

presently deals with enforcement, is amended to require horse industry organizations and associations to report certain information to the Department.

Prior amendments containing the "Definitions" section of the regulations (9 CFR 11.1) and a new section entitled "Certification and Licensing of Designated Qualified Persons" (DQP's) (9 CFR 11.7) were published in the Federal Register on January 5, 1979 (44 FR 1558-1566). This amendment contains the remainder of the regulations which were proposed in the Federal Register dated April 26, 1978 (43 FR 18314-18331), as final rulemaking. It also contains minor changes to the Designated Qualified Persons provisions (§ 11.7) for purposes of clarification.

The Act provides that the management of any horse show, horse exhibition, or horse sale or auction shall disqualify or prohibit the showing, sale, auction, or exhibition of any horse which is sore if the management has been notified by a DQP or by the Secretary (Department representatives) that such horse is sore. Section 11.7(d)(1)(ix), (d)(3)(ii)(B), (d)(4), and (d)(7)(iv) of the final regulations published on January 5, 1979, regarding designated qualified persons contains language which reflects that horses found to be sore by DQP's would be or could be, disqualified or excused at horse shows, exhibitions, sales or auctions, by such DQP's. Although this could be the case if management decides to delegate to the DQP the authority to disqualify or excuse horses, this is still primarily the function of management according to the Act. Therefore, in order to prevent misunderstanding and for the purpose of clarification, these sections are amended herein.

The opening paragraph of § 11.7(d)(1) which speaks of the disqualification or excusing of horses is also amended for clarification and to avoid any confusion by the addition of, "from being shown, sold, auctioned, or exhibited," after the words "or horse auction," at the end of the paragraph.

Section 11.7(d)(1)(ix) is amended by deleting the words "was or," in the fourth line, after the words "such horse" and before the words "should be excused." This paragraph would then read: "The name or names of the show manager or other management representative notified by the DQP that such horse should be excused or disqualified and whether or not such manager or management representative excused or disqualified such horse."

Section 11.7(d)(3)(ii)(B) is amended by deleting the words "by the DQP," at the

end of the sentence. This paragraph would then read: "The name and address of the owner, trainer, exhibitor, or other person having custody of or responsibility for the care of each such horse disqualified or excused."

Section 11.7(d)(4) is amended by deleting the words "by one of said organization or association DQP's at any horse show, horse exhibition, horse sale, or horse auction" after the words "any reason" in the ninth line of the sentence. This paragraph would then read: "Each horse industry organization or association having a Department certified DQP program shall provide, by certified mail if personal service is not possible, to the trainer and owner of each horse allegedly found in violation of the Act or its regulations or otherwise disqualified or excused for any reason, the following information:"

Section 11.7(d)(7)(iv) is amended to read, "The DQP shall immediately inform management of each case regarding any horse which, in his opinion, is in violation of the Act or regulations."

Discussion of Comments

Prohibitions Concerning Exhibitors

All 47 of the comments received regarding the proposed regulations referred to one or more paragraphs of § 11.2, "Prohibitions concerning exhibitors." Five of the comments indicated that the Department should either allow fewer devices or should ban all devices except protective boots. It is recognized that such prohibition would make enforcement of the Act much easier, but the Department feels that such drastic action is unwarranted at this time. However, if the horse industry makes no effort to establish a workable self-regulatory program for the elimination of sore horses, or if such a program is established but does not succeed in eliminating the sore horse problem within a reasonable length of time, the Department will give serious consideration to the prohibition of all action devices and pads.

The majority of the comments referring to proposed § 11.2 were concerned with paragraph (b), "Specific prohibitions." For that reason, the items listed under § 11.2(b) will be addressed separately by number. Items (1) and (2) concern the weights of various devices, such as beads, rollers, and chains, which are used as action devices. Three comments received indicated that all weights should be standardized and should apply to all types of devices. It is recognized that such standardization would result in more uniformity and

ease of enforcement. However, this would not allow for the great diversity in the types and construction of action devices. One device may inflict little or no pain or trauma to a horse, while another device of equal weight may have the opposite effect. The Department must, therefore, reject the concept of standardized weights for all the devices listed in § 11.2(b) (1) and (2). Weight limitations will continue to be based upon the horse's reaction to devices of different weights. Another comment indicated that large horses should be allowed to carry action devices in excess of 14 ounces, since a large horse can carry more weight than a small horse. The Department agrees that a large horse can probably carry a heavier weight load than a small horse; however, this proposition overlooks the fact that larger animals are not more immune to pain than smaller ones. Each is sensitive to punishment directed to the coronary area of the foot, and a large horse may well be more sensitive to pain than a small horse, or vice versa.

Item 3 received no comments and will remain as proposed. Four comments indicated that the prohibition of chains with drop links in item 4 would prohibit the use of kicking and pawing chains when the horse was in its stable or trailer. This has been changed to indicate that chains with drop links are prohibited on any horse that is being ridden, worked on a lead, or otherwise worked out or moved about. Such clarification will not prohibit the use of pawing and kicking chains while the horse is stabled or tied in a trailer.

Several comments indicated that the restriction prohibiting more than one action device on each limb of a horse in item 5 would hamper horses such as hunters and jumpers which normally wear combinations of bell boots and fixed protective devices. The Department will retain the limitation of one action device on each limb of a horse, since by virtue of the definition of "action device," fixed protective devices which are worn with action devices would not ordinarily be prohibited.

Items 6 and 7 received no comments and will remain as proposed.

Three comments were concerned with items 8 and 9 which would limit the weight used on yearling horses' feet and the height of pads to elevate or change the angle of the hoof. One comment suggested that all types of devices should be prohibited on yearling horses, including weights, and pads, as well as devices that change the angle of the hoof. The Department has no reason to take such action at this time; however, if the practice of soring continues, the