is sore.

(d) The certified DQP organization shall assess appropriate penalties for violations, as set forth in the rule book of the certified program under which the DQP is licensed, or as set forth by the Department, and shall report all violations, in accordance with § 11.20(b)(3) of this part.

[55 FR 41993, Oct. 17, 1990; as amended at 56 FR 13750, Apr. 4, 1991; 57 FR 62175, Dec. 30, 1992]

§ 11.22 Records required and disposition thereof.

(a) The management of any horse show, horse exhibition, or horse sale or auction, that contains Tennessee Walking Horses or racking horses, shall maintain for a period of at least 90 days following the closing date of said show, exhibition, or sale or auction, all pertinent records containing:

(1) The dates and place of the horse show, horse exhibition, horse sale, or horse auction.

(2) The name and address (including street address or post office box number and ZIP code) of the sponsoring organization.

(3) The name and address of the horse show, exhibition, horse sale or horse auction management.

(4) The name and address (including street address or post office box number and ZIP code) of the DQP, if any,

employed to conduct inspections under § 11.20; and, the name of the horse industry organization or association certifying the DQP.

(5) The name and address (including street address or post office box number, and ZIP code) of each show judge.

(6) A copy of each class or sale sheet containing the names of horses, the names and addresses (including street address, post office box and ZIP code) of horse owners, the exhibitor number and class number, or sale number assigned to each horse, the show class or sale lot number, and the name and address (including street address, post office box, and ZIP code) of the person paying the entry fee and entering the horse in a horse show, horse exhibition, or horse sale or auction.

(7) A copy of the official horse show, horse exhibition, horse sale, or horse auction program, if any such program has been prepared.

(8) The identification of each horse, including the name of the horse, the name and address (including street address, post office box, and ZIP code) of the owner, the trainer, the rider or other exhibitor, and the location (including street address, post office box, and ZIP code) of the home barn or other facility where the horse is stabled.

(b) The management of any horse show, horse exhibition, or horse sale or auction containing Tennessee Walking Horses or racking horses shall designate a person to maintain the records required in this section.

(c) The management of any horse show, horse exhibition, or horse sale or auction containing Tennessee Walking Horses or racking horses shall furnish to any APHIS representative, upon request, the name and address (including street address, or post office box, and ZIP code) of the person designated by the sponsoring organization or manager to maintain the records required by this section.

(d) The Administrator may, in specific cases, require that a horse show,

§ 11.23

horse exhibition, or horse sale or auction records be maintained by management for a period in excess of 90 days.

(Approved by the Office of Management and Budget under control numbers 0579-0056, and 0579-0058)

(44 U.S.C. 3506)

[44 FR 25179, Apr. 27, 1979, as amended at 48 FR 57471, Dec. 30, 1983. Redesignated at 55 FR 41993, Oct. 17, 1990; 56 FR 13750, Apr. 4, 1991]

§ 11.23 Inspection of records.

(a) The management of any horse show, horse exhibition, or horse sale or auction shall permit any APHIS representative, upon request, to examine and make copies of any and all records pertaining to any horse, either required in any part of the regulations, or otherwise maintained, during ordinary business hours or such other times as may be mutually agreed upon. A room, table, or other facilities necessary for proper examination of such records shall be made available to the APHIS representative.

(b) Horse industry organizations or associations who train, maintain, and license DQP's under a certified DQP program shall permit any APHIS representative, upon request, to examine and copy any and all records relating to the DQP program which are required by any part of the regulations. Such requests shall be made during ordinary business hours or such other times as mutually agreed upon. A room, table or other facilities necessary for proper examination shall be made available upon the request of the APHIS representative.

[44 FR 25179, Apr. 27, 1979. Redesignated at 55 FR 41993, Oct. 17, 1990, as amended at 56 FR 13750, Apr. 4, 1991]

§ 11.24 Reporting by management.

(a) Within 5 days following the conclusion of any horse show, horse exhibition, or horse sale or auction, containing Tennessee Walking Horses or racking horses, the managements of such show, exhibition, sale or auction shall submit to the Regional Director¹ for the State in which the show, exhibition, sale or auction was held, the information required by § 11.22(a)(1)

¹See footnote 1 to § 11.1.

9 CFR Ch. I (1-1-07 Edition)

through (6) for each horse excused or disqualified by management or its representatives from being shown, exhibited, sold or auctioned, and the reasons for such action. If no horses are excused or disqualified, the management shall submit a report so stating.

(b) Within 5 days following the conclusion of any horse show, horse exhibition, or horse sale or auction which does not contain Tennessee Walking Horses or racking horses, the management of such show, exhibition, sale or auction shall inform the Regional Director for the State in which the show, exhibition, sale or auction was held, of any case where a horse was excused or disqualified by management or its representatives from being shown, exhibited, sold or auctioned because it was found to be sore.

(Approved by the Office of Management and Budget under control number 0579-0056)

[44 FR 25179, Apr. 27, 1979, as amended at 48 FR 57471, Dec. 30, 1983; 55 FR 41994, Oct. 17, 1990; 56 FR 13750, Apr. 4, 1991; 63 FR 62927, Nov. 10, 1998]

§ 11.40 Prohibitions and requirements concerning persons involved in transportation of certain horses.

(a) Each person who ships, transports, or otherwise moves, or delivers or receives for movement, any horse with reason to believe such horse may be shown, exhibited, sold or auctioned at any horse show, horse exhibition, or horse sale or auction, shall allow and assist in the inspection of such horse at any such show, exhibition, sale, or auction to determine compliance with the Act as provided in § 11.4 of the regulations and shall furnish to any APHIS representatives upon his request the following information:

(1) Name and address (including street address, post office box, and ZIP code) of the horse owner and of the shipper, if different from the owner or trainer.

(2) Name and address (including street address, post office box, and ZIP code) of the horse trainer.

(3) Name and address (including street address, post office box, and ZIP code) of the carrier transporting the horse, and of the driver of the means of conveyance used.

- (4) Origin of the shipment and date thereof, and,
- (5) Destination of shipment.
- (b) [Reserved]

(Approved by the Office of Management and Budget under control number 0579-0056)

[44 FR 25179, Apr. 27, 1979, as amended at 48 FR 57471, Dec. 30, 1983; 56 FR 13750, Apr. 4, 1991]

§ 11.41 Reporting required of horse industry organizations or associations.

Each horse industry organization or association which sponsors, or which sanctions any horse show, horse exhibition, or horse sale or auction, shall furnish the Department⁶ by March 1 of each year with all such organization or association rulebooks, and disciplinary procedures for the previous year pertaining to violations of the Horse Protection Act or regulations, applicable to such horse show, horse exhibition, or horse sale or auction. Rulebooks and information relating to disciplinary procedures for violations of the Horse Protection Act or regulations should be readily available to all exhibitors, trainers, and owners of horses at such show, exhibition, sale, or auction. Each horse industry organization or association shall furnish the Department⁶ with a quarterly report of all disciplinary actions taken against the management or any horse show, horse exhibition, horse sale, or horse auction, any exhibitor, or any licensed DQP, for violation of the Horse Protection Act or regulations, and the results thereof.

(Approved by the Office of Management and Budget under control number 0579-0056)

[44 FR 25179, Apr. 27, 1979, as amended at 48 FR 57471, Dec. 30, 1983]

PART 12—RULES OF PRACTICE GOVERNING PROCEEDINGS UNDER THE HORSE PROTECTION ACT

Subpart A—General

Sec.

12.1 Scope and applicability of rules of practice.

⁶See footnote 6 to § 11.7.

Subpart B—Supplemental Rules of Practice

12.10 Stipulations.

AUTHORITY: 15 U.S.C. 1825 and 1828; 7 CFR 2.22, 2.80, and 371.7.

Subpart A—General

§ 12.1 Scope and applicability of rules of practice.

The Uniform Rules of Practice for the Department of Agriculture promulgated in subpart H of part 1, subtitle A, title 7, Code of Federal Regulations, are the Rules of Practice applicable to adjudicatory, administrative proceedings under section 6(a) of the Horse Protection Act of 1970 (15 U.S.C. 1825(a)) and sections 6 (b) and (c) of the Horse Protection Act (15 U.S.C. 1825 (b) and (c)). In addition, the Supplemental Rules of Practice set forth in subpart B of this part shall be applicable to such proceedings.

[42 FR 10959, Feb. 25, 1977, as amended at 68 FR 6342, Feb. 7, 2003]

Subpart B—Supplemental Rules of Practice

§ 12.10 Stipulations.

(a) At any time prior to the issuance of a complaint seeking a civil penalty under the Act, the Administrator, in his discretion, may enter into a stipulation with any person in which:

(1) The Administration gives notice of an apparent violation of the Act or the regulations issued thereunder by such person and affords such person an opportunity for a hearing regarding the matter as provided by the Act;

(2) Such person expressly waives hearing and agrees to a specified order including an agreement to pay a specified civil penalty within a designated time; and

(3) The Administrator agrees to accept the specified order including a civil penalty in settlement of the particular matter involved if it is paid within the designated time.

(b) If the specified penalty is not paid within the time designated in such a stipulation, the amount of the stipulated penalty shall not be relevant in any respect to the penalty which may