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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 11

[Docket No. APHIS-2022-0004]

RIN 0579-AE70

Horse Protection Amendments; Extension of Postponement of Regulations

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule; extension of postponement of regulations.

SUMMARY: On May 8, 2024, we published a final rule amending the horse protection regulations. The final rule was initially scheduled to go into effect on February 1, 2025, except for § 11.19, which was effective on June 7, 2024. On January 28, 2025, we published a postponement of the effective date of the remaining provisions from February 1, 2025, to 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. On January 28, 2026, based on developments following the issuance of the March 21, 2025, delay of effective date, we published a document further delaying the effective date of the final rule to December 31, 2026. On November 13, 2026, we published a proposed rule to remove parts of the 2024 Horse Protection final rule that were vacated by Court order from the regulations, as well as proposing to withdraw the non-vacated parts and update the regulations. As a consequence, in this document, we are issuing an extension of the postponement of the effective date of the final rule to December 31, 2027.

DATES: 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), further delayed until February 1, 2026 (90 FR 13273), and further delayed until December 31, 2026 (91 FR 3633), are further delayed until December 31, 2027.

FOR FURTHER INFORMATION CONTACT: Martha Keller, DVM, Director of the Center for Animal Welfare, Animal Care, 2150 Centre Ave. Bldg. B, Mailstop 3W11, Fort Collins, CO 80526; (970) 821-5734.

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 carry out the purposes of the Act, which include eliminating the cruel practice of soring horses and promoting fair competition.

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 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, which delayed the effective date of sections 11.1 through 11.18 of that rule 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' statutory

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[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] *Tennessee Walking Horse Nat'l Celebration Ass'n,* v. *U.S. Dep't of Agric.,* 2:24-cv-00143 (N.D. Tex.).

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.

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 issued its decision.[4] The Court held that the prohibition on the use of action devices, pads, and substances in the May 2024 Horse Protection final rule had exceeded APHIS' statutory authority; that a "Dermatologic Conditions Indicative of Soring" provision intended to replace the "scar rule" 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) did not exceed the USDA's statutory authority, was not arbitrary and capricious, and did not violate the Regulatory Flexibility Act.

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, APHIS explained that postponement would allow it the necessary time to identify appropriate next steps regarding the 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

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[4] 765 F. Supp. 3d 534.

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

date, would be untenable for APHIS and disruptive to the industry. We explained that we were taking the action pursuant to 5 U.S.C. 553(b)(B), 553(d)(1) and 553(d)(3).

We solicited comments concerning the length of the postponement for 60 days ending May 20, 2025. We received 6,124 submissions indicative of 93,734 total comments in response to our request. The comments were from members of Congress; State agricultural agencies and farm bureaus; HIOs; equine veterinarians and veterinary associations; animal welfare advocacy organizations; cattle grower associations; horse owners, trainers, and exhibitors; small business owners; and other interested persons.

After the close of the comment period, on June 30, 2025, a new complaint was filed in the U.S. District for the Northern District of Texas[6] challenging aspects of the current regulations and associated guidance. Specifically, the complaint challenged USDA's "No-Showback Rule," (i.e., a policy prohibiting noncompliant horses from participating in any subsequent class of the same show), the scar rule, and the adequacy of the due process protections when management disqualifies a horse based on USDA inspection findings. Plaintiffs sought entry of a preliminary injunction to prevent USDA from enforcing these rules and policies.

On August 19, 2025, the Court granted plaintiffs' motion for a preliminary injunction.[7] In its decision, the Court determined that the No-Showback Rule likely exceeds the USDA's statutory authority because the HPA requires disqualification only when a horse is found sore at the time of inspection. The Court likewise found that the existing scar rule likely goes beyond the scope of the Act by allowing disqualification based solely on indicators of past soring without evidence of current soreness. Additionally, the Court concluded that the inspection procedures in the current regulations likely fail to provide constitutionally required

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[6] *Gould* v. *U. S. Dep't of Agric.,* 2:25-cv-00147 (N.D. Tex.).

[7] On August 28, 2026, the Court granted summary judgment in Plaintiffs' favor, adopting the reasoning and conclusions from its Preliminary Injunction Order, finding that the No-Showback Rule and Scar Rule exceeds the scope of USDA's statutory authority, and the USDA's horse disqualification process fails to provide adequate due process. *Gould v. U.S. Dep't of Agric.,* No. 2:25-CV-147-Z, 2026 WL 2547346 (N.D. Tex. Aug. 28, 2026).

pre-deprivation review because they do not provide the opportunity for a hearing, or for anyone to contest a USDA inspector's decision, prior to a horse being disqualified from an event. Due to the then-pending lawsuit and the uncertainty of how it would affect the existing regulations, APHIS published in the *Federal Register* (91 FR 3633-3635, Docket No. APHIS-2022-0004)[8] a document further delaying the effective date of the non-vacated portions of the 2024 Horse Protection final rule, to December 31, 2026.

Additionally, in a report (H.R. Rep. 118-583) accompanying the FY 2026 Agriculture Appropriations Act, the House Appropriations Committee expressed concern regarding the 2024 Horse Protection final rule, stating the following: "The Committee has consistently recognized the need for APHIS and the Tennessee Walking Horse industry to communicate and work together to eliminate the soring of horses. The Committee is concerned that the final rule, Horse Protection Amendments, published May 8, 2024 (89 FR 39194), ignores the strong concerns of and comments submitted by industry experts, is based on out-of-date and unreliable data, and exceeds the agency's legal authority under the Horse Protection Act. Further, the cost-benefit analysis accompanying the rule relies on data that is over a decade old and severely underestimates the impact the rule will have on the 20,000 jobs supported by the Tennessee Walking Horse industry. The Committee reiterates that an objective, science-based inspection system would provide assurance for both accuracy and fairness. Therefore, the Committee directs APHIS to withdraw the final rule and work with the industry to eliminate soring using objective, science-based protocols." (H.R. Rep. 118-583, at 37.) In our January 28, 2026, document announcing the further delay of effective date, we stated that postponement would also allow APHIS to complete its ongoing review of the Committee's report.

Consistent with the January 2025 U.S. District Court order vacating the 2024 Horse Protection final rule's prohibitions on action devices, pads, and substances on TWHs and racking

[8] To view the further delay of effective date, go to *https://www.regulations.gov/document/APHIS-2022-0004-14923*.

horses, the DCIS provision, and APHIS' re-inspection and appeals procedures, on November 13, 2026, APHIS published in the *Federal Register* (91 FR 73380-73421; Docket No. APHIS-2026-0067)[9] a proposed rule to remove §§ 11.5, 11.6(c), 11.7, and 11.8(h) of the 2024 Horse Protection final rule from the regulations, as well as proposing to withdraw the remaining parts of the 2024 Horse Protection final rule that were not vacated and to update the current Part 11 regulations to reflect expert recommendations and Congressional direction. We stated in that document that we are soliciting comments on the proposed rule for 30 days, ending on December 14, 2026.

As stated earlier in this document, the 2024 Horse Protection final rule is scheduled to go into effect on December 31, 2026. Because the length of time between the end of the comment period of the November 13, 2026, proposed rule and the effective date of the 2024 Horse Protection final rule does not provide the Agency with enough time to review comments received on the proposed rule, any final rule following the November 13, 2026, proposed rule would be issued after the effective date of the 2024 Horse Protection final rule. Allowing the partially vacated 2024 Horse Protection final rule to go into effect while the Agency is reviewing comments and preparing a final rule following the November 13, 2026, proposed rule, that, among other provisions, proposed withdrawal of the 2024 Horse Protection final rule, would almost certainly have disruptive consequences and result in "regulatory whiplash" that could prove costly to the regulated industry.

For these reasons, we are extending the postponement of effective date of the 2024 Horse Protection final rule to December 31, 2027. Further postponing the effective date will allow APHIS the necessary time to review comments received on the November 13, 2026, proposed rule and, if appropriate, subsequently issue a final rule.

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[9] To view the proposed rule, go to https://www.regulations.gov/document/APHIS-2026-0067-0001.

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. Additionally, APHIS has determined that it would be impracticable and contrary to the public interest to provide 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, 2027, because there is not sufficient time to conduct an additional notice-and-comment process between now and December 31, 2026. Moreover, we are soliciting notice-and-comment until December 14, 2026 on the November 13, 2026, proposed rule to withdraw the non-vacated provisions and update the regulations.

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 18th day of November 2026 .

Dudley Hoskins

Under Secretary for Marketing and Regulatory Programs.

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