

HPA OPERATING PLAN FOR THE 2000 HORSE SHOW SEASON

PURPOSE AND TERM

This document sets forth the Animal and Plant Health Inspection Service's (APHIS) plan for implementation and enforcement of the Horse Protection Act (HPA or Act) for the 2000 horse show season in partnership with the horse industry organizations (HIOs) whose signatures appear below.

The purpose of the Act is to end the inhumane practice of soring horses. This Operating Plan for the 2000 show season (Plan or Operating Plan) is intended to further that goal by increasing the enforcement responsibilities of the various HIOs, and in turn establishing procedures for APHIS to use in its oversight of the HIOs. Nothing in this Plan is intended to supersede the Act, the Horse Protection regulations (Regulations) or the Secretary of Agriculture's interpretation of the Act and the Regulations. This Plan will be in effect until December 31, 2000.

I. DEFINITIONS

This Plan uses words and phrases defined in the HPA and the Regulations. The terms "Horse Industry Organization" (HIO) and "Designated Qualified Person" (DQP) are defined separately in the Regulations. Requirements for certification of a DQP program are also contained in the Regulations. However, where HIO is used in this document, it refers to its certified DQP program. Words not defined in the HPA or the Regulations shall be defined by their common usage.

II. APHIS ENFORCEMENT RESPONSIBILITIES

Nothing in this Operating Plan is intended to indicate that APHIS has relinquished any of its responsibility and authority under the Act or the Regulations. APHIS's implementation of this Operating Plan places the initial enforcement authority for HIO-affiliated and sanctioned horse shows, exhibitions, sales, and auctions with the various certified DQP programs. APHIS personnel assigned to these events will conduct inspections in order to determine whether or not the DQP programs are successful in the detection of sore horses and other violations of the HPA, and whether the individual DQPs are properly trained and competent for that purpose.

A. Deputy Administrator for Animal Care The APHIS Deputy Administrator for Animal Care is responsible for:

1. Certifying and decertifying DQP programs pursuant to the Regulations;
2. Allocating funds for HPA enforcement;
3. Annually reviewing for approval HIO Rule Books to ensure compliance with the HPA and the Regulations, pursuant to 9 C.F.R. § 11.41;
4. Reviewing for approval HIO Rule Book amendments directly related to HPA enforcement;
5. Initiating and reviewing HPA program projects (including training and research), APHIS HPA policies, and other regulatory activities;
6. Coordinating APHIS-DQP program regulatory activities, including the scheduling of meetings with DQP program representatives to address current issues; and
7. Authorizing the issuance of complaints for alleged violations of the Act based on the recommendations of the Office of General Counsel.

B. Horse Protection Coordinator (HP Coordinator) The APHIS Horse Protection

Coordinator is responsible for:

1. Assigning APHIS personnel to affiliated and unaffiliated horse shows, exhibitions, sales, or auctions;
2. Reviewing information from DQP programs and horse show management, including without limitation, show reports, data regarding HPA violations, DQP tickets issued for HPA violations, HPA suspension lists, and any other records as required by the Regulations;
3. Requesting the issuance of Letters of Warning to individual DQPs;
4. Reviewing documentation submitted by an HIO in connection with an examination dispute, and determining whether or not APHIS should close its investigation; and
5. Communicating directly with DQP program representatives regarding training, daily operations, and requests for assistance.

C. Veterinary Medical Officers (VMOs) APHIS Veterinary Medical Officers are responsible for:

1. Conducting unannounced and scheduled audits of HIO records with assistance from U.S. Department of Agriculture (USDA or Department) personnel during ordinary business hours (defined as the hours between 8:00 a.m. to 5:00 p.m., Monday through Friday, except for Federal holidays);
2. Participating in and providing instruction at training courses for DQPs and VMOs;
3. Observing and evaluating DQPs in the performance of their duties at shows, exhibitions, sales and auctions; and

4. Inspecting horses and, in cases where a DQP has apparently failed to detect or report a violation of the Act or the Regulations, documenting the violation.

III. HIO RESPONSIBILITIES

The DQP programs must demonstrate the ability to identify sore horses as defined in the Act, to impose the appropriate penalties as outlined in Section VII of this Plan and to punish those on suspension who disregard those penalties. Each HIO shall develop performance standards by which its DQP program can be evaluated, and shall be responsible for ensuring that it and its DQP program perform in accordance with the Act, the Regulations, and this Operating Plan.

A. Rule Book Each HIO shall prepare and publish a Rule Book that is in accordance with the HPA, the Regulations, and this Operating Plan. Each HIO shall submit the Rule Book to APHIS for review by March 1 of each year, as required by 9 C.F.R. § 11.41. APHIS shall review and approve, or require modification of, those sections of the Rule Book directly related to compliance with and enforcement of the HPA, the Regulations, and this Operating Plan.

B. Standards of Conduct Each HIO shall enforce the standards of conduct for DQPs contained in the Act and the Regulations. Each HIO shall also develop and enforce conflict of interest standards of conduct for HIO officers. These standards shall be submitted to APHIS upon request.

C. DQP Licensing, Training, Discipline and Evaluation

1. Licensing and Training Each HIO shall issue DQP licenses to qualified candidates and develop and provide uniform, consistent training in accordance with the Act and with 9 C.F.R. §§ 11.7(a)-(c) and (d)(6).

2. Evaluation of DQPs Each HIO shall evaluate the performance of each of its DQPs at least annually, and, if necessary, shall take appropriate administrative action under 9 C.F.R. §§ 11.7(d)(7) and 11.7(f).

3. Letter of Warning A Letter of Warning is an official notice of unsatisfactory DQP performance. The standards for satisfactory DQP performance shall be in writing and included as part of the annual DQP training program.

VMOs are required to notify the DQP of unsatisfactory performance during the horse show, exhibition, sale or auction. VMOs are required to report to the HP Coordinator all instances in which a DQP, after such notice, failed to perform his or her duties in accordance with the Act and the Regulations. A VMO who intends to make such a report must so inform the DQP at the end of the event. The VMO must then forward the report in writing to the Horse Protection Coordinator, who shall review it. The DQP Coordinator may also submit documentation to the HP Coordinator regarding the DQP's performance. If the HP Coordinator determines that the DQP in question failed to perform his or her duties in accordance with the Act and the Regulations, then the Coordinator may request that the HIO issue a Letter of Warning to the DQP. Such a request must be in writing and accompanied by a copy of the documentary evidence on which the request is based. An HIO's failure to comply with the request for a Letter of Warning may constitute grounds for probation or decertification of the HIO if the Department determines that the HIO has violated the Regulations by not issuing the Letter.

4. License Cancellation An HIO shall cancel the license of any DQP who has received two Letters of Warning. A DQP may appeal a license cancellation as provided in 9 C.F.R. § 11.7(f). A DQP whose license has been canceled may only become licensed again after three years. If that DQP receives another Letter of Warning within two years thereafter, the HIO shall immediately revoke the DQP's license and the DQP will be permanently barred from becoming licensed again.

D. Schedules Each HIO shall provide to the Horse Protection Coordinator schedules of its horse shows, exhibitions, sales or auctions at least 30 days in advance of the event. Each HIO shall provide proposed DQP assignment(s) to the HP Coordinator within five days of the event. HIOs shall notify the HP Coordinator as soon as possible, by facsimile or telephone, of any affiliation or cancellation that occurs less than 30 days before the event.

E. Records Each HIO shall make and keep records in accordance with 9 C.F.R. § 11.7(d) and 11.23(b). Such records include without limitation, class sheets, records of HPA violations, DQP tickets documenting HPA violations, penalty assessments for HPA violations, written transcripts of HPA violation hearings conducted by the HIO, DQP resumes, DQP assignments and show schedules, and DQP evaluations by the HIO. All such records shall be provided to APHIS as required in the Regulations or upon request.

F. Notice of Hearing The Hearing Committee for each HIO shall give the Horse Protection Coordinator at least seven days notice of any DQP disciplinary proceeding or HPA violation hearing.

G. Suspensions Each HIOs shall impose and enforce suspensions for violations of the HPA in accordance with the minimum standards set forth herein. All suspensions imposed for

HPA violations shall be served consecutively, and not concurrently with any other suspension (including a suspension imposed by another HIO). All suspensions imposed for violations of any suspension order shall also be served consecutively, not concurrently with any other suspension. HIOs shall employ the following minimum standards set forth below in imposing suspensions:

1. Notice. If an HIO has reason to believe that a person has violated the Act, the HIO shall notify the person of the alleged violation by certified mail, return receipt requested, and by regular mail within 10 days of the alleged violation. The notice shall describe the violation and the proposed suspension therefor and the procedures for requesting a hearing. Except as otherwise provided herein, all suspensions under this section shall begin on the twentieth day after the date the notice was mailed, unless the person requests a hearing in accordance with the procedures in paragraph (2) below. If the person refuses or fails to claim the certified mail notice, then the suspension shall begin automatically 20 days after the date the notice was mailed.

2. Opportunity for Hearing Before an HIO can impose a suspension under this Operating Plan, it must give the alleged violator the opportunity to present documentary and testimonial evidence at a hearing before the HIO's Hearing Committee. A person may obtain a hearing by filing a written request with the HIO within 20 days of the date of mailing of the notice of violation described in paragraph (1) above. The request for a hearing will be deemed to be filed on the date it is received by the HIO. If a person fails to request a hearing within that time, the person shall have waived the right to a hearing, and the suspension shall begin on the twentieth day after the date the notice was mailed. Each request for a hearing should state the grounds therefor.

The HIO Hearing Committee shall review each request for a hearing, and shall set every case for hearing within 60 days of the date that the request was filed. The HIO Hearing Committee shall inform the alleged violator of the date and location of the hearing at least 30 days in advance of the hearing. The presiding officer of the Hearing Committee shall ensure that all proceedings are conducted in accordance with these procedures, and with any additional procedures adopted by the HIO that are not in conflict with this section. The alleged violator shall have the opportunity to present evidence in the form of documents, recordings, and testimony, and shall have the opportunity to cross-examine the HIO's witnesses.

After hearing the evidence, the HIO Hearing Committee shall render a decision in writing, not later than 30 days after the hearing. The Hearing Committee shall act as a jury of majority rule. All suspensions shall begin on the first day after the issuance of the decision of the Hearing Committee. The decision of the Hearing Committee or any further appellate body shall be final. The HIOs shall, to the extent possible, endeavor to resolve each case within 120 days of the date of the alleged violation.

Upon a finding of a violation of the HPA or the Regulations, the Hearing Committee shall impose the appropriate penalty in accordance with the schedule of minimum suspensions set forth in this Operating Plan. In addition, the HIO Hearing Committee may impose further sanctions on any person who files a frivolous request for a hearing.

H. HIO Suspension Lists Each HIO shall enforce the USDA disqualification list, its own HPA suspension list, and the HPA suspension list of every other HIO. Each HIO shall provide to the Horse Protection Coordinator, and to each of the other HIOs, a monthly list of HPA suspensions. The list shall include the following information for each suspension: (1) the

violator's full name and address; (2) the date of the violation; (3) a brief description of the violation; (4) the dates when the suspension begins and ends; (5) the date when the violator's probation ends; and (6) identification of HPA violations if the suspension list contains violations that are not HPA violations.

IV. CERTIFICATION OF DQP PROGRAMS

APHIS shall review, evaluate and certify the DQP programs of the various HIOs, if the programs meet the requirements set forth in the Regulations and this Operating Plan. There are three classes of certification: Full, Provisional, and Probationary. APHIS may decertify a DQP program as set forth below and in the Regulations.

A. Full Certification To receive full certification for its DQP Program, an HIO must have:

1. Developed a program to select, train, license and discipline DQPs in accordance with the Act and the Regulations;
2. Submitted to the Deputy Administrator for Animal Care a written request for certification of its DQP program, and a detailed outline of the program;
3. Established an organizational structure that enables the HIO to fulfill its responsibilities under the HPA, the Regulations, and this Plan;
4. Published a Rule Book containing a mission statement that includes as a goal of the HIO the elimination of the practice of soring horses, and containing standards of conduct for DQPs, show rules, definitions and uniform inspection procedures that conform to the HPA, the Regulations, and this Operating Plan, and a schedule of penalties for HPA violations in conformance with the minimum penalties set forth in this Plan;

5. Established a Hearing Committee to review and decide upon violations of the HPA and the Regulations, with written procedures that provide basic due process guarantees to those charged with violations as set forth in Section III. G. above;

6. Hired a DQP Program Manager or Coordinator who holds a valid DQP license;

7. Demonstrated the ability to keep, maintain and provide to APHIS records in accordance with the Regulations and this Operating Plan.

B. Provisional Certification An HIO can request and receive provisional certification for its DQP Program if the HIO meets all of the current regulatory requirements as set forth in paragraph A of this section, except for the “Records” element. An HIO can have provisional certification of its DQP Program for one year only. At the end of this time, the DQP Program must either meet full certification criteria or be decertified.

C. Probationary Certification If APHIS discovers that a certified DQP program is not in compliance with the Act, the Regulations or this Operating Plan, APHIS will give the HIO a reasonable opportunity to correct the deficiencies. Any appeal of a correction date must be made to the Horse Protection Coordinator before the correction date. If the HIO corrects the deficiency on time, the HIO will retain its full or provisional certification for its DQP Program. If the HIO fails to correct the deficiency on time, APHIS will place its DQP Program on probation. The HIO may appeal its probationary status by writing to the Administrator of APHIS within 30 days of notification of such status. Probation can last up to six months. If the HIO corrects the problem within the probation period, APHIS will restore full certification to the HIO.

D. Decertification If an HIO is placed on probation and fails to correct the deficiency within the probation period, APHIS will decertify the HIO’s DQP program. An HIO may appeal

decertification as outlined in 9 C.F.R. § 11.7(g). An HIO whose DQP program has been decertified may not apply for certification again for six months, and then such application may only be for full certification.

V. INSPECTIONS

Inspections conducted under the HPA must be in accordance with the Regulations and this Operating Plan. The inspection guidelines contained in this Plan are designed to help VMOs and DQPs examine horses under the HPA and do not supersede the HPA or the Regulations.

A. Inspection Areas

1. DQP/VMO Area All horses shall be inspected in a specific area that meets the requirements set forth in 9 C.F.R. § 11.6. Only the horse, the horse's custodian, the DQPs assigned to work the show, HIO representatives, show management, and APHIS representatives are allowed in the DQP/VMO inspection area except as described below in Section V.A.3.

2. Designated Area Inspected horses shall be held in a designated area that is under observation by a DQP. Only the horse, the rider, the groom, the trainer, the DQP(s) assigned to work the show, HIO representatives, show management, and APHIS representatives shall be allowed in the designated area. No horse may leave the designated area without the permission of the DQP or the VMO.

3. Visitors to DQP/VMO and Designated Areas Visitors shall only be allowed in these areas while under direct escort of either an HIO or APHIS representative. APHIS and HIO personnel shall be notified when visitors are present and who will be their escort.

B. Stewarding and Unruly Horses No exhibitor or custodian of any horse shall ~~not~~ act in any manner that may adversely affect the inspection of the horse, or cause a false or distorted examination result. No exhibitor or custodian shall use any signal or device (including without limitation, inappropriate movements, whips or cigarette smoke) to distract or steward a horse or influence a horse's responses during examination. A DQP or VMO who observes such behavior shall immediately cause the horse to be excused and shall report the incident to show management and the HIO. DQPs and VMOs shall excuse any horse that is unruly or exhibits an unwillingness to submit to examination.

C. Inspection Authority For the purpose of enforcing the HPA, the VMO or DQP may inspect any horse at any horse show, exhibition, sale or auction. Inspections under the Act extend to all things (including records) that have a bearing on compliance with the requirements of the Act. The DQP or VMO may carry out additional inspection procedures or conduct additional tests such as using hoof testers or fluoroscopy as deemed necessary to determine whether or not a horse is in compliance with the HPA. When indicated, DQPs and VMOs may also require an exhibitor to remove the shoes or pads from the feet of a horse for the purpose of determining if the horse is in violation of the HPA, such as having been pressure-shod. If more than one inspector (DQP or VMO) examines the same horse, each examination shall include a full examination of the horse's movement, appearance and physical examination, as set forth in the Regulations and as described below. DQPs may also inspect horses for the purpose of ensuring compliance with breed-specific rules and regulations adopted and published by the HIO as long as such inspections do not interfere with enforcement of the HPA. Only DQPs and VMOs assigned

to work the horse show, exhibition, sale or auction may inspect horses in the inspection areas for compliance with the Act and the Regulations.

D. Prohibited Practices. The Regulations prohibit shoeing, trimming or using any method or device on a horse's hoof in a manner that causes such horse to suffer, or can reasonably be expected to cause such horse to suffer pain, distress, inflammation or lameness when walking, trotting or otherwise moving. This includes inserting a tack, screw, nail or other device or substance, other than acceptable hoof packing, between the horse's hoof and its shoe or pad. If a DQP or VMO suspects that a horse's hoof has been subjected to any such practice, the DQP or VMO may require the horse's custodian to remove the shoes, pads, or both, to allow further examination.

E. Examination of Horses The examination of a horse for the purpose of determining compliance with the Act includes an evaluation of the horse's movement, appearance, and the physical examination described below. Each examination must include all three components, and must be conducted in a manner that allows the inspector to determine if there is compliance with the Act.

1. Movement During the inspection, the DQP or VMO shall direct the custodian of the horse to lead, walk, and turn the horse in a manner that aids the DQP or VMO to determine whether the horse suffers, or can reasonably be expected to suffer physical pain¹ or distress, inflammation, or lameness when walking, trotting or otherwise moving.

2. Appearance At all times during the inspection, including during the physical examination, the DQP or VMO shall observe and evaluate the horse's appearance to determine

whether the horse suffers, or can reasonably be expected to suffer physical pain¹ or distress, inflammation, or lameness when walking, trotting or otherwise moving. The DQP or VMO shall look for evidence of prohibited substances, prohibited or non-compliant paraphernalia or devices, and non-compliance with the Scar Rule.

3. Physical Examination The DQP or VMO shall digitally palpate the front limbs of the horse from knee to hoof, with particular emphasis on the pasterns and fetlocks, as described in the applicable Regulations to determine whether the horse suffers, or can reasonably be expected to suffer physical pain¹ or distress, inflammation, or lameness when walking, trotting or otherwise moving. The DQP or VMO may also examine the back limbs.

F. Examination Disputes If the VMO and the DQP disagree about whether a horse is not in compliance with the Act or the Regulations, then the horse will be excused from showing in the class. The DQP and HIO shall then follow the procedures contained in Section VIII of this Operating Plan.

VI. COMPLIANCE WITH SCAR RULE

APHIS and the HIOs intend to enforce Section 11.3 of the Regulations during the 2000 season in accordance with the following:

A. Definitions The following definitions are provided for the purpose of clarifying various terms and phrases found in Section 11.3 of the Regulations (Scar rule).

¹ Observable indications of pain may include without limitation the following: changes in the depth and rate of respiration; excessive perspiration on the skin and hair coat; abnormal reactions of the eyes and ears; abnormal stance; rocking forward and standing on the toes of both rear limbs; tucking of flanks and flexing of abdominal muscles; stepping forward with the rear limbs while the front limbs remain lightly planted; tossing of the head to maintain balance; reluctance to lead or turn; and/or the overall demeanor and temperament of the horse.

Anterior: The anterior area covers approximately the front 25 percent of the pastern. The anterior surface is bordered by two parallel lines that extend downward from the bony prominences on either side of the end of the cannon bone at the fetlock joint to the foot, as divided approximately into equal quarters.

Bilateral granuloma: A tumor-like mass, nodule or swollen area of granulation tissue (proud flesh or focal lesions) that occur on both legs, usually as a result of chronic inflammation.

Bilateral evidence of abuse indicative of soring: Evidence of intentional injury inflicted to both front and/or rear pasterns.

Edema: Collection of fluid within tissue. Localized edema is considered a violation. Localized edema is the collection of fluids within tissue causing swelling, pain, and/or loss of function in or near the areas where chemical or physical trauma has occurred. In contrast, generalized edema is not considered a violation. Generalized edema involves a greater portion of the extremity caused by such items as tight bandages or injuries above the pastern resulting in fluids gravitating to the pastern area.

Excessive loss of hair: Areas of thinned hair and/or bare skin that are indicative of soring that may result from repetitive friction and/or pressure, and that may cause permanent injury to hair follicles.

Irritation: The early stage of inflammation resulting from a reaction of the skin to abnormal chemical or physical applications.

Lateral: The lateral area approximately covers 25 percent of the pastern.

It is the outer surface located between the boundaries of the anterior and posterior surfaces as defined in this section.

Medial: The medial area approximately covers 25 percent of the pastern.

It is the inner surface located between the boundaries of the anterior and posterior surfaces as defined in this section.

Moisture: This includes serum, pus or blood, and can be a direct flow and/or oozing of these fluids out through the skin.

Neurovascular groove: The anatomical lines of demarcation between the medial or lateral and posterior surfaces of the pastern are those parallel lines extending downward in front of the flexor tendon bundle along the depression or groove occupied by the neurovascular bundle which intersects with the angles of the hoof wall and includes the bulbs of the hoof. This neurovascular groove or bundle is anatomically located totally within the medial and lateral surfaces.

Other bilateral pathological evidence of inflammation: Pain, heat, redness, swelling, serum or pus, or loss of function in both front pasterns are indications of inflammation. Inflammation results when, in response to an injury or destruction of tissue, the body attempts to dilute or wall off the injurious agent and the injured tissue. Inflammation can be acute or chronic and may result in permanent tissue damage (for example, scarring).

Other evidence of inflammation: These may include without limitation pain, heat, redness, swelling, or loss of function.

Pastern: The part of the leg of a horse between the fetlock joint and the hoof.

Posterior: The posterior area approximately covers the rear 25 percent of the pastern. The posterior surface is bordered by two parallel lines that extend downward along the palpable borders in front of the flexor tendon bundle to intersect with the angles of the hoof wall and includes the bulbs of the hoof. In order to differentiate the posterior area from the lateral and medial, for purposes of enforcing the HPA pursuant to this Plan, the posterior area is deemed to include the rear 35 percent of the pastern as designated in the Scar Rule Chart found below. This 35 percent area is not considered to be an approximation. (See Section VI C 3 below.)

Proliferating granuloma tissue: Excessive growth of masses of tissue (proud flesh) that is usually the result of the body's unsuccessful attempts to repair tissues that are injured and/or infected. The proliferating granuloma can create wart-like growths and/or abnormal thickening where the skin is corrugated, ridged or thrown into clusters of exuberant growth (proud flesh).

Uniformly thickened epithelial tissue: A uniform or even thickening of skin that retains its smoothness, such as in a callous or corn, and is free of all signs of inflammation.

B. Scar Rule Prohibitions

1. Anterior, Medial and Lateral Surfaces The anterior, medial and lateral surfaces of the pasterns of both front feet must be free of bilateral granulomas, other bilateral pathological evidence of inflammation, or bilateral evidence of abuse indicative of soring, including, but not limited to, excessive loss of hair.

2. Posterior Surfaces The posterior surfaces of the pasterns of the front feet, 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, localized edema, or other evidence of inflammation such as pain, heat, redness, swelling, or loss of function.

C. Determining the Boundaries of the Posterior Area There is no major anatomical landmark on the pastern that easily defines the demarcation of the posterior surfaces from the medial and lateral surfaces. This section of the Plan explains how USDA will determine the demarcation of the posterior surface for purposes of the HPA. The pastern is a three-dimensional anatomical structure. It is divided into four equal quarters: the front (anterior), the inside (medial) the outside (lateral), and the back (posterior). Each of these four surfaces comprises approximately one-quarter, or 25 percent, of the circumference.

The VMO or DQP may use either the “Flattened Hand” or the “Neurovascular Groove” method (described below) to measure the posterior surface of the pastern. If, by using one or the other of these methods, the VMO and DQP are able to easily determine, and agree, whether the horse is or is not in compliance with the Scar Rule criteria, then they may proceed to document their findings. If, by using these screening methods, the VMO and the DQP cannot easily determine the boundaries of the posterior surface, or if a dispute arises as to whether the horse is in compliance with the Scar Rule, then the VMO (or the DQP if there is no VMO at the event) shall measure the circumference of the horse’s pastern, and determine the location of the boundary between the posterior and the medial and the posterior and the lateral areas using the chart set forth below. For purposes of this Plan, APHIS will consider the posterior area of the

pastern to include 35 percent of the circumference of the pastern. This will allow for any margin of error.

1. Flattened Hand Method Place the palmar surface of the flattened hand on the back of the pastern. The area covered by the hand is the posterior surface, and the area visible on the sides of the pastern will be considered the medial and lateral surfaces.

2. Neurovascular Groove (Bundle) The neurovascular groove or bundle is anatomically located totally within the medial and lateral surfaces. Since the palpation of the neurovascular groove or bundle is difficult in practice, the area's proper anatomical limits shall be defined for purposes of determining the anterior edge of the posterior surface by using the palpable posterior of the two pastern bones (long and short) and the adjacent palpable border of the flexor tendon bundle. This is done by placing the tip of the finger against the posterior edge of the pastern bone with the fingernail against the bone. The opposite side of the finger (non-finger nail side) in most horses will be in close proximity to the anterior edge of the flexor tendon bundle, that is, the line of demarcation for the posterior surface. Any scar tissue covered by the finger is in violation.

3. Measuring the Posterior Surface of the Pastern The posterior surface is determined by measuring the circumference of the pastern where the affected area is located. Using the midline of the posterior surface, which is half the distance between the bulbs of the heel, the actual posterior surface extends 12.5 percent of the circumference on either side of this the midline. To allow for a margin of error, APHIS will use 17.5 percent from the midline. The circumference measurement is multiplied by .175 to obtain the distance from the posterior midline

to the edge of the medial or lateral surfaces. The chart below can be used as a quick reference to determine this measurement.

Scar Rule Chart

Measurements for Determining Compliance with the Scar Rule

Circumference of Foot	35 Percent	17.5 Percent
7 in	2 1/2 in	1 1/4 in
7 1/8 in	2 1/2 in	1 1/4 in
7 1/4 in	2 1/2 in	1 1/4 in
7 3/8 in	2 5/8 in	1 1/4 in
7 1/2 in	2 5/8 in	1 3/8 in
7 5/8 in	2 5/8 in	1 3/8 in
7 3/4 in	2 3/4 in	1 3/8 in
7 7/8 in	2 3/4 in	1 3/8 in
8 in	2 3/4 in	1 3/8 in
8 1/8 in	2 7/8 in	1 3/8 in
8 1/4 in	2 7/8 in	1 1/2 in
8 3/8 in	2 7/8 in	1 1/2 in
8 1/2 in	3 in	1 1/2 in
8 5/8 in	3 in	1 1/2 in
8 3/4 in	3 1/8 in	1 1/2 in
8 7/8 in	3 1/8 in	1 1/2 in
9 in	3 1/8 in	1 5/8 in
9 1/8 in	3 1/4 in	1 5/8 in
9 1/4 in	3 1/4 in	1 5/8 in
9 3/8 in	3 1/4 in	1 5/8 in
9 1/2 in	3 3/8 in	1 5/8 in
9 5/8 in	3 3/8 in	1 5/8 in
9 3/4 in	3 3/8 in	1 3/4 in
9 7/8 in	3 1/2 in	1 3/4 in
10 in	3 1/2 in	1 3/4 in
10 1/8 in	3 1/2 in	1 3/4 in
10 1/4 in	3 5/8 in	1 3/4 in
10 3/8 in	3 5/8 in	1 7/8 in
10 1/2 in	3 5/8 in	1 7/8 in

Circumference of Foot	35 Percent	17.5 Percent
10 5/8 in	3 3/4 in	1 7/8 in
10 3/4 in	3 3/4 in	1 7/8 in
10 7/8 in	3 3/4 in	1 7/8 in
11 in	3 7/8 in	1 7/8 in
11 1/8 in	3 7/8 in	2 in
11 1/4 in	4 in	2 in
11 3/8 in	4 in	2 in
11 1/2 in	4 in	2 in
11 5/8 in	4 1/8 in	2 in
11 3/4 in	4 1/8 in	2 in
11 7/8 in	4 1/8 in	2 1/8 in
12 in	4 1/4 in	2 1/8 in
12 1/8 in	4 1/4 in	2 1/8 in
12 1/4 in	4 1/4 in	2 1/8 in
12 3/8 in	4 3/8 in	2 1/8 in
12 1/2 in	4 3/8 in	2 1/4 in
12 5/8 in	4 3/8 in	2 1/4 in
12 3/4 in	4 1/2 in	2 1/4 in
12 7/8 in	4 1/2 in	2 1/4 in
13 in	4 1/2 in	2 1/4 in
13 1/8 in	4 5/8 in	2 1/4 in
13 1/4 in	4 5/8 in	2 3/8 in
13 3/8 in	4 5/8 in	2 3/8 in
13 1/2 in	4 3/4 in	2 3/8 in
13 5/8 in	4 3/4 in	2 3/8 in
13 3/4 in	4 7/8 in	2 3/8 in
13 7/8 in	4 7/8 in	2 3/8 in
14 in	4 7/8 in	2 1/2 in

VII. HIO SANCTIONS FOR HPA VIOLATIONS

A. Disqualifications and Suspensions A person who is suspended by an HIO or disqualified by the USDA as a result of an HPA violation may not show, exhibit, or enter any horse, either directly or indirectly through any agent, family member, or corporate or other device, or judge, manage or otherwise participate in any horse show, horse exhibition, horse sale or horse auction, for the period of suspension or disqualification. The person is barred from participating in such events except as a spectator. "Participating" means engaging in any activity beyond that of a spectator, and includes without limitation (1) showing, riding or exhibiting horses, (2) presenting horses for inspection, (3) transporting or arranging for the transportation of horses to or from the event, (4) personally coaching or giving instructions to exhibitors, (3) financing the participation of others in the event, and (5) being present in the designated (warm-up) or inspection area, or in any area where spectators are not normally allowed. Suspensions and disqualifications do not preclude a person from private arm's-length sales between two parties.

B. Violation of HIO Suspension A person who, after notice and opportunity for a hearing as described in Section III. G. above, is found to have violated a suspension notice issued by an HIO for an HPA violation shall be suspended for an additional time period of not less than six months for each such violation.

C. Liability Those who transport, enter, show, or exhibit horses, or participate in a public sale or auction of horses, in violation of the HPA shall be personally liable for monetary penalties and disqualifications or suspensions.

D. Limited Exemption from Liability It is a violation of Section 1824(2)(D) of the Act for a horse owner to “allow” his or her horse to be entered or exhibited in any horse show or exhibition, or sold, auctioned, or offered for sale or auction at any horse sale or auction, by any other person while the horse is sore. There is no violation of the Act if the horse’s owner can demonstrate that he or she did not participate at all in the entry, transportation, preparation for showing, exhibition, sale, or auction of his or her horse while the horse was sore, and that he or she took affirmative steps: (1) to select a trainer whom the owner would not reasonably expect would sore the horse; (2) to ensure that the trainer understands what soring is as defined in the HPA, understands that the owner does not want the trainer to sore the horse and understands the consequences of soring the horse; and (3) to periodically check the condition of the horse.

Examples of affirmative action by an owner include without limitation the following:

1. Written Instructions and Acknowledgment The owner has previously given the trainer written instructions not to sore the horse or to engage in practices or use devices that could be expected to result in soring, such as chains over the permitted weight, all prohibited devices, overuse of permissible devices, or caustic chemicals; and has informed the trainer in writing that failure to comply with the owner’s instructions will result in the trainer’s immediate termination. The owner has obtained the trainer’s written acknowledgment that he or she understands and agrees to comply with such terms, and has read, understands and agrees to comply with the HPA and the Regulations.

2. Consideration of Trainer’s History The owner determines whether or not the trainer has previously violated the HPA. For example, if the USDA or an HIO has determined that a trainer violated the Act on or after March 1, 1999, and the owner hires that trainer, then the

owner has accepted the risk that that trainer may do so again, and would have to present evidence to show that he or she acted reasonably in knowingly hiring that trainer.

3. Unannounced Visits The owner or the owner’s agent makes unannounced visits to the trainer’s facility. The owner arranges for periodic unannounced inspections of the horse by a knowledgeable, independent licensed veterinarian (a veterinarian who is not otherwise employed by the trainer and who is competent to determine whether a horse is sore under the HPA).

E. Penalties All HIOs must impose the following minimum penalties²:

	<u>First</u>	<u>Second</u>	<u>Third</u>	<u>Fourth and Subsequent</u>
<u>SORING VIOLATIONS:</u>				
15 U.S.C. § 1824(1)				
15 U.S.C. § 1824(2)				
Bilateral Sore	8 months	2 years	5 years	Life
Pressure Shoeing	1 year	2 years	5 years	Life
Scar Rule	2 weeks	2 months	1 year	2 years
Unilateral Sore	2 weeks	2 months	1 year	2 years
<u>SUSPENSION VIOLATIONS:</u>	6 months	6 months	6 months	6 months
<u>OTHER VIOLATIONS³:</u>				
15 U.S.C. § 1824(7)				
Foreign Substance	-----DQ Class (Non-correctable)-----			
Technical Violations	-----DQ Class (Non-correctable)-----			
Unruly/Fractious Horse	-----DQ Class (Non-correctable)-----			

² The penalties in this schedule for HPA violations are not intended to indicate that some violations are more serious than others. The penalties listed herein do not represent the sanctions that the Department would seek in an administrative or judicial enforcement case.

³ In addition to the violations set forth in this penalty schedule, the HPA also prohibits the following acts: failure to allow inspection of records (15 U.S.C. § 1824(8)); failure to allow inspection (15 U.S.C. § 1824(9)); and removal of markings identifying a detained horse (15 U.S.C. § 1824(10)).

Penalties for the above violations apply to all those who transport, enter, exhibit, show, sell, auction, or offer for sale or auction horses in violation of the Act, including without limitation, trainers, owners and exhibitors. More than one person can be found to have violated the Act with respect to a single horse. If an HIO has reason to believe that a person has transported a horse in violation of the Act or the Regulations, or violates a disqualification or suspension order, the HIO shall take reasonable steps to investigate the matter, and shall, in the case of a violation, impose penalties in accordance with this Plan.

The HIOs, at their discretion, may impose additional penalties, such as fines or longer suspensions of individuals found in violation of the HPA. Any post-show violation will result in the forfeiture of trophies, prizes, and class or category point awards, in addition to any penalty listed in the above chart. Penalties assessed during the term of this Plan shall not automatically become void upon the termination of this Plan on December 31, 2000.

USDA reserves the right to pursue a federal case against an alleged violator in those instances where the Department believes the purpose of the Act has not been served. Examples of such instances are as follows: the appropriate penalty for a violation of the Act has not been imposed by an HIO; or a case that has gone through the Examination Dispute process and has been returned to the HIO for the imposition of a penalty is subsequently overturned on appeal to the HIO's Hearing Committee. USDA also retains the right to pursue a criminal enforcement action against any person who knowingly violates Section 5 of the Act. (15 USC, Section 1825a)

F. Probation Period This term means the period of time after a suspension is served in which a subsequent violation becomes cumulative according to the above table. Under this Operating Plan, HIOs will allow violators a probation period of not less than one year for all HPA

violations as set forth in Section VII F above. Such probation period shall commence once a suspension has been fully served and any subsequent HPA offense received after the end of the probation period shall be considered a first offense for the offender.

VIII. EXAMINATION DISPUTES

During the 1999 season, it became apparent that the procedures that APHIS had established to resolve examination disputes between DQPs and VMOs were, in practice, cumbersome, ineffective, and caused HIOs to be placed in the anomalous position of being both a proponent and an opponent of the imposition of a given sanction. APHIS has therefore restructured its system for resolving examination disputes, as follows (see Figure 1):

DQPs and VMOs should do their best to resolve all examination disputes as they occur. If a DQP disputes a VMO's determination that there is evidence of a violation of the HPA in connection with a particular horse, and the VMO and DQP cannot resolve the dispute at the event within a reasonable time, then the DQP shall excuse the horse from showing. The VMO(s) shall document the alleged violation, and submit the documentation to the Horse Protection Coordinator.

The DQP shall refer the matter to his or her DQP Coordinator, along with any supporting documentation. If the DQP Coordinator determines that there is no reasonable basis for the DQP's dispute, then the DQP Coordinator shall cause the alleged violator to be assessed at least the minimum sanction for the violation in accordance with this Operating Plan, and afforded the due process guarantees set forth herein. If the DQP Coordinator informs the Horse Protection Coordinator of such a decision within 30 days of the day of the dispute, then the Horse Protection Coordinator shall not pursue any APHIS legal action.

If the DQP Coordinator determines that there is a reasonable basis for the DQP's dispute, then he or she shall have 30 days from the date of the dispute in which to submit the matter to the Horse Protection Coordinator for review. The Horse Protection Coordinator shall review the HIO's documentation, as well as APHIS's own documentation, and determine whether the evidence supports the DQP's findings. If the HP Coordinator decides that the evidence does support the DQP's findings, he or she will either refer the matter to the HIO for the imposition of the appropriate penalty or close the matter as indicated. If the HP Coordinator determines that the evidence presented by the DQP Coordinator is not persuasive, then the HIO shall no longer have the option of imposing its own penalty for the violation under the terms of this Operating Plan, and the HP Coordinator shall take the steps necessary to refer the matter to the Office of General Counsel for further action. The HP Coordinator may consult with veterinary medical organizations or other appropriate experts, as he or she deems appropriate and necessary, where veterinary technical questions arise.

Figure 1

Examination Dispute Process

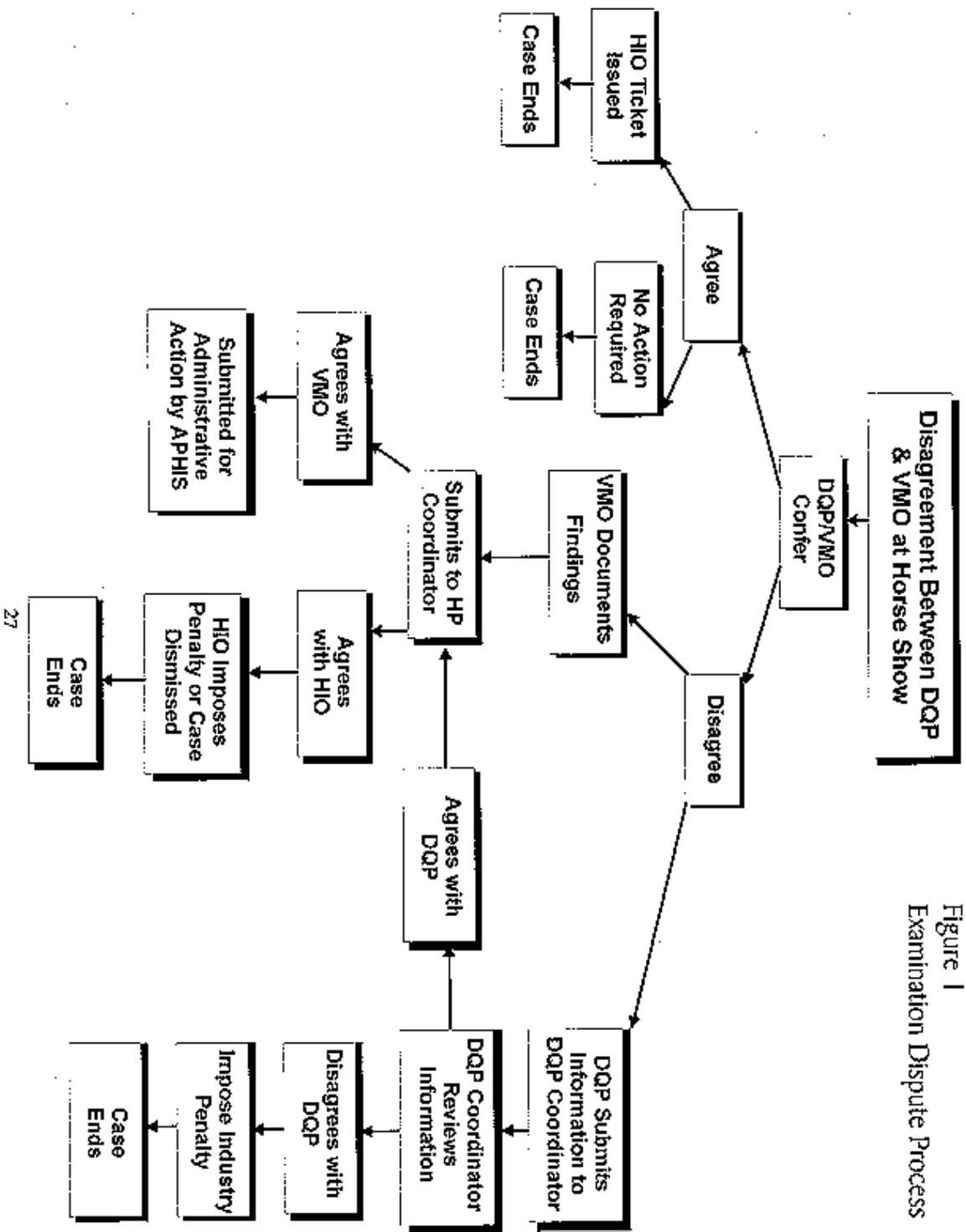


Figure 1
Examination Dispute Process

CONFLICT MANAGEMENT

As stated above, APHIS encourages DQPs and VMOs to do their best to resolve any differences that may arise in the performance of their respective duties under the Act. The procedures for issuance of a Letter of Warning to a DQP are set forth in Section III C. 3. above. An HIO may submit to the Horse Protection Coordinator a written complaint of unsatisfactory performance by a VMO, based on information supplied by or at the request of a DQP. The DQP or the HIO must inform the VMO of the complaint at the end of the particular show, exhibition, sale or auction. The HP Coordinator shall review the complaint and, if necessary, investigate the allegations contained in it. Thereafter, the HP Coordinator shall consult with the Deputy Administrator for Animal Care, who will send a written response to the HIO.

The undersigned have read this Operating Plan, and acknowledge and agree with its provisions.

_____ Heart of America Walking Horse Association	_____ Date
_____ Horse Protection Commission	_____ Date
_____ Humane Instruction Technocracy, Inc.	_____ Date
_____ Kentucky Walking Horse Association	_____ Date
_____ Missouri Fox Trotters Association	_____ Date
_____ National Horse Show Commission	_____ Date
_____ National Walking Horse Association	_____ Date
_____ Spotted Saddle Horse Breeders and Exhibitors Association	_____ Date
_____ Western International Walking Horse Association	_____ Date