

HPA Review Committee Report

The following is a Memo from Dr. Morton S. Silberman, Asst. director of the Robert W. Woodruff Health Sciences Center, Emory University, Atlanta, GA, to All Participants: HPA Review Committee, with a CC to Dr. Carolyn Stull, dated August 1, 1994, RE: Final Report: HPA Review Committee.
memo

Attached is the final version of the Horse Protection Act (HPA) Review Committee report. Attached are letters from those who had additional comments.

Both Dr. Stull and I appreciate your efforts and contributions. I believe that the report reflects the ideas and comments expressed at the meetings, and incorporates most of the comments you all sent me after the draft version of the document was distributed. In my opinion it offers solutions for the major areas of discontent and if implemented by all concerned will improve Act enforcement.

It is my hope that APHIS will continue an open dialogue with the concerned parties and that an advisory committee be maintained for the time being.

Again, thanks for your help and input. If I can be of assistance to any of you, please do not hesitate to call.

Report of the "Horse Protection Act"
Review Committee

This committee served at the request of the animal and Plant Health Inspection Service (APHIS) to review the above Act, and make recommendations to the administrator that will enhance compliance and enforcement.

Membership:

Dr. Morton S. Silberman, Chair, United States Animal Health Association

Dr. Carolyn L. Stull, Co-Chair, University of California

Mr. G. Thomas Blankenship, National Horse Show Commission Association

Mr. Russ Gasper, American Horse Protection, Inc.

Mr. James Hickey, American Horse Council, Inc.

Mr. Randy Luikart, President, American Farriers Association

Dr. L. Everett Macomber, American Veterinary Medical Association

Mr. Rich Meyer, American Humane Association

Dr. Richard D. Mitchell, American Horse Show Association

Dr. J. T. Vaughn, American Association of Equine Practitioners

The Following Individuals Substituted for Some of the Above

Dr. Melvin Myers, American Horse Protection Association, Inc., Mr. Bill Harlin, American Horse Council, Inc., Ms. Marcia Brody, American Veterinary Medicine Association, Dr. Rob Boswell, American Horse Show Association, Dr. Gerald Johnson, American Association of Equine Practitioners.

PREFACE

Twenty-four years after enactment of the Horse protection Act (HPA), the soring of horses continues to be a problem. During its deliberations, the Committee heard from witnesses who described a variety of problems with the implementation of the HPA by the United States Department of Agriculture (USDA) and the horse industry organizations which maintain programs to train, license and supervise Designated Qualified Persons (DQP). DQP inspections were said to be inconsistent and inaccurate, in some cases the product of favoritism toward or discrimination against certain exhibitors. Allegations of DQP conflicts of interest were said to contribute to these problems. Penalties -- those imposed both by USDA and the horse industry organizations -- were not always publicized and enforced. Industry penalties were inadequate to provide any deterrent to soring offenses.

Some DQPs have complained that USDA veterinarians have pressured them to disqualify horses that were not sore, and that USDA inspections are inconsistent and fail to evaluate the entirety of a horse's appearance, behavior and physical condition. Tension between USDA vets and DQPs was a commonly reported problem, arising most often from disagreements as to whether a horse should be called sore.

More generally, some witnesses felt that the horse industry organizations were insufficiently committed to the Act's prohibitions against soring. On the other hand, USDA was criticized for failing to provide clear guidance to the horse industry regarding enforcement issues, and for failing to advise the industry of problems and respond constructively to complaints. USDA's inability to analyze and make use of enforcement data effectively was also noted as a problem.

The Committee believes that these problems have contributed to the persistence of soring despite the prohibitions of the Act, and must be solved if the soring of horses is to be eliminated. This external review was initiated to address the current status of regulation under the Act and explore ways of improving compliance.

DEFINITION

The committee finds the definition of soring as expressed in the HPA, Section 2(3) to be comprehensive and appropriate:

"The term "sore" when used to describe a horse means that--

- A). an irritating or blistering agent has been applied, internally or externally, by a person to any limb of a horse;
- B). any burn, cut, or laceration has been inflicted by a person on any limb of a horse;
- C). 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
- D). 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."

OBJECTIVES

Appendix 1 includes the specific aims and mission of the review committee, details of enforcement issues, and specific concerns relating to Regulatory Enforcement and Animal Care's (REAC) policies which were presented for the committee's review. The three major objectives of the review panel were as follows:

- 1.To make suggestions that will enhance communication among the USDA, the horse industry, Veterinary Medical Officers (VMOs), DQPs and the various horse protection groups.
- 2.Develop a plan that will optimize the limited funds USDA has for enforcing the HPA.
- 3.Advise the horse industry on how to better meet their responsibilities under the HPA.

To meet the above objectives, this report will offer comments and make recommendations to the Administrator with regard to:

- 1.Ways of achieving a healthier interaction among USDA, the industry, and the horse protection groups.
- 2.Roles and responsibilities for USDA/APHIS/REAC.
- 3.Roles and responsibilities for industry.
- 4.Criteria for assessing and detecting soring with consistency, so that DQPs and VMOs are using the same criteria and procedures and interpreting results of examinations consistently.
- 5.Ways of bringing shows without certified DQP's into compliance with the HPA.
- 6.The use of thermography in diagnosing soring.

INTERACTION AND COMMUNICATION BETWEEN VESTED INTERESTS

We feel it is extremely important that the Administrator maintain a continual liaison with the industry and horse protection groups. Collegiality and open discussion will certainly contribute to better relations, improved understanding and greater compliance with the HPA. A committee assembled along the lines of this external review panel is suggested as the functional liaison group. The committee should also consider additional members from Horse Industry Organizations (HIO) with DQP certifying programs, and USDA staff. It would report directly to the Administrator.

This committee should meet with the Administrator at least once each calendar year. If this plan is accepted for implementation, it would be beneficial if meetings were held quarterly during the first two years. The Administrator or his designee would be an ex-officio member of the committee.

The committee would assist the Administrator in evaluating successes and/or failures of the program and, if wishes, offer additional recommendations to enhance compliance.
RESPONSIBILITIES and ROLES of the USDA

The USDA must maintain its leadership and responsibility in protecting against soring. By law, it is the backbone of any meaningful HPA program and cannot relinquish its responsibilities in enforcement through monitoring DQP performance and identifying and charging violations of the HPA. While this committee recognizes limitations the Agency faces due to inadequate funding, we feel USDA can earn respect for a credible enforcement effort if it utilizes its resources efficiently in conjunction with augmented inspection activity by the horse industry.

TRAINING

USDA must be responsible in evaluating the HIOs training and certifying programs to meet the mandate of the HPA. It must also coordinate with HIOs to ensure DQPs and VMOs receive consistent, uniform information. The USDA should encourage the utilization of outside equine experts to assist in the training and certifying of VMOs and DQPs, with such training incorporating generally accepted principles. It is of utmost importance that the ethical responsibilities of the VMO/DQP be emphasized in all training. The VMOs and DQPs must have basic respect and understanding of one another and their responsibilities. The inspectors must have a working knowledge of the Act and be taught to evaluate horses for soring and issue regulatory reports in a standardized manner, if credibility is to be gained. They should address shows in a similar fashion. this training should embrace the proper completion of records and the importance of accuracy and timely reports as required by USDA.

VMOs must be encouraged to assume the role of educators in the field when dealing with DQPs. On occasion, a VMO may differ with a DQP's evaluation of a horse, however, the VMOs decision will be controlling. The reasons for the differing evaluations must be reviewed thoroughly. this situation should be seized upon as an opportunity to educate and train the DQP and not as a chance to demean. Any education process should be done at the completion of the show in a manner to improve trust and cooperation. Inspections at a show should not be used as a training clinic for DQPs and VMOs. Differences of opinion openly

expressed or shown at a show only create a more hostile atmosphere.

QUALITY ASSURANCE

The USDA would have the responsibility for conducting and maintaining a meaningful outcomes program consisting of a consortium of USDA Quality Assurance activities and DQP reports. The outcomes program must be designed for statistical application. It is our contention that outcomes, if done well, will delineate the effectiveness of DQP inspection programs, as well as, USDA's role in eliminating the practice of soring in shows/sales without certified DQPs.

In light of budget constraints we urge that the Agency forge a new relationship with the horse industry to achieve the goals of the HPA. Industry representatives have expressed a willingness to commit significant new resources to expanding DQP inspection activities. USDA must assume principal responsibility for assuring the leadership of this joint inspection effort.

The agency must:

- 1). Continue random inspections of shows and sales to ensure adequate inspection performance by DQPs. To reiterate, USDA cannot abdicate its responsibility as prime regulator and enforcer. Emphasis of the USDA should be in the role of Quality Assurance by monitoring the DQP programs to ensure compliance and accountability
- 2). Scrutinize the results of DQP inspections and aggressively target chronic offenders.
- 3). Maintain a master list of suspension. this list of violators should be disseminated to the industry and made available to the public in a timely manner at weekly intervals or less. the list should be published in equine trade publications.
- 4). Should a DQP or VMO be judged unethical or incompetent, USDA and/or HIO must exert its power to suspend the individual. All concerned parties must be notified immediately of the suspension. The suspended DQP or VMO may request a hearing by APHIS.

SHOWS WITHOUT CERTIFIED DQPs

The committee is aware of an increase in the number of shows which do not retain certified DQPs. There is currently no efficient mechanism for HPA enforcement of these shows.

USDA must assume lead responsibility for regulating shows without certified DQPs. It is our recommendation that the cost of inspection be borne by the organizers of these events. USDA should devise a fee schedule to compensate for the VMO's services, in a system similar to that used to compensate the government for inspection of poultry plants.

The committee recommends that horse organizations should be encouraged to educate their membership on the HPA and consider implementing a DQP training program. This will provide a basis for expansion of the program, if needed to enforce the HPA in other breeds and disciplines.

RESPONSIBILITIES and ROLES of the HORSE INDUSTRY

Industry must accept a major responsibility for the detection of sores

horses. It must develop sanctions that discourage this practice. To meet its obligations in preventing soring, industry should:

1. Adopt a penalty system for violators that is at a minimum equivalent to USDA's violator penalties.
2. Developing a method for assigning DQPs which protects against conflicts-of-interests. Every effort must be made to place DQPs in situations where they are least likely to be compromised. The industry should consider dividing the country into zones so that a DQP could be assigned to operate in a zone or zones in which he/she has no residence or business interests.
3. The HIO should attempt to put two DQPs at every show.

THE USDA CHECK-LIST for EXAMINING HORSES for SORING

The committee found the check-list (Appendix 2) to be a useful instrument in the soring examination. We recommend that the names of owners and trainers be added to the document. The various items on the list should be given quantitative values. It is our recommendation that USDA consider the following:

1. Any deficiency found under Technical requirements (Category T or the Scar Rule) would call for immediate disqualification. these items would therefore receive no numerical value,
2. Each A category (A1-A6) would be assigned a maximum numerical value of 5 points each. Any horse that receives a 5 in a single A category is subject to disqualification on this alone.
3. Each P category items (P1 - P6) would be given a maximum numerical value of 10 points each. Any horse receiving the maximum score of 10 in a single P category is subject to disqualification on this alone.
4. Any horse receiving a total score of 75 or less would be automatically disqualified.

To further enhance the effectiveness of the check-list each category should be described to its full extent. This will help standardize inspections. We further recommend that USDA form a committee of veterinary equine specialists to write and illustrate these descriptions.

THE ROLE of THERMOGRAPHY in DETECTING SORING

The committee thoroughly reviewed the status of thermography as a diagnostic tool in equine medicine. In addition to hearing from representatives of the thermography industry, we sought the opinions of a veterinary researcher with outstanding credentials for evaluating this methodology.

We believe that thermography can be a useful tool, in the hands of a well-trained professional, for assisting in a diagnosis of soring. this is not a tool for the mass examination of horses for soring. results obtained are easily flawed if not carried out by a well-trained professional under exacting conditions. False positives and negatives are common. we strongly recommend that anyone using the technique be certified in its use. This can be done at one of the veterinary colleges where this expertise is available. another alternative is to utilize

trained professionals who are proficient in the use of thermography and the interpretation of its results rather than training USDA staff.

The committee recommends that the USDA use funds and expertise in implementing other recommendations in this report rather than implementing a program on thermography. If this technology is to be used, we recommend that USDA employ the services of experts to draw up standards for its use. the USDA should continue to critically assess the application, interpretations and economic impact of thermography in the detection of sore horses.

CONCLUSION

We recommend that the Secretary of Agriculture make every effort to seek additional funding for the enforcement and regulation of the HPA. It is our contention that serious consideration of this report, with the implementation of the suggestions made, will greatly improve enforcement of the HPA. The ultimate solution will require additional funding.

It is our hope that the work of this committee will be given serious consideration. The effort put forth by all parties involved was positive, and we feel productive. Only USDA can make successful HPA enforcement a reality.

The committee respectfully requests that the Administrator of APHIS respond to this report and indicate the actions that he plans to take in response to these recommendations.

Respectfully submitted:

M. S. Silberman, D.V.M., Chair

Carolyn L. Stull, PhD., Co-Chair

July 1, 1994

This report has been sent to all members for final comments. these comments will be attached to the report if received by July 1, 1994.

APPENDIX 1

A. Aims and Mission of the External Review Committee:

Committee is to review APHIS activities, procedures and policies, and recommend long- and short-term solutions, to:

- 1.Enhance monitoring practices for the DQP program;
- 2.Improve compliance and enforcement;
- 3.Define and identify a sore horse;
- 4.Evaluate thermography as a useful and cost-effective tool in HPA enforcement;

5. Determine how effective APHIS has been in its training and educational roles; and
6. Develop cooperative and effective relationships between USDA, affected industries and other interested parties.

B. Field Enforcement Issues

The following focus primarily on the USDA/DQP working relationship in the field:

1. Insure consistent and accurate inspections from show to show and year to year; eliminate favoritism and discrimination by DQPs.
2. Insure enforcement of the scar rule by DQPs; maintain intent and interpretation as set by HPA/USDA.
3. Improve courtesy and professionalism on the part of DQPs in their dealings with VMOs, and well as by outside personnel toward both DQPs and VMOs.
4. Improve policing by DQPs and VMOs of areas outside the inspection station -- warmup areas, barns, working stations (farriers), etc.
5. Better inspection of warmup areas and control on contents of tack boxes.
6. Eliminate DQP conflicts of interest -- business activities with clients, potential employers.
7. Insure that DQPs are adequately equipped for inspection obligations (e.g., scales, etc.).
8. Improve show management compliance with responsibilities for adequate inspection facilities at show grounds.
9. Develop a method to insure that USDA suspensions are routinely enforced, and that the suspensions of other HIOs are honored, by show management and DQP programs.
10. Improve the flow of information, requests and problems so that problems can be resolved in the field.

C. REAC Policy Concern

1. Definition of a sore horse; eliminating discrepancies between industry and USDA over definition and interpretation.
2. Improving HIO penalty systems so that they are a deterrent to soring.
3. Developing a mechanism to build an enhance trust between USDA and HIOs; develop more uniformity through better education, develop understanding and professionalism.
4. Examine other aspects of enforcement. Consider adjunct diagnostic tools such as thermography; how to implement them, and how to insure acceptance in the legal arena.

If you wish to read the comment letters from members of the Review Committee, click on the link to the one you want to read. Please be aware that these are very large image files and will take a while to load.

Dr. J. T. Vaughan

Russell J. Gaspar

Richard J. Meyer

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[Click here to view a copy of the Examination Checklist.](#)