



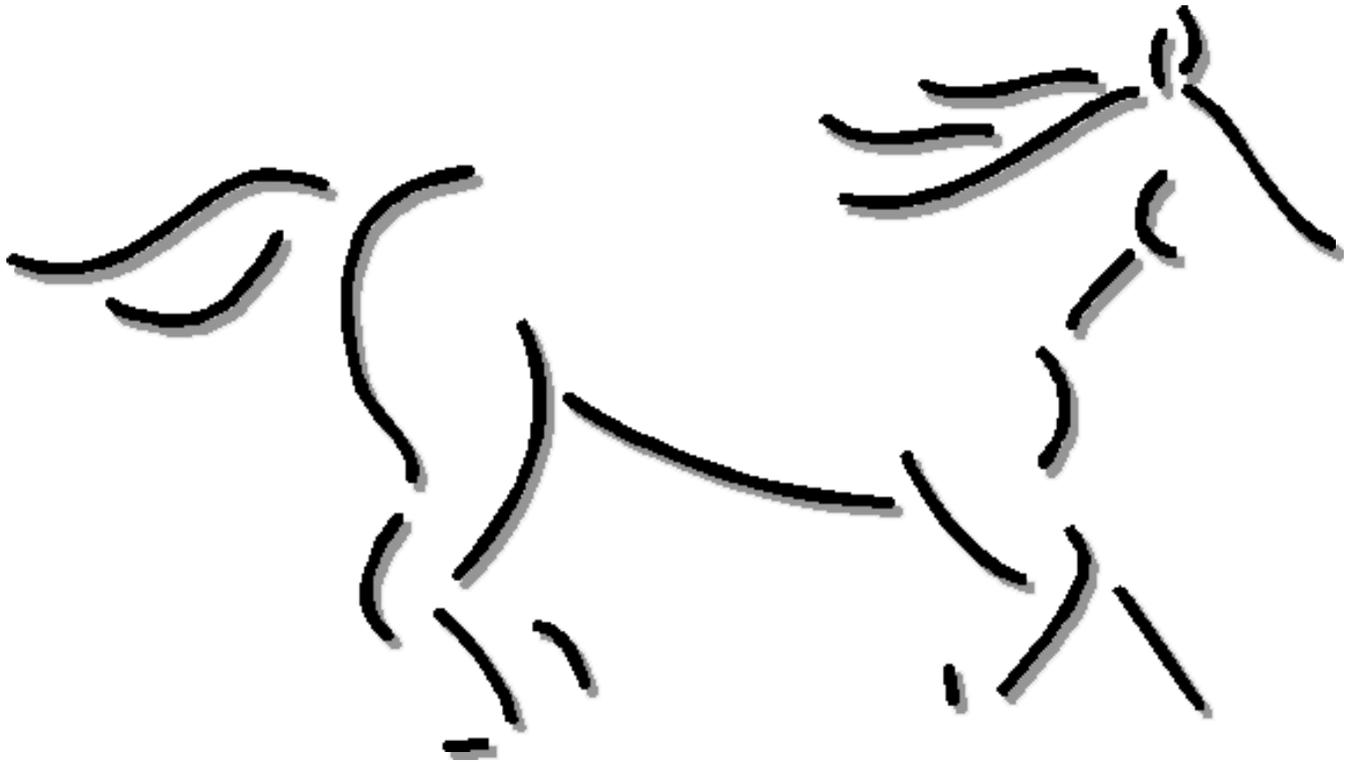
United States
Department of
Agriculture

Animal and
Plant Health
Inspection
Service

APHIS 41-35-060

Horse Protection Enforcement

Fiscal Year 1998



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History of the Horse Protection Act

The Horse Protection Act (HPA) was passed in 1970 (PL 91–540) and amended in 1976 (PL 94–360). Congress declared that the process of soring horses either by chemical or mechanical practices, or combinations thereof, is cruel and inhumane. “Soring” is defined as the application of any chemical or mechanical agent used on any limb of a horse or any practice inflicted upon the horse that can be expected to cause it physical pain or distress when moving. The soring of horses is aimed at producing an exaggerated gait similar to that obtained by conventional training methods but over a shorter period of time. This practice relates primarily to Tennessee Walking Horses and related breeds. People who exhibit sored horses sustain an unfair performance advantage over the people who exhibit nonsored horses.

The HPA prohibits the showing, sale, auction, exhibition, or transport of sored horses. No one, including trainers, riders, owners, or representative agents, can legally enter a horse that has been sored into a show or competitive event. Management of shows, sales, auctions, and exhibitions has statutory responsibility under the Act to prevent unfair competition and must identify sored horses to prevent their exhibition, sale, or use.

Administration of the HPA

The HPA is administered by the U.S. Department of Agriculture (USDA) through the Animal and Plant Health Inspection Service (APHIS). A 1976 amendment to the Act led to the establishment of the Designated Qualified Person (DQP) program, which provides industry-trained inspectors to help APHIS enforce the law. A DQP is a person meeting the requirements set forth in Title 9, Section 11.7, of the Code of Federal Regulations (CFR).

Individuals who have been licensed under this regulatory section as a DQP are usually farriers, trainers, or individuals with a basic knowledge of horses and the equine industry. Additionally, Section 11.7 allows Doctors of Veterinary Medicine who are members of the American Association of Equine Practitioners, who are large-animal practitioners with substantial equine experience, and who are knowledgeable in the area of equine medicine to become licensed as DQP’s without having to participate in formal training.

The DQP program provides one of the primary mechanisms for detecting sored horses. Horse Industry Organizations (HIO’s) maintaining certified DQP programs participate with APHIS in yearly DQP training seminars, refresher clinics, educational forums, and program operations. Regulatory policy, procedure, and methods of inspection are reviewed throughout the year with representatives of the horse industry to enforce and strengthen training programs. APHIS veterinarians provide regulatory instruction and guidance incorporating classroom as well as “hands-on” instruction with horses at training sessions. APHIS builds upon these training programs and strengthens its working relationship with the equine industry through regularly scheduled horse-protection training classes attended by certified HIO’s and industry representatives.

Compliance inspections are conducted in accordance with inspection guidelines, provisions of the HPA, and relevant sections of the CFR. HIO’s regulate internal activities in accordance with the Horse Protection regulations and through their established rulebook standards and regulations. An HIO penalty system, approved by USDA, acts as a deterrent against soring practices in the industry.

Licensed DQP's receive inspection assignments to various shows and sales through their USDA-certified organization. Affiliation by show or sale management with a certified HIO permits show management to fulfill its inspection responsibilities. When managers of a show, sale, auction, or exhibition do not affiliate with a certified HIO to secure inspections by a licensed DQP, they are held accountable, along with the offending individual, for any violations of the HPA. Therefore, while the use of DQP's by show management is not mandatory, managers of most shows or sales utilize DQP's to limit their liability under the HPA if a sore horse is shown or sold. APHIS strives to ensure that the certified HIO's effectively identify soring in horses, impose proper penalties, and assist the agency in the elimination of soring. APHIS officials also monitor as many unaffiliated horse shows as time and resources allow.

During fiscal year (FY) 1998, 6 USDA-certified HIO's provided the industry with 120 licensed DQP's. Participating organizations and the number of DQP's supplied included

National Horse Show Commission (50), Heart of America Walking Horse Association (22), Western International Walking Horse Association (9), Missouri Fox Trotters Horse Breeding Association (11), Spotted Saddle Horse Breeders and Exhibitors Association (5), and Horse Protection Commission (23).

To ensure consistency and thoroughness, certified HIO's honor each other's suspensions, share penalty information, and cooperate on compliance issues. APHIS provides HIO's with changes in agency policy to promote uniformity of methods and procedures. APHIS monitors compliance by reviewing all management, HIO, and DQP reports that are filed with the agency as required under the regulations and conducting audits of records maintained by the certified DQP programs. Similarly, APHIS veterinarians evaluate DQP inspection procedures at selected shows and sales.

In addition to HIO penalties assessed against violators of the HPA, APHIS may also bring administrative or criminal complaints against violators. Administrative complaints may result in civil penalties of not more than \$2,000 for each violation and an order disqualifying the violator from showing or exhibiting horses or otherwise participating in any horse event except as a spectator. Periods of disqualification are determined on a case-by-case basis but can be no less than 1 year for the first violation and no less than 5 years for subsequent violations. However, violators are given the opportunity to enter into a consent agreement in order to reduce the burden of litigation and provide for prompt resolution. Criminal penalties of up to \$3,000 and 1 year in prison can be assessed against individuals who knowingly violate the Act. Each additional violation may result in fines of up to \$5,000 and imprisonment for up to 2 years.

Administrative Initiatives

In FY 1996, APHIS began taking steps to improve the efficiency and effectiveness of the Horse Protection program. These steps resulted in the Horse Protection Strategic Plan that was released at a meeting with all six HIO's in December 1997. The Strategic Plan gave greater responsibility to the HIO's for enforcing the provisions of the HPA. It also defined new roles for the HIO's and USDA. The basis for the success of this plan is a uniform set of rules and sanctions that are used by each HIO. The plan defines a set of penalties that are less stringent than those normally imposed through the USDA administrative law system but more stringent than those traditionally imposed by the HIO's.

The plan became effective on March 1, 1998, and was fully implemented on July 1, 1998. However, while APHIS operated under the provisions of the strategic plan during the 1998 horse show season, only one HIO (the Horse Protection Commission) officially opted to function under the provisions of the plan. To assure enforcement of the HPA, APHIS proceeded with prosecution of violations of the HPA through the administrative law system. APHIS decided to allow any violator of the HPA to accept an HIO suspension as outlined in the strategic plan in lieu of a formal Federal case. There were 55 cases where an HPA violator opted for an HIO penalty rather than be prosecuted through the Federal legal system.

To continue its working relationship with the HIO's, APHIS held meetings in June 1998 and December 1998 to discuss the HIO's concerns about the strategic plan. Based on the information received from these meetings, APHIS worked through the end of FY 1998 to modify the plan for the 1999 show season.

APHIS Evaluation of the DQP Program in FY 1998

During the FY 1998 horse show season, 6 certified HIO's monitored 520 shows, sales, auctions, and exhibitions. Of the 94,370 horses examined by DQP's at those shows, 1,415 were found to be in noncompliance with the HPA (average noncompliance rate, 1.50 percent). DQP's were evaluated by APHIS personnel who attended 52 shows and sales where 17,745 horses were presented for inspection. APHIS attended 10 percent of all shows, sales, auctions, and exhibitions where a certified DQP program provided inspection services. At these shows, APHIS veterinarians observed 19 percent of all horses inspected by the certified DQP programs. The number of horses found in noncompliance in the presence of APHIS inspectors was 543 (average noncompliance rate, 3.06 percent). Of the 76,625 horses examined by DQP's when APHIS was not present, 872 were found to be in noncompliance with the HPA (average noncompliance rate, 1.14 percent).

Additionally, APHIS attended 7 unaffiliated shows where 1,306 horses were entered and only 1 horse was found in noncompliance with the HPA (average noncompliance rate, 0.08 percent). Table 1 provides a detailed breakdown and review of horse industry performance and the results obtained with and without the presence of APHIS inspectors during FY 1998.

Table 1—Horse shows, sales, auctions, and exhibitions monitored in fiscal year 1998

Horse industry organization (HIO)	APHIS present				APHIS not present			
	Shows	Horses examined	Violations found	Noncompliance rate (%)	Shows	Horses examined	Violations found	Noncompliance rate (%)
National Horse Show Commission	37	14,934	460	3.08	345	59,191	765	1.29
Heart of America Walking Horse Assn.	3	458	10	2.18	49	7,679	46	0.6
Western International Walking Horse Assn.	3	474	16	3.38	5	474	4	0.84
Missouri Fox Trotters Horse Breeding Assn.	3	630	10	1.59	24	3,203	0	0
Spotted Saddle Horse Breeders and Exhibitors Assn.	4	1,178	45	3.8	27	4,226	42	0.99
Horse Protection Commission	2	71	2	2.8	18	2,801	15	0.53
Totals	52	17,745	543	3.06	468	77,574	927	1.19
Totals for HIO-affiliated shows	520	94,370	1,415	1.5				
Totals for unaffiliated shows	8	1,306	1	0.08				

Figure 1 illustrates the 3-year trend of the HPA regarding the number of (1) shows/sales inspected by DQP's and/or APHIS veterinarians and (2) horses inspected.

Figure 2 illustrates the noncompliance detection rates at shows and sales by certified HIO's when APHIS inspectors are present and when they are not in attendance. The chart documents an overall higher noncompliance detection rate within the HIO's when APHIS is present at shows or sales. APHIS randomly attends horse shows and sales that have affiliation with certified HIO's. The number of shows attended by APHIS varies from season to season as a result of show logistics, resources, and agency workload.

Figure 3 relates the percentage of horse shows and sales affiliated with the certified HIO's that APHIS attended in FY 1998.

Figure 1
Monitoring Horse Protection
Three-Year Annual Summary

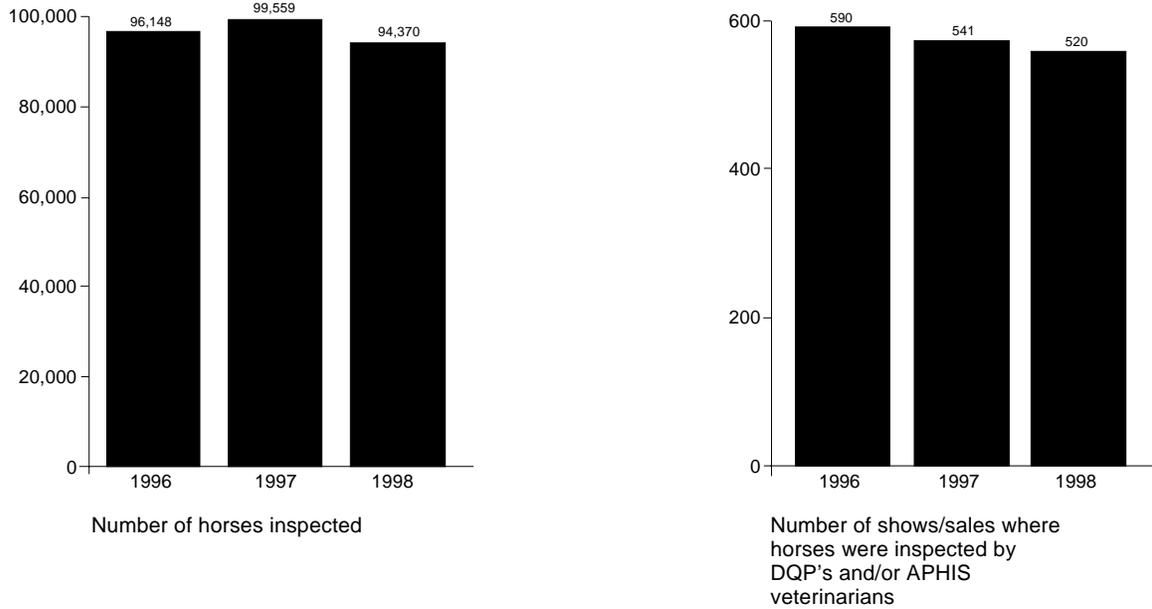


Figure 2
HIO Performance
Noncompliance Rate by HIO's in 1998, by Percentage

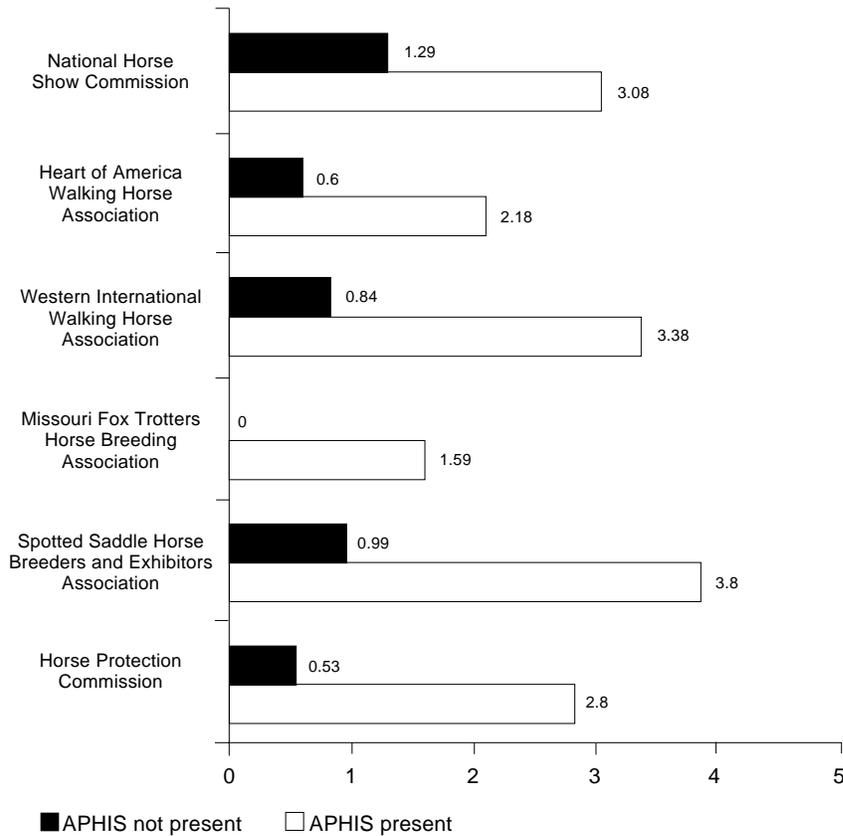
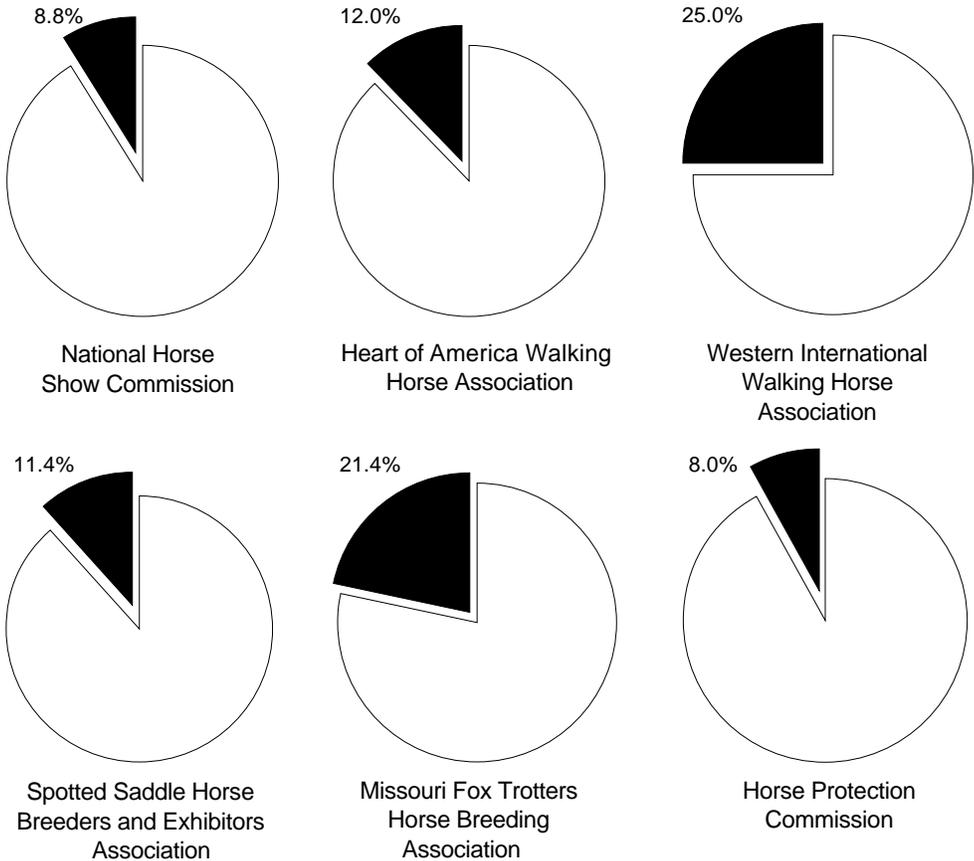


Figure 3
**Percentage of Shows and Sales Attended
by APHIS, by HIO, FY 1998**



FY 1998 Legal Proceedings

During FY 1998, APHIS initiated 30 investigations of alleged violations of the HPA and associated regulations. Sorring accounted for all of the alleged violations. APHIS' Investigative and Enforcement Services staff received 12 of the initiated investigations for further review and potential legal action. USDA's Office of the General Counsel received 14 cases for prosecution. This number includes violations for FY 1998 and previous enforcement years. In addition to initiated investigations, APHIS issued 10 administrative complaints. Administrative law judges issued a total of 20 decisions resulting in 12 disqualifications and civil penalties totaling \$42,000. Because most cases involve several respondents, more than one consent decision is often issued. APHIS issued one official warning for technical violations of the HPA. Legal proceedings are reported in figures 4 and 5.

Legislative and Regulatory Recommendations

USDA does not anticipate the need for additional legislation at this time.

Figure 4
Horse Protection Enforcement
Apparent Violations of the HPA, FY 1996–98

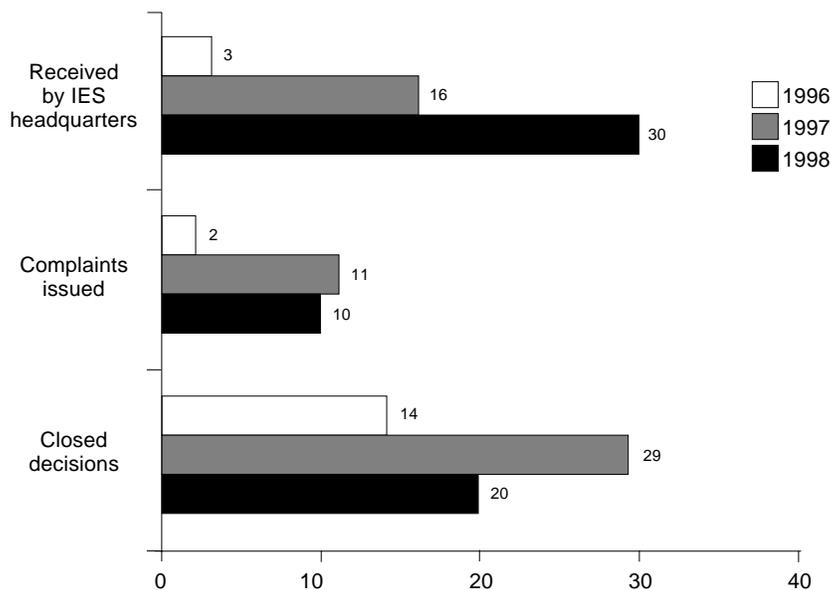
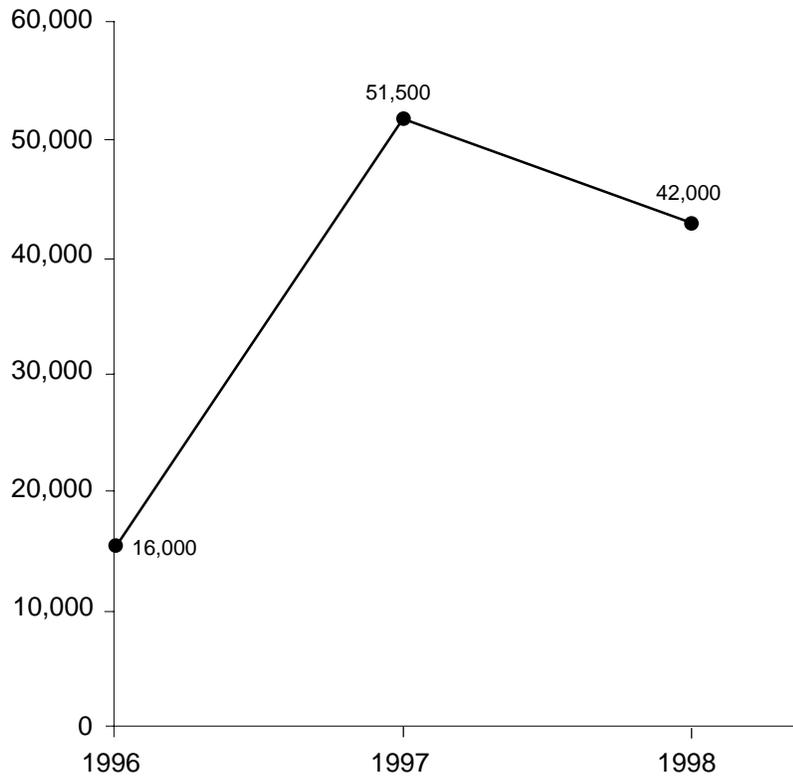
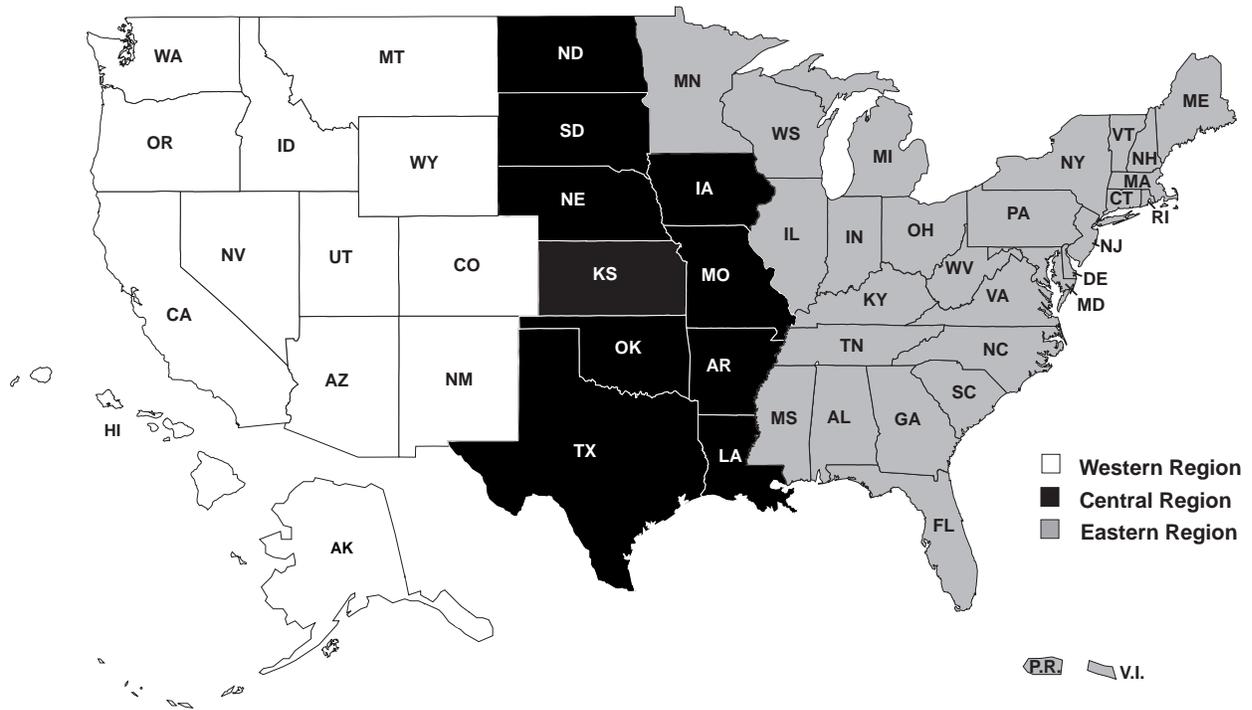


Figure 5
Horse Protection Enforcement
**Dollar Value of Assessed Penalties Under
the HPA, FY 1996–98**



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