



DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 11

[Docket No. APHIS-2022-0004]

RIN 0579-AE70

Horse Protection Amendments; Further Postponement of Regulations

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule; further delay of effective date.

SUMMARY: On May 8, 2024, we published a final rule amending the horse protection regulations. The provisions of the final rule, initially scheduled to go into effect on February 1, 2025, were delayed until April 2, 2025. On March 21, 2025, we published a further delay of the effective date to February 1, 2026, and a request for comment on whether the length of the postponement should be extended. In this document, based on intervening developments since the issuance of the March 21, 2025 delay of effective date, we are further delaying the effective date of the provisions effective February 1, 2026, to December 31, 2026.

DATES: As of [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], the amendments to 9 CFR 11.1 through 11.18 effective February 1, 2025, (89 FR 39194), delayed until April 2, 2025, (90 FR 8253), and further delayed until February 1, 2026 (90 FR 13273), are further delayed until December 31, 2026.

FOR FURTHER INFORMATION CONTACT: Ms. Christine Jones, Acting Animal Care Chief of Staff, 2150 Centre Ave. Bldg. B, Mailstop 3W11, Fort Collins, CO 80526; (970) 494-7478.

SUPPLEMENTARY INFORMATION:

Background

Under the Horse Protection Act (HPA, or the Act, 15 U.S.C. 1821 *et seq.*), the Secretary of Agriculture is authorized to promulgate regulations to prohibit the movement, showing, exhibition, or sale of sore horses. The Secretary has delegated responsibility for administering the Act to the Administrator of the U.S. Department of Agriculture's (USDA) Animal and Plant Health Inspection Service (APHIS). Within APHIS, the responsibility for administering the Act has been delegated to the Deputy Administrator for Animal Care. Regulations and standards established under the Act are contained in 9 CFR part 11 (referred to below as the Horse Protection regulations or just the regulations), and 9 CFR part 12 lists the rules of practice governing administrative proceedings.

On May 8, 2024, APHIS published in the *Federal Register* (89 FR 39194-39251, APHIS-2022-0004)¹, a final rule titled “Horse Protection Amendments” (2024 Horse Protection final rule) that was to be effective on February 1, 2025, except for § 11.19, which had an effective date of June 7, 2024.

On January 28, 2025, APHIS published in the *Federal Register* (90 FR 8253-8254, APHIS-2022-0004)², a postponement of the regulations in the 2024 Horse Protection final rule, delaying the effective date of all provisions other than those in § 11.19 until April 2, 2025.

In the postponement, we noted that, on July 1, 2024, a complaint was filed in the U.S. District Court for the Northern District of Texas and amended on September 23, 2024.³ The amended complaint alleged, in part, that the 2024 Horse Protection final rule exceeded APHIS's statutory authority and would have a significant economic impact on the Tennessee Walking Horse industry altogether. The amended complaint requested vacatur of the final rule. The parties completed briefing on their cross motions for summary judgment on December 20, 2024.

¹ To view the final rule, go to <https://www.regulations.gov/document/APHIS-2022-0004-8793>.

² To view the postponement, go to <https://www.regulations.gov/document/APHIS-2022-0004-8797>.

³ *The Tennessee Walking Horse National Celebration Association, et al. v. United States Department of Agriculture, et al.*, 2:24-cv-00143 (N.D. Tex.).

In the postponement, we explained that we were taking the action pursuant to section 705 of the Administrative Procedure Act to temporarily preserve the regulatory status quo during the pendency of the litigation.

On January 31, 2025, the U.S. District Court for the Northern District of Texas issued its decision. The Court held that APHIS had exceeded its statutory authority in the 2024 Horse Protection final rule by issuing a blanket prohibition of the use of pads, action devices, and substances on Tennessee Walking Horses and racking horses; that a Dermatologic Conditions Indicative of Soring provision intended to replace the “scar rule”⁴ failed to provide adequate due process; and that the rule’s pre- and post-deprivation reviews failed to provide adequate due process. In the order, the Court vacated the above provisions, found in §§ 11.5, 11.6(c), 11.7, and 11.8(h) of the 2024 Horse Protection final rule. However, the Court held that the final rule’s replacement of the Designated Qualified Persons (DQP) program with Horse Protection Inspectors (HPIs) does not constitute an excess of statutory authority and is otherwise in compliance with the law.

With many of the provisions in the 2024 Horse Protection final rule vacated, the final rule now only amends a patchwork of several portions of the existing regulations. The final rule, as partially upheld by the district court, removes the requirement that DQPs be trained and licensed by horse industry organizations (HIOs) and removes the term DQPs from the regulations. In its place, the final rule specifies that APHIS will authorize HPIs, preferably licensed veterinarians, after screening them for potential conflicts of interest and conducting training. After the effective date of the other provisions of the final rule, management may use HPIs, not DQPs, to identify horses which are sore or otherwise inspect horses for compliance with the Act or regulations. Any DQPs seeking to continue inspecting or other persons wishing to become

⁴ Under § 11.3, “Scar rule,” horses that do not meet the scar rule criteria are considered to be sore and are subject to all prohibitions of the Act. Paragraph (a) of § 11.3 states the “anterior and anterior-lateral surfaces of the fore pasterns (extensor surface)” are required to “be free of bilateral granulomas, other bilateral pathological evidence of inflammation, and, other bilateral evidence of abuse indicative of soring including, but not limited to, excessive loss of hair.”

inspectors after the effective date of the final rule must apply to APHIS to become an HPI and meet the eligibility qualifications for authorization included in § 11.19. While the requirements in § 11.19 for training and authorizing HPIs became effective June 7, 2024, the requirement in § 11.18 that management pivot from electing to utilize DQPs to electing to utilize HPIs has not yet become effective. The final rule also amends reporting requirements, significantly expanding the number of entities subject to its applicability to include shows, exhibitions, sales and auctions of all breeds of horses, not just Tennessee Walking Horses or racking horses, as well as imposing earlier timeframes for reporting.

Following the Court's decision, on March 21, 2025, APHIS published in the *Federal Register* (90 FR 13273- 13276)⁵ a document announcing a further delay of the effective date to February 1, 2026, and a request for comment regarding whether the length of the postponement should be extended. In that document, we explained that postponement would allow APHIS the necessary time to identify appropriate next steps regarding the Horse Protection regulations, including whether the length of the postponement should be further extended. We also stated that allowing the non-vacated portions of the rule to go into effect on April 2, 2025, the previously scheduled effective date, would be untenable for APHIS and disruptive to the industry.

We solicited comments concerning the length of the postponement for 60 days ending May 20, 2025. Specifically, we inquired of the public whether the extended length of postponement provided a sufficient period of time, or whether the delay should be extended further. We also solicited any supplemental information regarding HPA authorities, standards, recordkeeping, or other matters that could help inform a decision regarding the appropriate length of time for postponement.

⁵ To view the further delay of effective date and request for comment, go to <https://www.regulations.gov/document/APHIS-2022-0004-8798>.

We received 6,124 comments in response to our request. The comments were from members of Congress; State agricultural agencies and farm bureaus; horse industry organizations; equine veterinarians and veterinary associations; animal welfare advocacy organizations; cattle grower associations; horse owners, trainers, and exhibitors; small business owners, and other interested persons.

Many comments, including substantive comments from the individuals and entities who are subject to the requirements of the Horse Protection regulations, supported further postponement of the 2024 Horse Protection final rule.

Specifically, many commenters asked us to delay the implementation of the 2024 Horse Protection final rule to allow time to carry out their suggestions of reopening the comment period on the final rule, holding listening sessions, and/or initiating a new rulemaking. Numerous commenters suggested that this may be accomplished by January or February 2027.

We are further postponing the 2024 Horse Protection final rule to December 31, 2026 due to events that arose after the close of the comment period on the March 2025 further delay of effective date and request for comment. We discuss these events later in this document. We believe December 31, 2026 will provide APHIS with sufficient time to identify appropriate next steps in light of the new circumstances.

Many commenters suggested that the 2024 Horse Protection final rule never go into effect, and instead urged a withdrawal or rewrite of the rule. These commenters expressed numerous concerns with the final rule and/or the Horse Protection regulations. Concerns included, among others, an insufficient number of trained inspectors; insufficient funding and resources in USDA for inspections; increased costs, especially at small local events; various requests for additional changes to the Horse Protection regulations, including revision to the reporting requirements that now include additional horse breeds and events; and the opinion that the final rule was unworkable as currently written.

As noted above, APHIS believes that further delay until December 31, 2026 is warranted at this time in order to identify appropriate next steps for the 2024 Horse Protection final rule, particularly in light of intervening events that have occurred since the March 2025 further delay was issued. We believe that this will constitute a sufficient amount of time to identify such steps.

Suggestions for additional rulemaking, including withdrawal or rewrite of the 2024 Horse Protection final rule, as well as comments citing problems with the non-vacated portions of the 2024 Horse Protection final rule and the Horse Protection regulations, are outside the scope of our request for comments regarding the length of postponement. However, we may consider them in future rulemaking.

Many other comments, including variations of a single form letter submitted by over 5,000 persons, as well as a letter submitted by an animal advocacy organization supporting the rule with over 87,500 signatories listed, advocated for no further postponement and expressed strong support for the non-vacated provisions of the 2024 Horse Protection final rule.

Many of these commenters stated that further delaying implementation of the HPI program would perpetuate an inadequate inspection model that leaves horses at risk of soring. We understand commenters' concerns and are committed to working to end the practice of soring. However, events that arose since the close of the comment period on the March 2025 delay of effective date and request for comment, which we will discuss later in this document, have led us to believe that further postponement is necessary.

Some commenters stated that APHIS should pursue additional rulemaking that addresses the problems that the provisions vacated by the court were intended to address, in a manner compliant with the court's order.

Suggestions for additional rulemaking are outside the scope of our request for comments regarding the length of postponement. However, we may consider them in future rulemakings.

Commenters also urged us to implement the HPI program immediately because those portions of the final rule have undergone extensive public input, were finalized through a lawful rulemaking process, and have been upheld by the court.

Although we agree that the HPI provisions of the 2024 Horse Protection final rule have undergone extensive public input, were finalized through a lawful rulemaking process, and have been upheld by the court, we disagree that this means the HPI program is immediately implementable. As we explained in the March 2025 further delay of effective date and request for comment, due to the vacatur of the provisions governing prohibited items at shows and criteria for identifying soring, APHIS required time to re-train prospective HPIs in accordance with the surviving regulations. Moreover, events that arose after the close of the comment period on the March 2025 delay have complicated our plans for re-training prospective HPIs.

On June 30, 2025, a new complaint was filed in the U.S. District Court for the Northern District of Texas⁶ challenging aspects of the existing regulations and associated guidance. Specifically, the complaint challenged USDA’s “No-Showback Rule,” (i.e., the policy prohibition on horses found sore or otherwise noncompliant with the HPA or regulations from being “shown back” or competing in a subsequent class of the same show), the “scar rule,” and the adequacy of the due process protections for custodians of horses that management disqualifies based on USDA inspections conducted in accordance with § 11.4 of the regulations. Plaintiffs sought entry of a preliminary injunction to prevent USDA from enforcing these rules and policies and on August 19, 2025, the Court granted plaintiffs’ motion for preliminary injunction as to each named plaintiff.

Although the preliminary injunction of the existing regulations only applies to the plaintiffs in this case (individuals and Tennessee Walking Horse National Celebration Association), it renders implementation of the final rule piecemeal and unmanageable during the pendency of this litigation. As discussed in our March 21, 2025 notice, the most significant non-

⁶ *Gould, et al. v. United States Department of Agriculture, et al.*, 2:25-cv-00147 (N.D. Tex.).

vacated provisions of the 2024 Horse Protection final rule are the provisions that replace the industry-licensed DQPs with HPIs. The preliminary injunction creates uncertainty regarding the existing “scar rule,” which impacts APHIS’s ability to develop and train HPIs for the upcoming show season. For example, in March 2025, when we issued the notice further delaying the effective date of the rule, APHIS had trained HPIs based on the provisions in the 2024 Horse Protection final rule. As it stands, APHIS would have to retrain the newly licensed HPIs on the existing regulations (which are, in part, the subject of a preliminary injunction) and may need to further retrain them depending on the outcome of the subsequently filed case, which would result in additional costs and potential confusion.

As noted above, due to the preliminary injunction, APHIS is presently unable to enforce several key provisions of the existing Horse Protection Act regulations with respect to the named plaintiffs (individuals and Tennessee Walking Horse National Celebration Association) and, to be consistent, has chosen not to enforce these same provisions industry-wide. Beyond the additional costs and confusion, APHIS has trained only 17 HPIs to perform HPA-related inspections compared to more than 60 Designated Qualified Persons licensed by Horse Industry Organization to perform HPA inspections, and the parties in question were trained on the 2024 Horse Protection final rule prior to partial vacatur. Notwithstanding these challenges, in March 2025, when we issued the notice delaying the effective date, the existing regulations had not yet been challenged and could potentially be combined with the non-vacated provisions of the 2024 Horse Protection final rule to establish a functional regulatory framework. This is no longer certain, given the pending litigation.

Beyond this, in November 2025, the House Committee Report that accompanied the Fiscal Year 2026 appropriations package contained notes to APHIS related to the 2024 Horse Protection final rule and, among other things, directed APHIS to withdraw the rule.

Because of the potential impact of the pending case challenging the existing regulations, the U.S. District Court for the Northern District of Texas’ vacatur of several key portions of the

2024 Horse Protection final rule, and APHIS's ongoing review of the House Committee Report, we have determined that it is necessary to further postpone the effective date of the 2024 Horse Protection Act final rule to December 31, 2026. For these reasons, we are further postponing the effective date of the portions of the final rule that have not been vacated by the District Court and otherwise would go into effect on February 1, 2026.

APHIS is taking this action, effective immediately, based on the good cause exceptions in 5 U.S.C. 553(b)(B) and 553(d)(3). The need for regulatory clarity in this context satisfies the good-cause requirement.

Moreover, this notice further extending the effective date of the non-vacated provisions of the 2024 Horse Protection final rule does not impose any new obligations but rather delays new recordkeeping and reporting requirements for certain horse show and sale managers who do not have such obligations under the existing regulations. Thus, this postponement may be immediately effective under 5 U.S.C. 553(d)(1), because extending the effective date of this final rule would grant an exception or relieve a restriction.

APHIS has also determined that it would be impracticable and contrary to the public interest to provide additional notice and comment on this action to postpone the effective date of the non-vacated provisions of the 2024 Horse Protection final rule to December 31, 2026. It is impracticable because there is not sufficient time to conduct an additional notice-and-comment process between now and February 1, 2026. Additionally, as stated above, it is not feasible for the agency to implement the non-vacated provisions on February 1, 2026. This is because, due to the pending lawsuit and the uncertainty of how it would affect the regulatory regime, APHIS has not been able to develop training content for HPIs that would enable it to 1) recruit an adequate number of HPIs to provide coverage for the 2026 show season and 2) train the HPIs to detect and diagnose soring based on stable regulatory requirements. Given these limitations, there are no fully trained and licensed HPIs available to serve as qualified inspectors for show management should they wish to retain them. If the non-vacated provisions of the 2024 rule

were to take effect, the new HPI provisions would replace the third-party inspection program currently in place (DQPs and HIOs), thus eliminating the availability of *any* qualified inspectors that show management could retain to evaluate horses for soreness prior to participation in HPA-covered events. This means that, for the first time since 1979, show management would immediately become responsible for determining how it will meet its obligations under the HPA without the availability third-party inspectors licensed through USDA.

Authority: 5 U.S.C. 705; 15 U.S.C. 1823-1825 and 1828; 7 CFR 2.22, 2.80, and 371.7.

Done in Washington, DC, this 23rd day of January 2026.

Dudley Hoskins

Under Secretary for Marketing and Regulatory Programs, USDA.

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