

# Annual Equine Welfare Report 2014

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This report is intended to aggregate all available data that is pertinent for assessing the welfare of US equines. It will be updated annually. Since earlier analysis has shown that equine welfare is tightly correlated with the price and availability of hay, this report contains extensive data on hay production, cost and related land use and land use policy.

The report also contains historical data on the rates of equine abuse and neglect for those few states that keep such records. Luckily, these states are distributed across the country, providing something of an insight into regional trends.

Finally, the report contains statistics on the number of US equines registered and sent to slaughter, as well as recent legal and legislative actions related to equine welfare.

## **Executive Summary**

The period since 2008 has been one of extreme pressure on horse ownership. The “great recession”, which began in 2008, turns out to be only one of many concurrent pressures that have hit horse keepers. These forces are impacting not only equine welfare, but the entire equine industry as well.

The biggest pressure on horse owners has been determined in an [earlier study](#) to be the often severe increases in the price of hay in many regions. These prices have been driven by long term land use changes modulated by the short term impact of weather.

New foal registrations were found to have been in broad and steep decline across all breeds since approximately 2005, almost certainly because of these same pressures on horse owners.

This report finds some signs of improvement in the overall environment in 2013, including reduced neglect rates, increased hay production and declining slaughter. However, it must be stated that these trends are tentative and at best nascent in nature.

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## State Records of Abuse and Neglect Cases

At present, data is available for the annual number of cases of abuse and neglect from only five states; Colorado, Georgia, Idaho, Illinois and Oregon. A sixth state, Maine, collected data between 2003 and 2011. Every state except Oregon reported a spike in neglect in 2008. An [earlier study](#) found that this spike coincided with not only the beginning of the recession, but also with drought driven increases in hay costs as well as an enormous spike in fuel prices.

In recent years there has been a general decline in abuse and neglect in most of the states that keep records, with the exception of Colorado. Colorado has shown a second spike in the number of cases of abuse and neglect that began in 2011 and continued to increase through 2013.

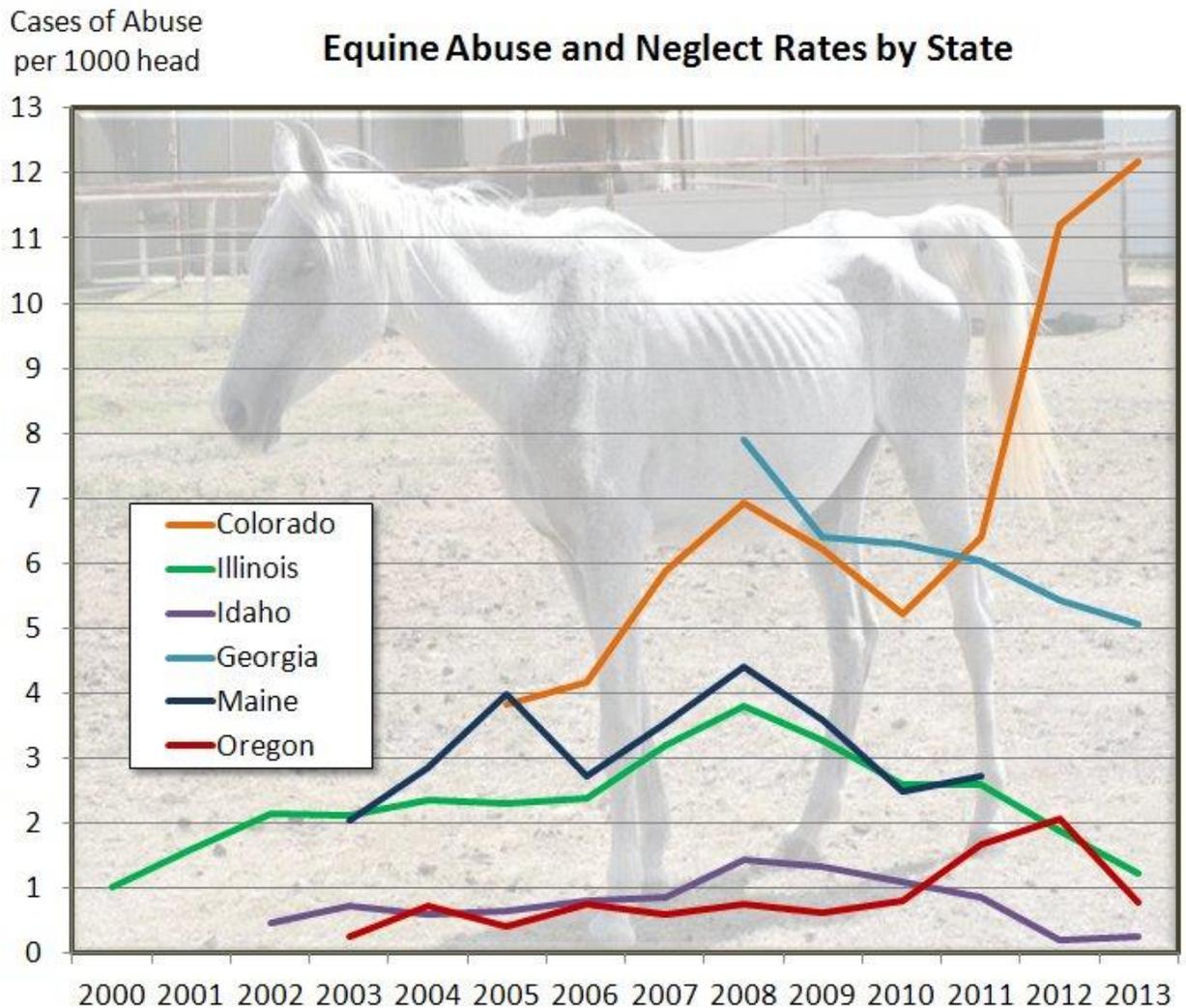
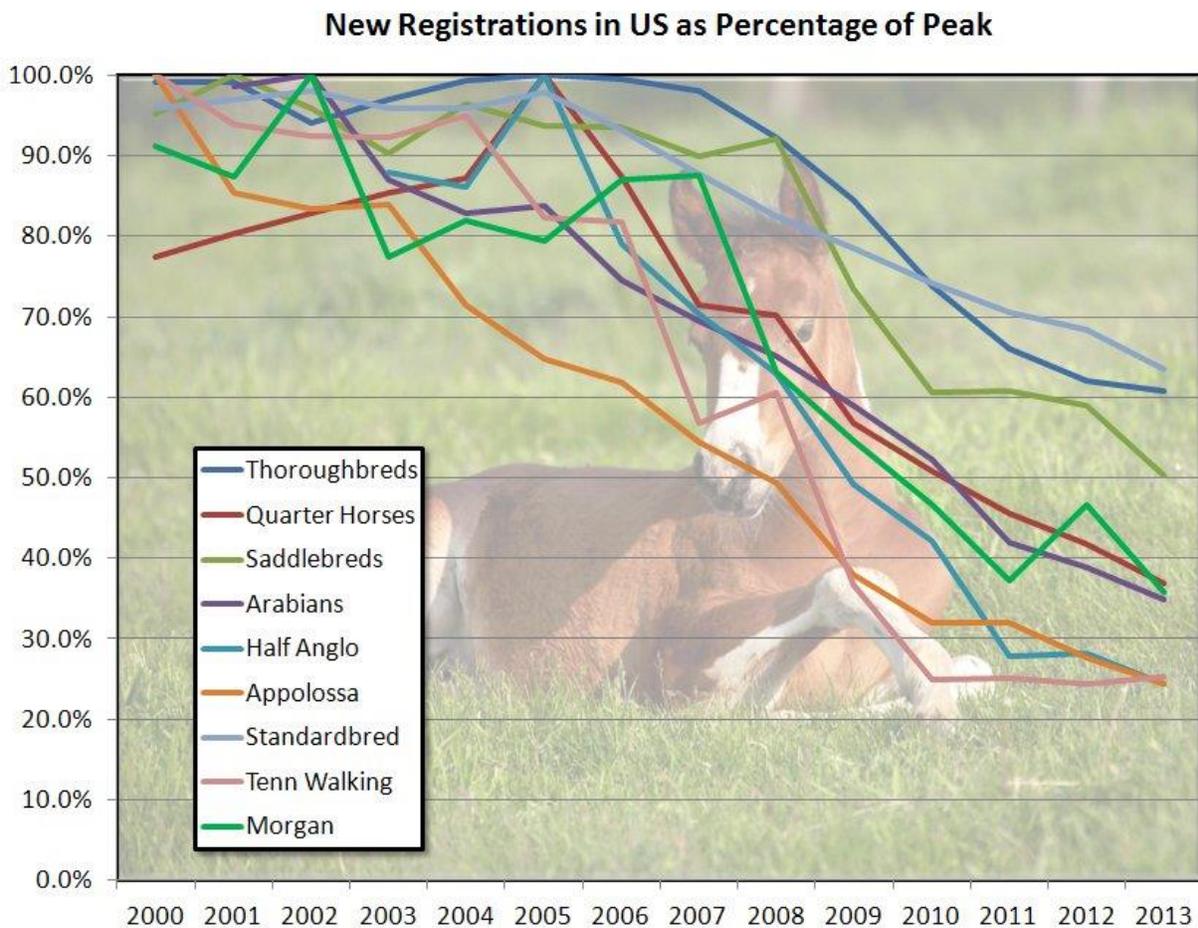


Figure 1 - Equine abuse and neglect cases by state

## Foal Registrations

The best available data that sheds light on the number of horses being foaled each year is the number of horses registered with the major breed registries. These numbers do not capture all or even most births, but they do offer a trend line.

EWA obtained historical registration data from many of the largest breed registries and it shows a steep and continuing decline in the number of foals being registered since about 2005. This decline extends across all breeds, with reductions between 37% and 75% from their peak numbers.



**Figure 2 - New registrations, by breed, as a percentage of their peaks**

Given the wide differences between the total population of breeds like the Quarter Horse and more specialty breeds like the Standardbred, the trends in registrations can best be compared by normalizing the graphs to the percentage of each breed's peak year as in Figure 2. The decline is present across all breeds, with the racing breeds being less severely impacted than the show/pleasure breeds.



**Figure 3 - Total new registrations in US for major breeds**

Figure 3 shows the total decline of all breeds for which data was received. Given the heavy dominance of the Quarter Horses and Thoroughbreds, this is probably not much less than the total of all breeds.

It is important to realize that the actual population of these breeds has not declined to the same extent as the new registrations, as horses typically live to well over 25 years of age.

For example, the American Quarter Horse Association US estimated the 2013 US population of registered Quarter Horses to be 2,533,734, down only 10.4% from their estimate of 2,828,158 a decade earlier.

The most immediate impact from a decline in breeding has been on the registries, since they make a significant part of their revenue from new registrations. The impact on slaughter is somewhat more nuanced.

The median age of horses going to slaughter is between three and five years. Therefore a decline in foaling does not significantly diminish the number of horses available for slaughter until about four years after the decline occurred, and the pool of available horses will continue to lag the foaling curve going forward. So in 2013, for example, the volume of horses available for slaughter would have been roughly reflecting the decreasing foal crop around 2009.

Additionally, when the horse industry is shrinking breeding stock is also being liquidated to slaughter. This reduction in the brood mares population further reduces foal crops in subsequent years.

Given these two factors, we can expect slaughter buyers to have fewer and fewer horses available in their age/price range and so we predict a continuing of the 2013 decline in slaughter for at least the next few years.

### **How many horses are there in the US?**

This is a question for which there is no exact data available. The US census records only horses on working ranches and farms with an annual income of over \$1,000. In 2012 it recorded 3,621,348 horses, a decrease of 10.1% from 2007.

In 2004-2005, the American Horse Council commissioned Deloitte Consulting to perform a survey concerning the financial impact of the horse industry. As part of that survey, Deloitte estimated that there were approximately 9.2 million horses in the US. All available data considered, it is likely that the population has declined by between 10% and 14% since that estimate. This would put the US equine population between 7.9 and 8.3 million horses.

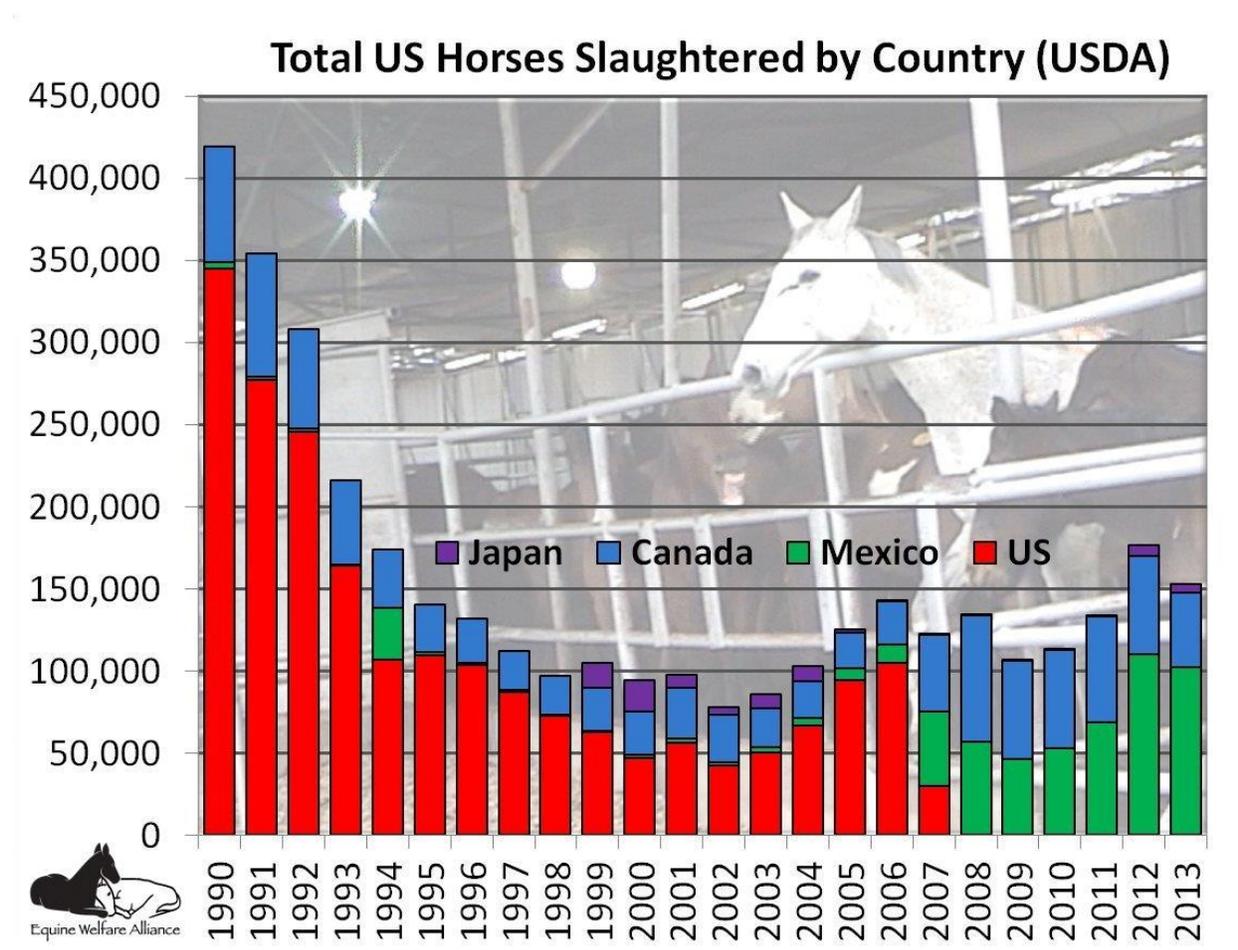
As will be seen in the next section, the decline in breeding finally appears to be impacting the number of horses being sent to Canada and Mexico for slaughter.

## Horse Slaughter

Horse slaughter has been the subject of much controversy since California banned the practice in 1998. The struggle has played out in countless legal and legislative battles at the local, state and federal levels across the country.

During the decade of the 1990s, slaughter plummeted from a high of over 400 thousand horses, mules and donkeys to well under 78,000 in 2002. Slaughter then increased through 2006.

In 2007, the last three remaining US slaughter plants were closed under Texas and Illinois state laws, and other states were prevented from opening horse slaughter plants as a result of Congressional defunding of the required USDA antemortem inspections. However, this saved few horses because the slaughter plants simply moved their operations across the borders to Canada and Mexico (Figure 4).



**Figure 4 - US equines slaughtered by country**

Beginning in 2008, horse prices began a rapid decline as the result of the combination of pressures already mentioned (hay prices, fuel costs, unemployment, etc.) Slaughter increased, as the result of individual owners and especially breeders sending their horses to auction. The elimination of breeding herds further reduced the foal crop across all major breeds.

The upward trend in the number of horses slaughtered reversed in early 2013 and has continued downward into the first half of 2014.

There are two apparent reasons for this decline. First, since the average age of horses being slaughtered in normal times is known to be between three and five years, the decrease in breeding is only now showing up in a decline in the population of horses in this age group.

Secondly, the downward trend started in early 2013, coincident with a horse meat scandal in the largest consumer of US horse meat, the EU (European Union). Horse meat was first detected in fast food "beef" patties, and was later found to have been commingled into a wide variety of other adulterated meat products.

It is not clear which of these factors has been the most significant in reversing the upward trend in slaughter, so there is no way to predict exactly how the demand for US horse meat will be affected as the scandal fades from the news in the EU.

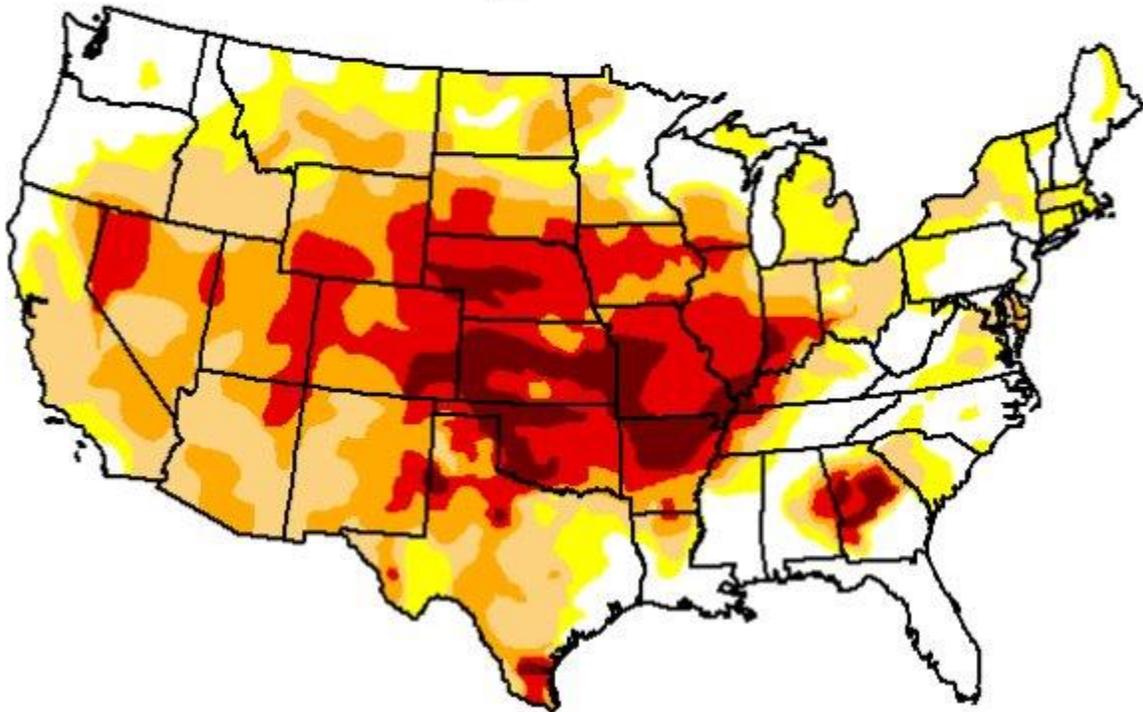
US horses are not bred for slaughter; it is simply a dumping ground for over breeding, largely in the sport industry. So, until prices improve and breeding resumes, we can probably expect the downward trend to continue.

## Weather and Drought

Given that hay prices are the most significant factor for equine neglect, it is possible to extrapolate weather maps taken at the end of the growing season into rough estimates of the neglect rates in various parts of the country.

The maps below show the drought conditions in late August of 2012 and 2013 which represent the waning days of those hay harvests. It can clearly be seen that most of Colorado was subject to a severe drought that covered many Western and Midwestern states.

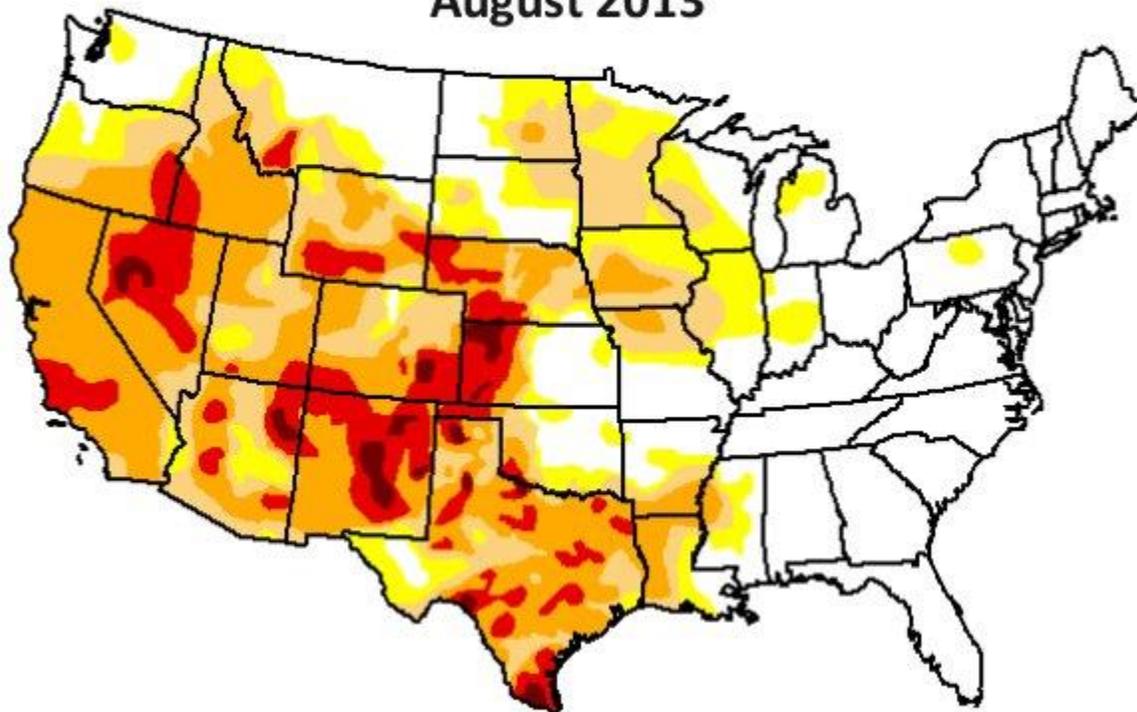
### *U.S. Drought Monitor* **CONUS** August 2012



**Figure 5 - Drought conditions in August 2012**

By 2013, the drought had moved generally westward and become slightly less intense. Colorado, which we know was experiencing an increase in abuse and neglect cases, was exposed to this drought for yet another year.

## ***U.S. Drought Monitor*** **CONUS** **August 2013**



**Figure 6 - Drought conditions in August 2013**

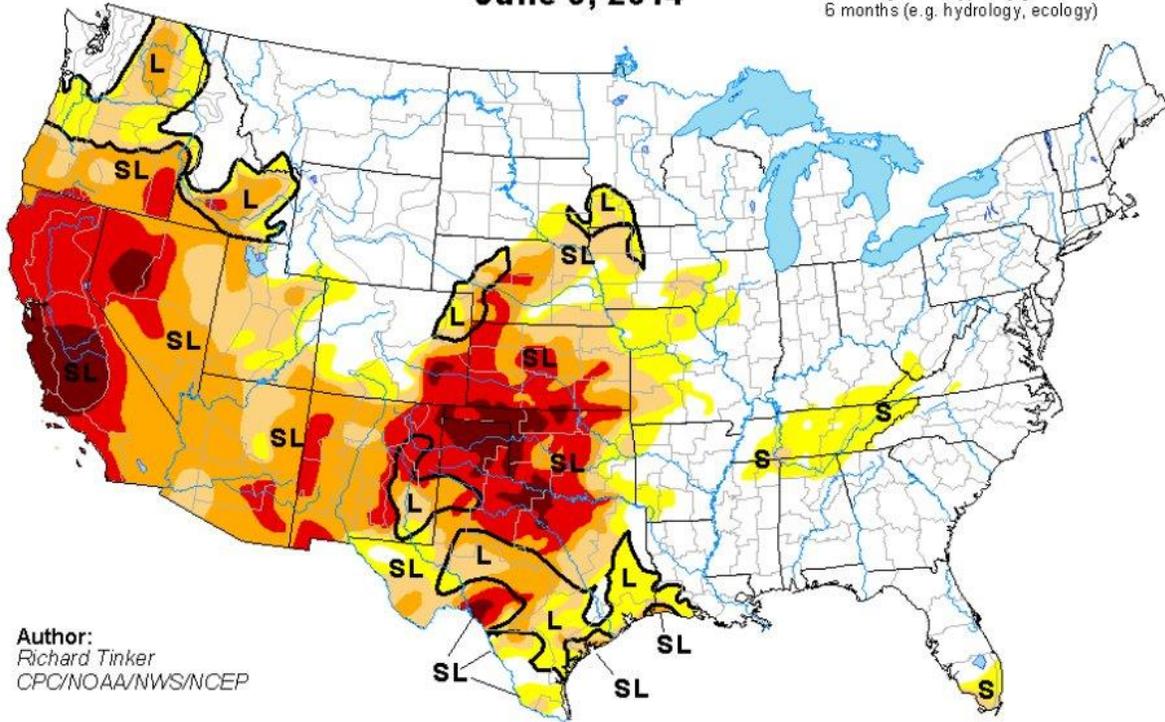
As of early June of 2014, the drought is still centered over the Southwest, if slightly abated, with the worst drought conditions bifurcated into two general regions (Texas/Oklahoma/Kansas and California/Nevada).

# U.S. Drought Monitor CONUS

June 3, 2014

## Drought Impact Types:

- ~ Delineates dominant impacts
- S= Short-Term, typically less than 6 months (e.g. agriculture, grasslands)
- L= Long-Term, typically greater than 6 months (e.g. hydrology, ecology)



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CPC/NOAA/NWS/NCEP

**Figure 7 - Drought conditions in June 2014**

The red and orange areas in the map in Figure 7 represent the areas where hay prices will be high and we can expect the higher equine neglect in 2014. If these conditions hold, Colorado should at last see a decline in their neglect statistics. Having said this, it is still early in the growing season at the time of this writing.

## Hay Production, Prices and Trends

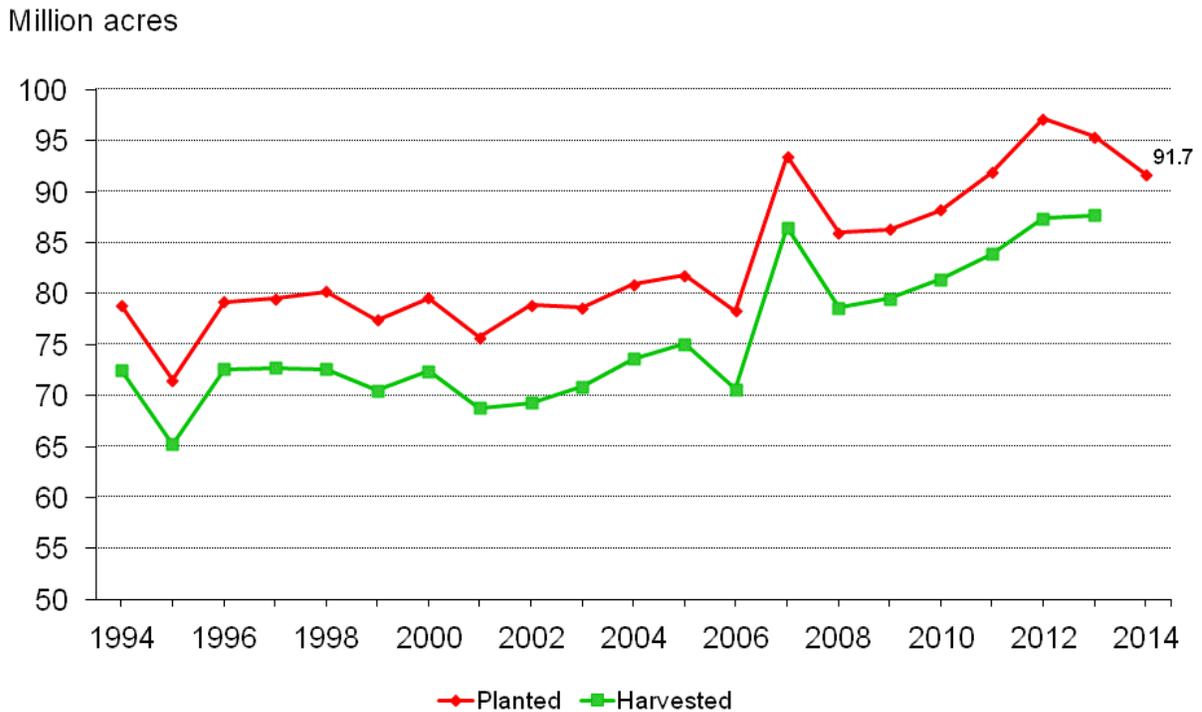
The price of hay has been found to be of primary importance in determining the likelihood of equine neglect. This impact is the product of both the feeding of hay directly and the fact that when prices are high, it means grass is not growing. Thus even free grazing equines will have less forage available.

There are two major components at play in determining the amount of hay harvested; the acreage planted and the rainfall pattern during the growing season. The number of acres planted is affected by many competing demands for land such as other crops and development.

In the past decade, ethanol subsidies combined with rising crude oil prices to cause the production of corn based ethanol to skyrocket. This trend meant that farmers could get more revenue for planting corn, even in marginal lands that were better suited to hay production. As a result, land use shifted away from hay production.



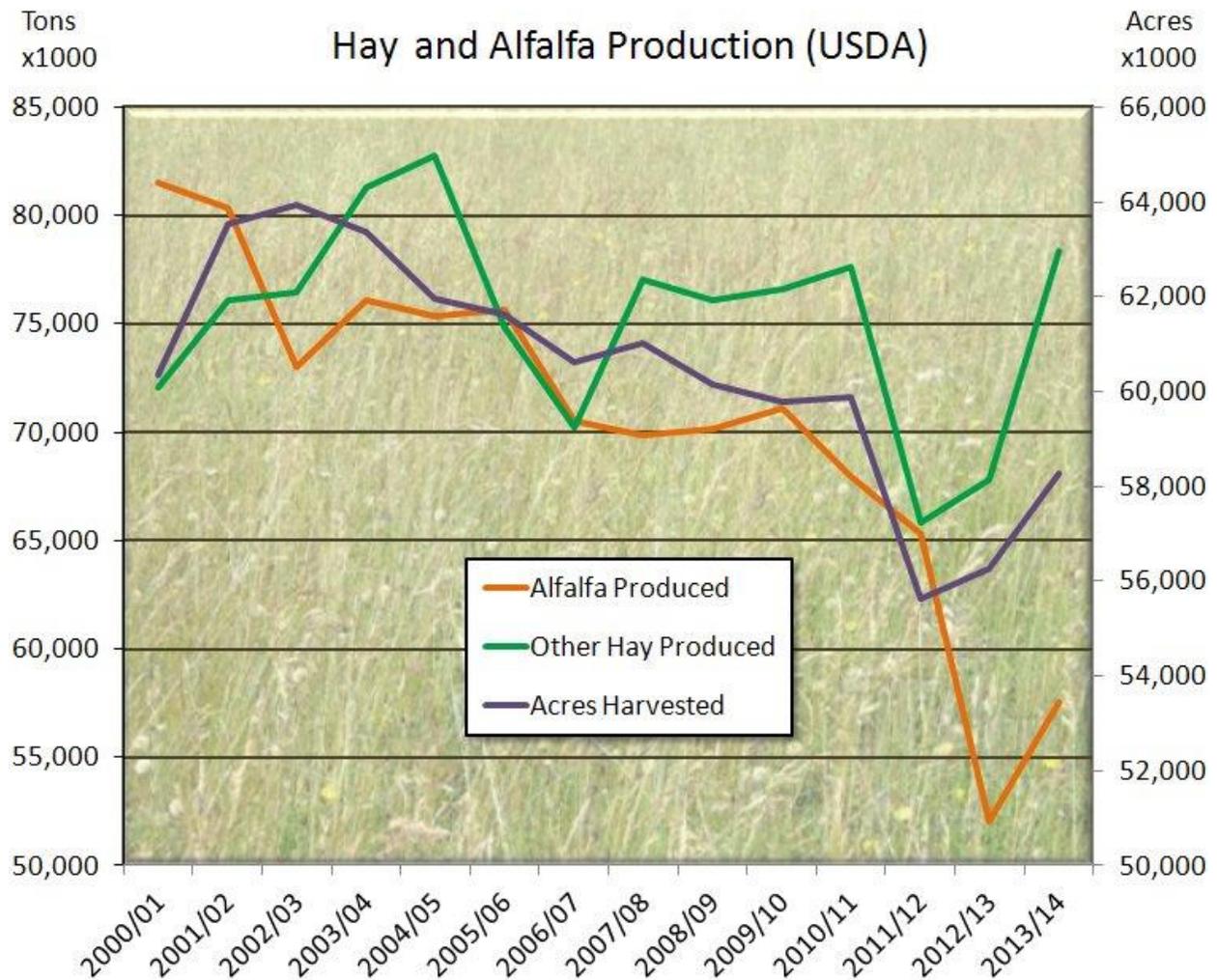
### U.S. Corn Acres



USDA-NASS  
03-31-14

**Figure 8 - Acres of corn planted through 2014 for all uses**

In 2011, Congress repealed the ethanol subsidy that had been in place for almost 30 years, and simultaneously repealed a tariff on imported sugar cane for use in ethanol production. The recent decline in the acreage planted in corn, as shown in Figure 8, is likely the result of the end of this subsidy. In turn, following a decade of decline, the number of acres planted in hay increased in the past two years (Figure 9, purple line).

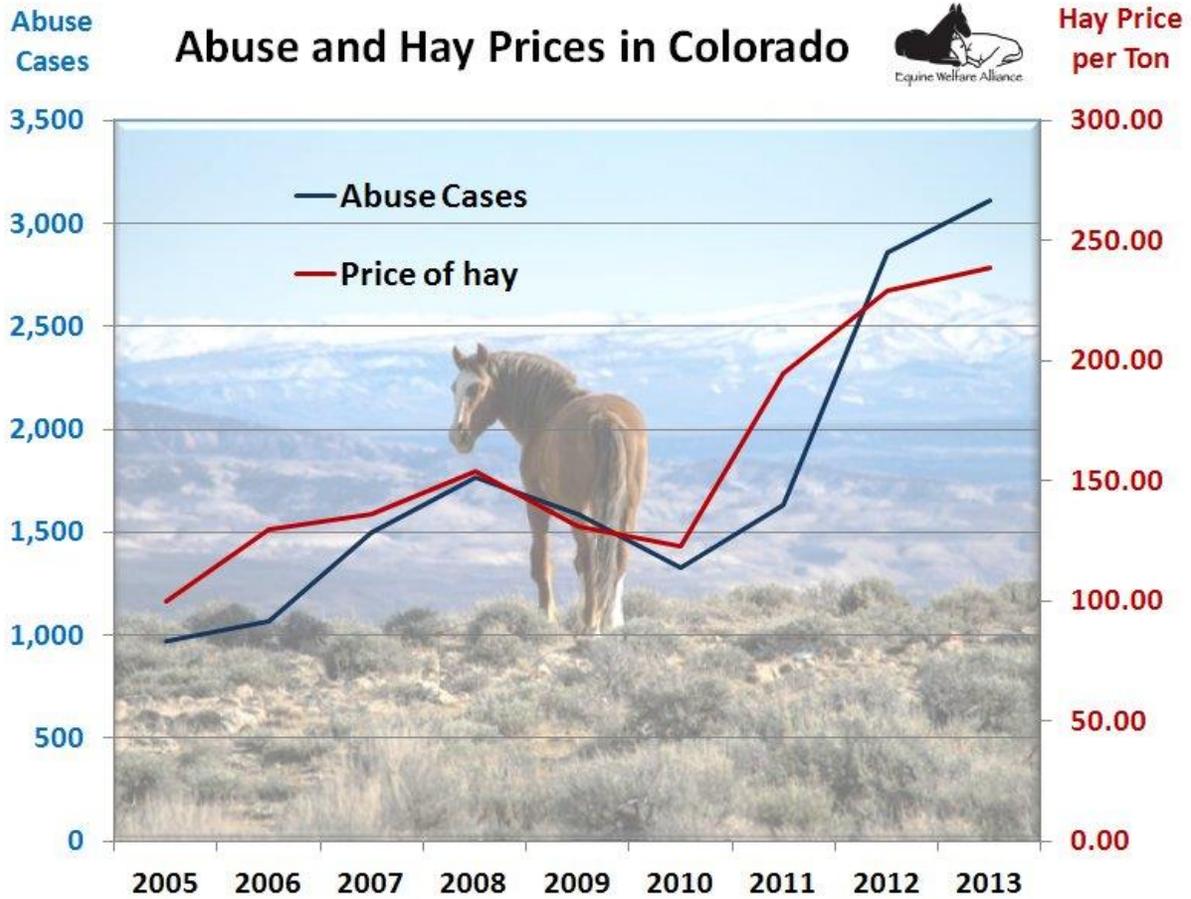


**Figure 9 - Hay and Alfalfa Produced in US**

It is important to realize that rainfall totals are not a sufficient predictor of hay production per acre; the rainfall pattern is critical. Excess rainfall can even reduce the harvest by making it difficult to dry the hay before bailing. Hay put up damp quickly molds and is not suitable for horse feed. Likewise, rainfall at the wrong time of the year may do little or nothing to increase production. Having said this, persistent drought is the most common cause of a collapse in hay production.

## Hay Prices by State

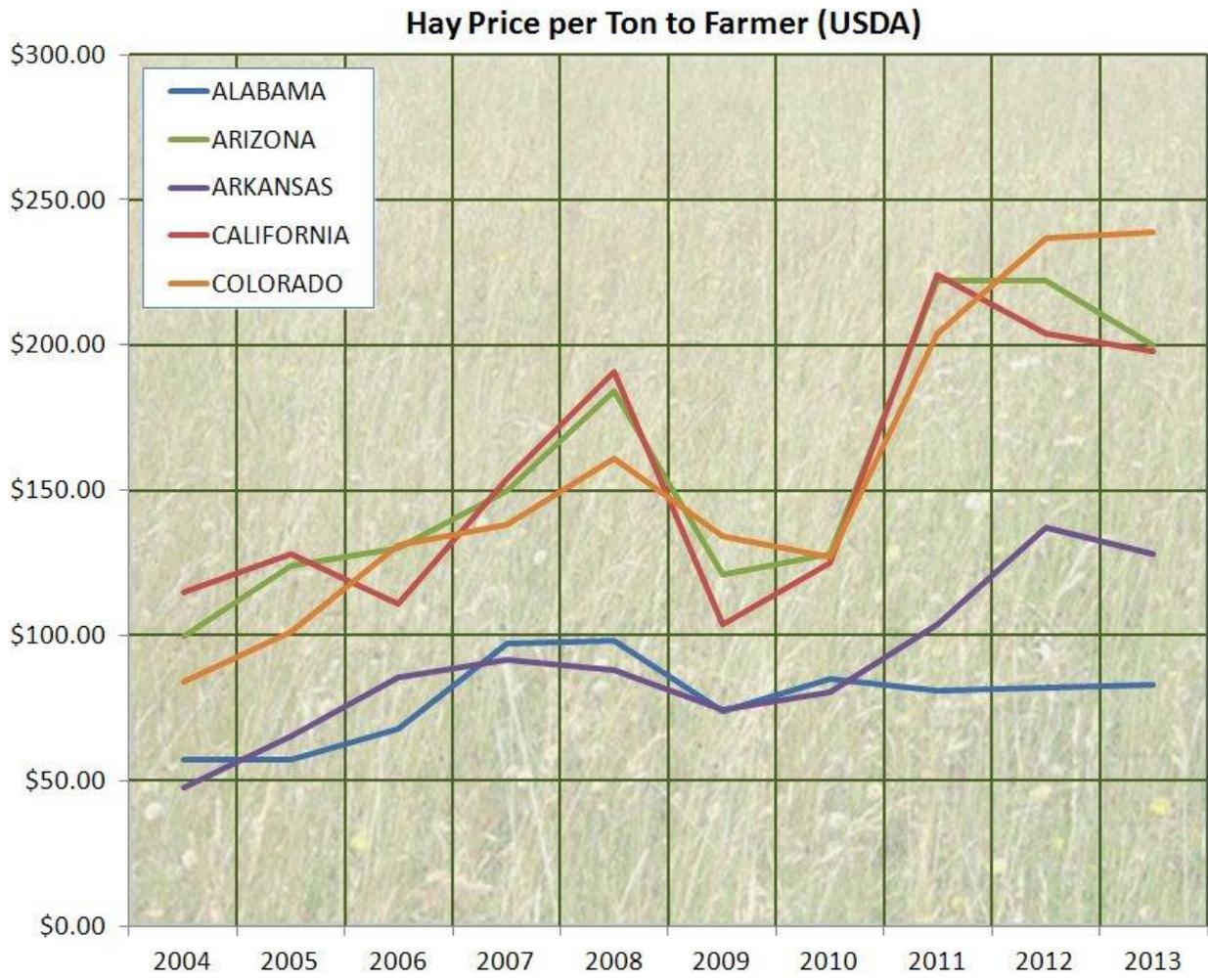
To understand the implication of hay prices on abuse and neglect, one has merely to look at data from Colorado (Figure 10).



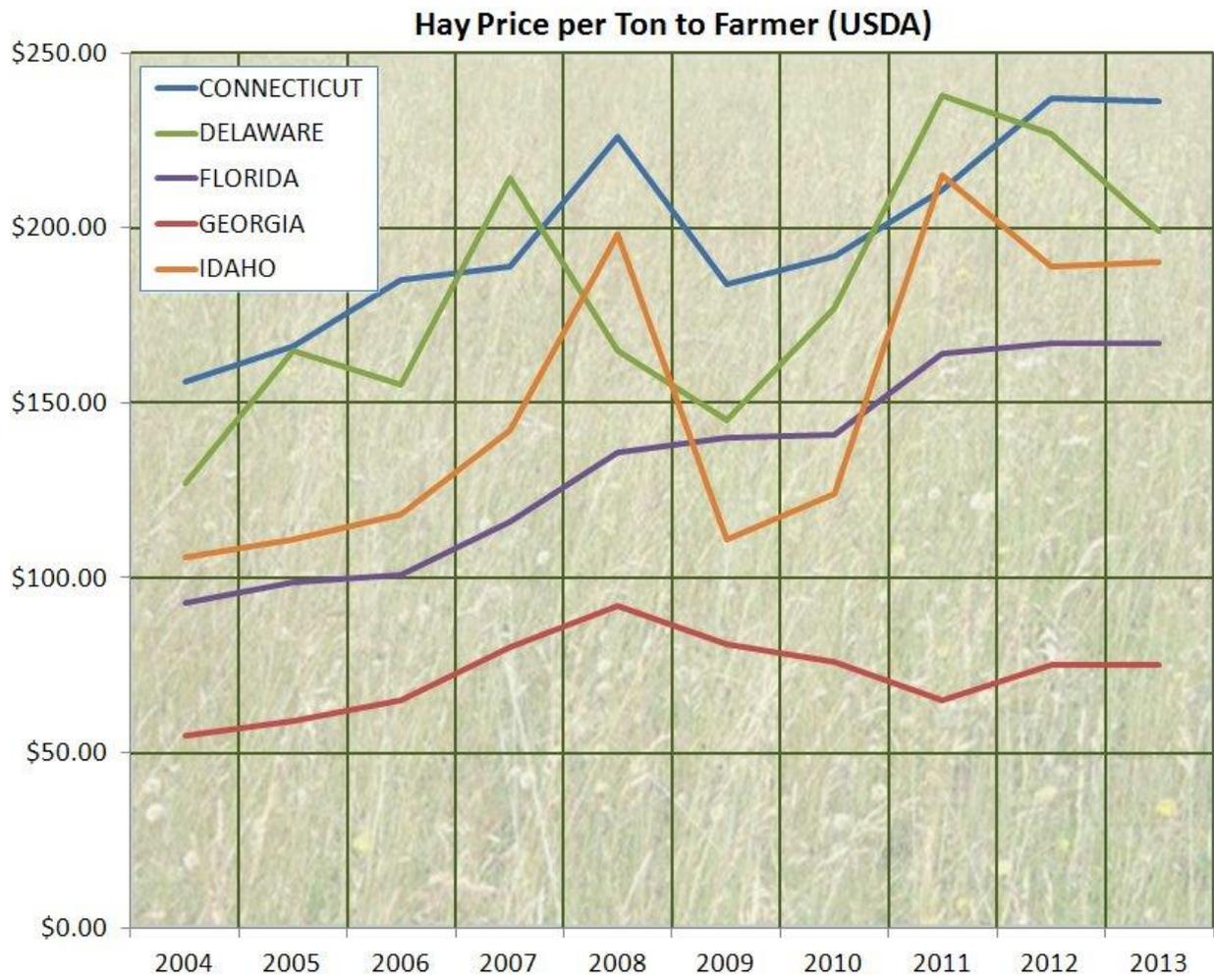
**Figure 10 - Hay prices and abuse rates in Colorado**

The past decade has seen two significant spikes in hay prices that occurred across many states, as well as a general upward trend in most states. The first spike peaked in 2008, and the second began in 2011. The most recent spike appears to have begun abating in 2013, probably as the result of land use changes (discussed earlier) and slightly more moderate weather. Prices, however, remain close to historic highs in many states.

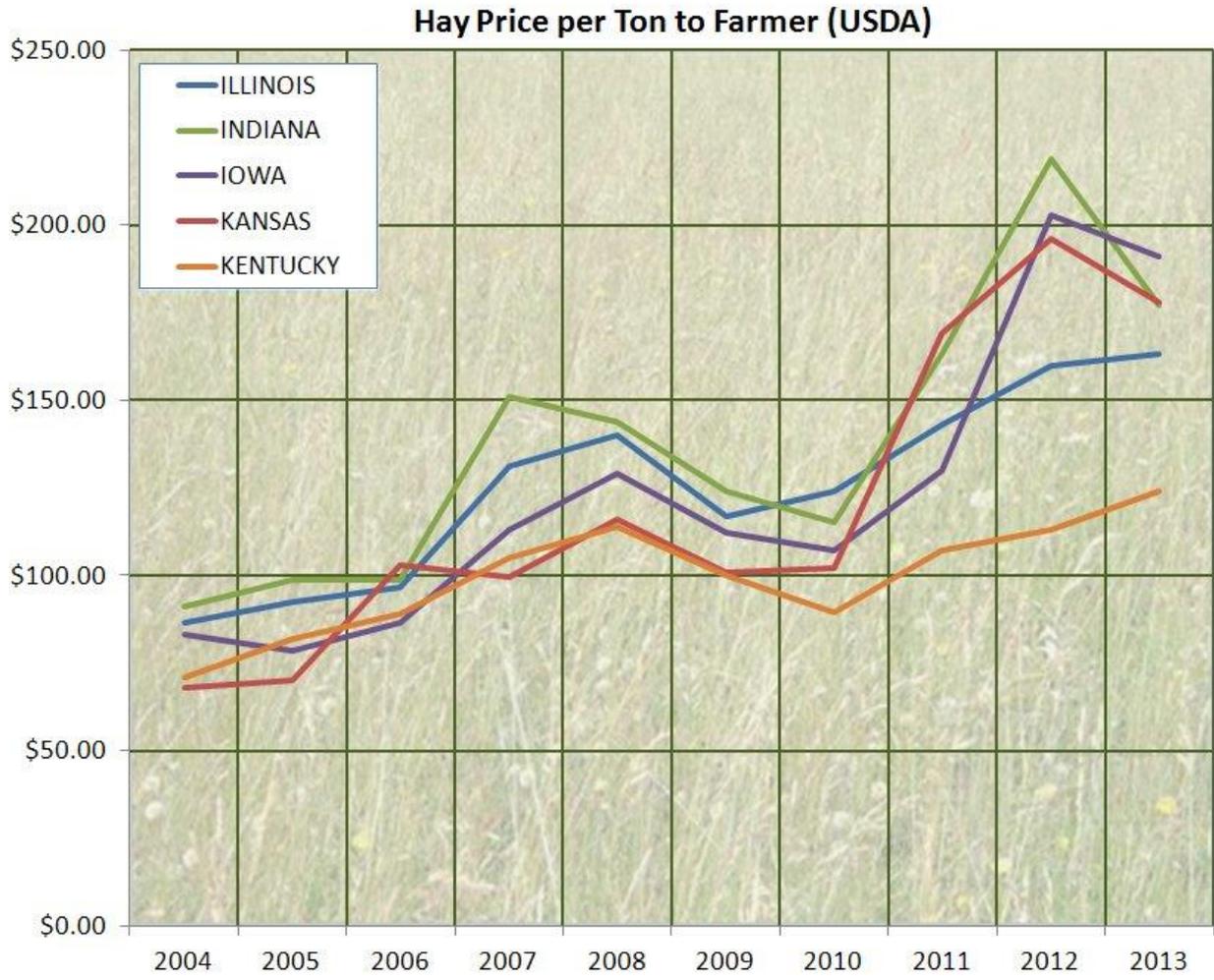
Southern and eastern states were impacted less severely by the 2011 spike than many central and western states. The following graphs show hay prices for the lower 48 states over the past decade. The graphs are arranged in alphabetical order in groups of five states.



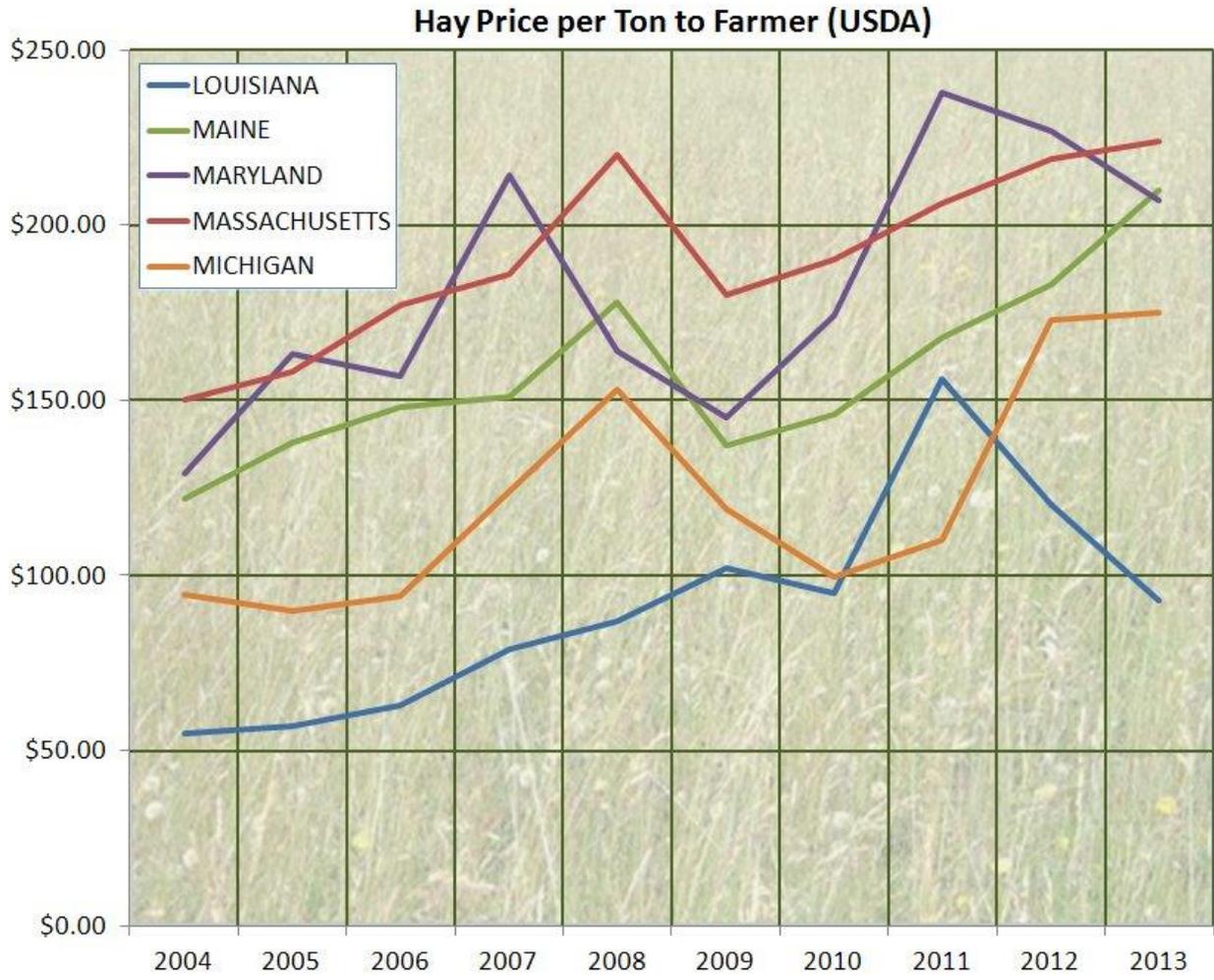
**Figure 11 - Hay prices in Alabama to Colorado**



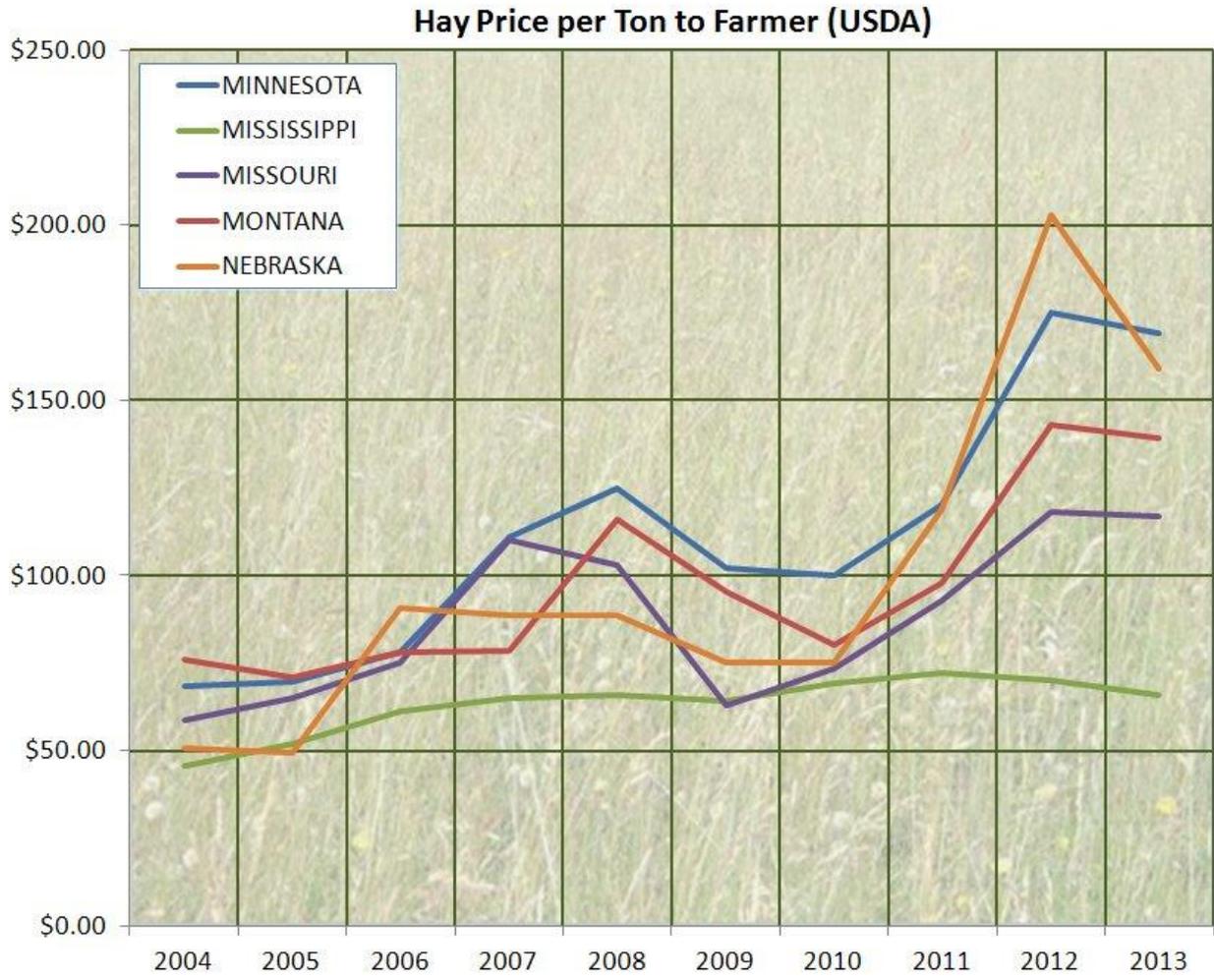
**Figure 12 - Hay prices Connecticut to Idaho**



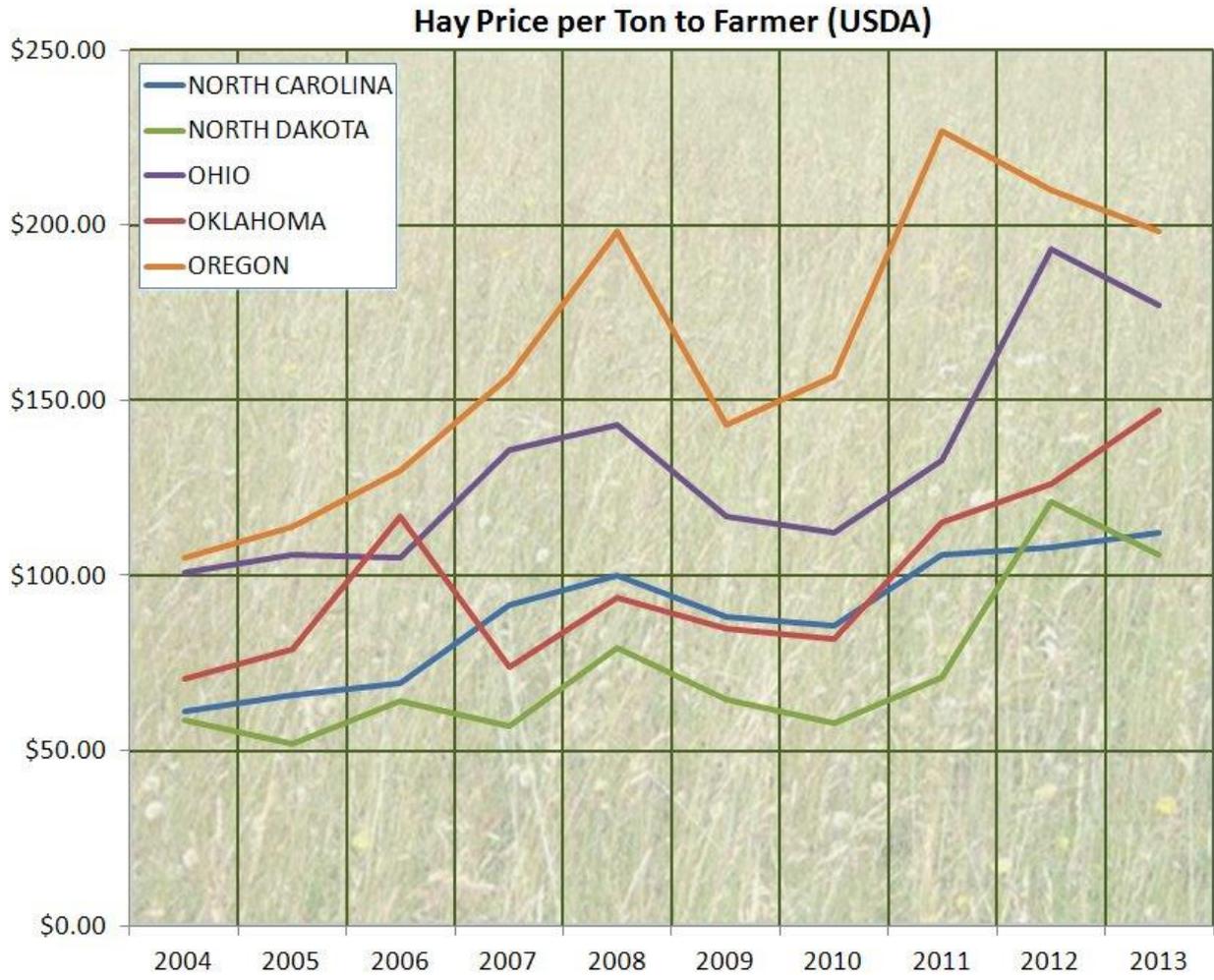
**Figure 13 - Hay prices Illinois to Kentucky**



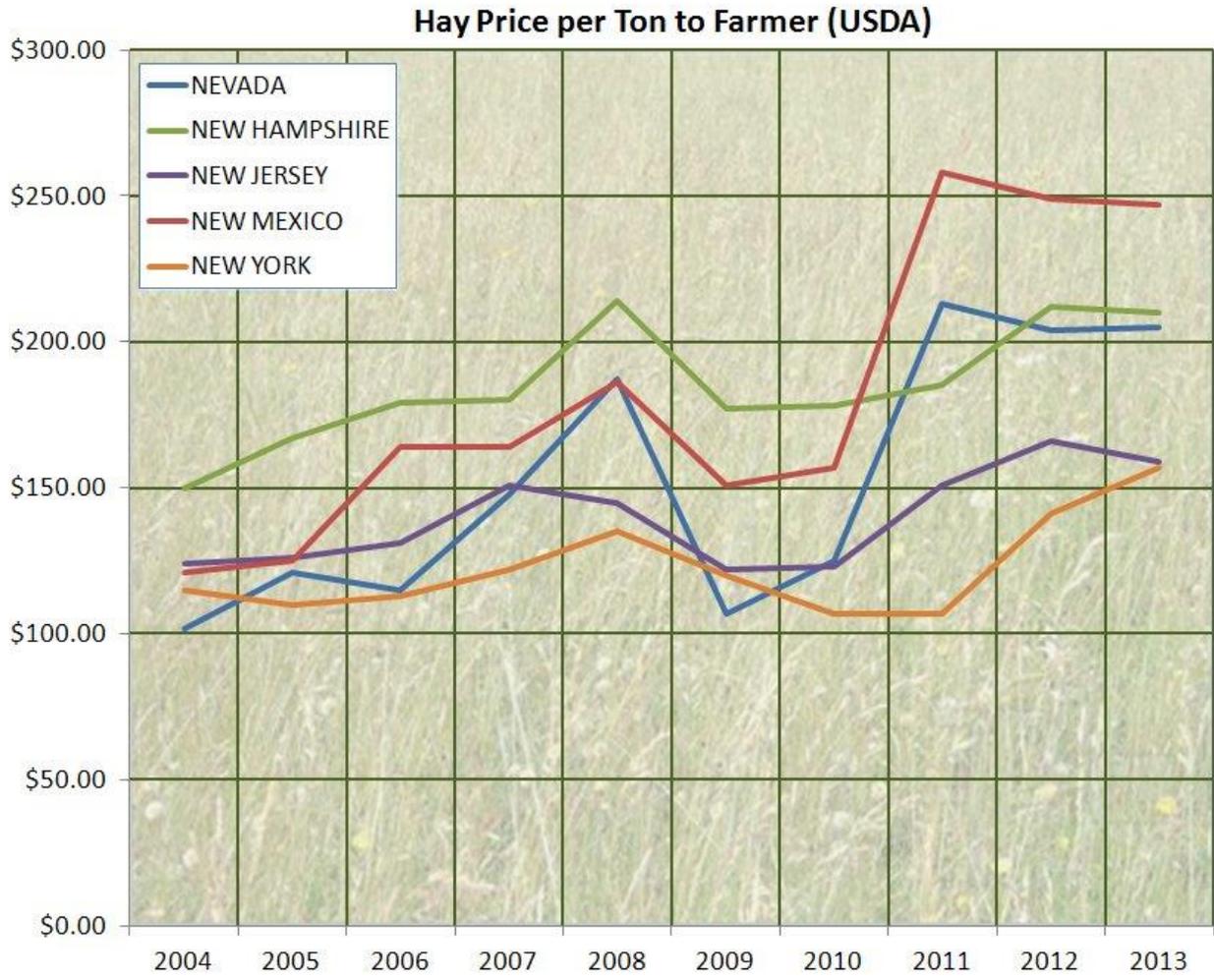
**Figure 14 - Hay prices Louisiana to Michigan**



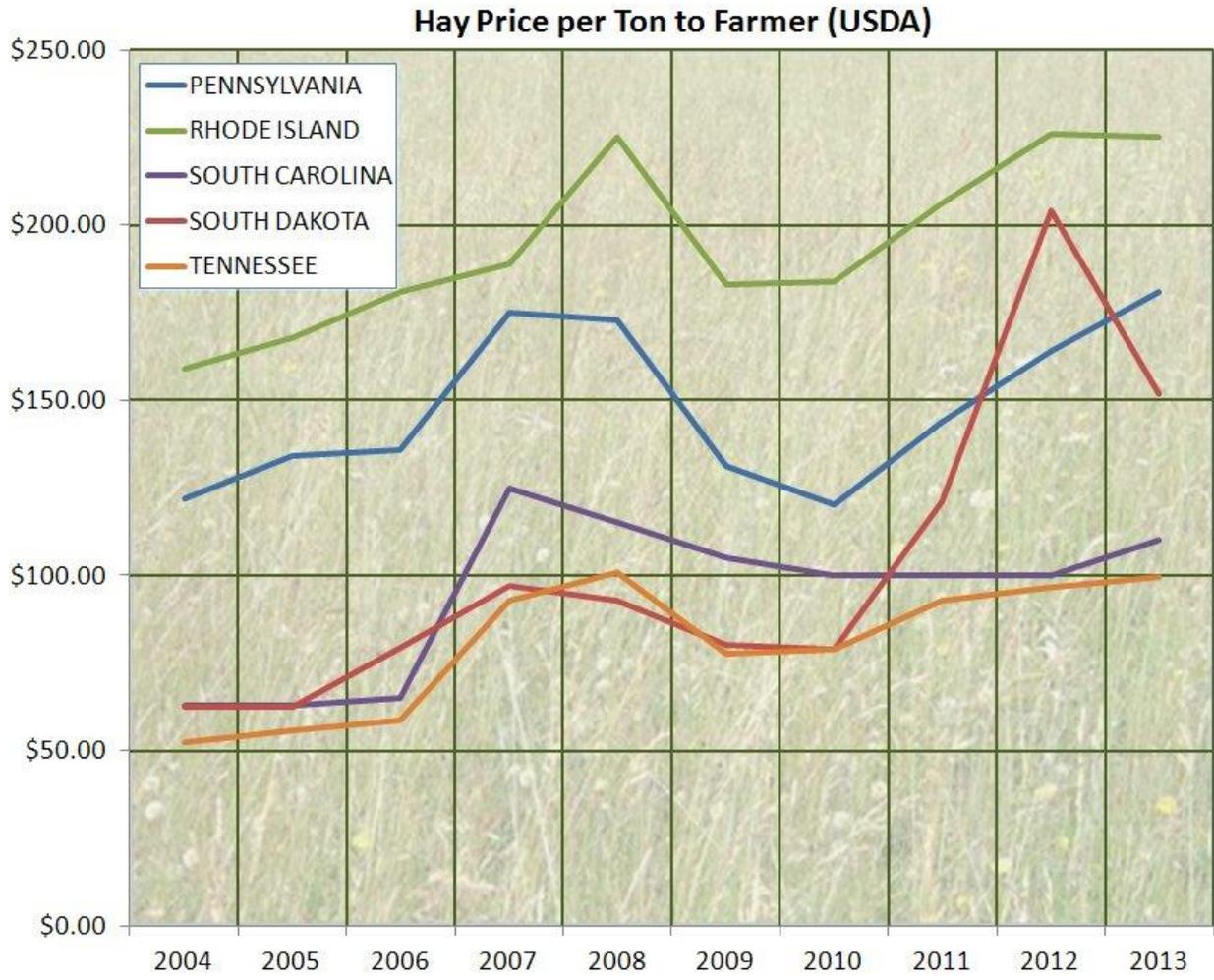
**Figure 15 - Hay prices Minnesota to Nebraska**



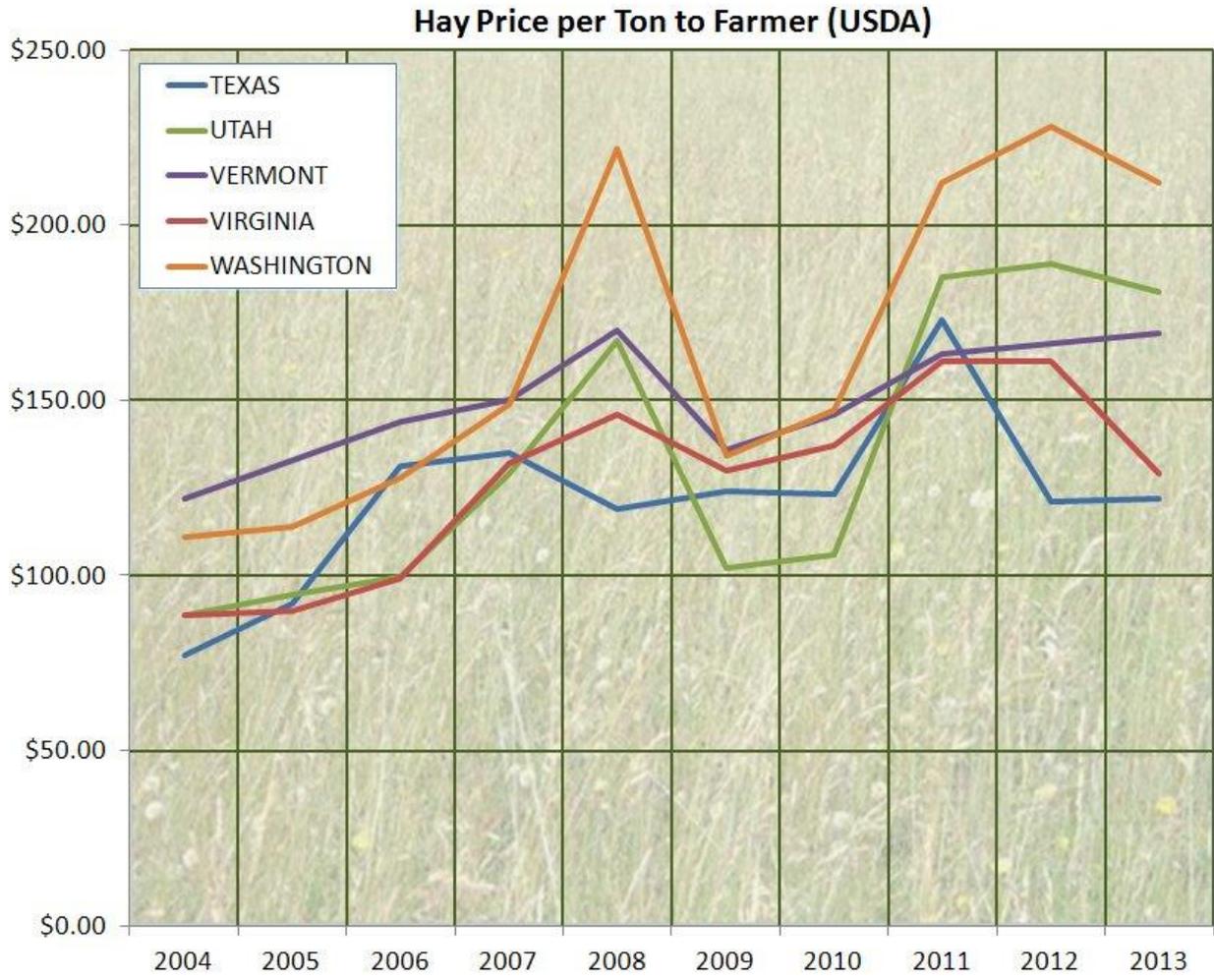
**Figure 16 - Hay prices North Carolina to Oregon**



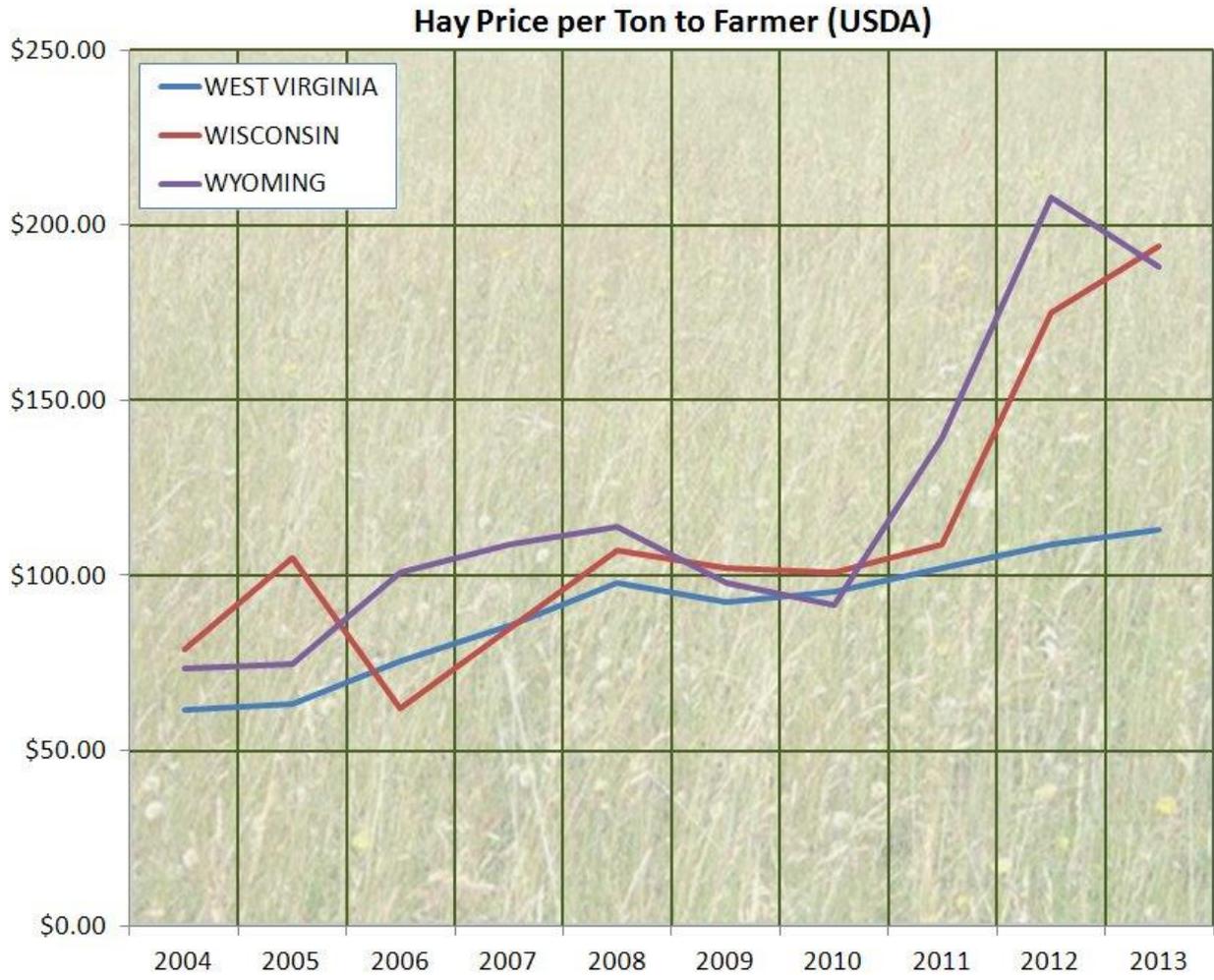
**Figure 17 - Hay prices Nevada to New York**



**Figure 18 - Hay prices Pennsylvania to Tennessee**



**Figure 19 - Hay prices Texas to Washington**



**Figure 20 - Hay prices West Virginia to Wyoming**

## Legal and Legislative Actions

### Horse slaughterhouses attempt to return to US soil

During the past year or more, the legal effort to stop the slaughter of American equines was largely concentrated in the courts and administrative agencies. On November 18, 2011, the enactment of the Consolidated and Further Continuing Appropriations Act, 2012, Pub. Law 112-55, restored funding for antemortem inspections, meaning it was legal once again for USDA/FSIS to provide inspections of horses at slaughter facilities before they are slaughtered for human consumption.

These ante mortem inspections are required by the Federal Meat Inspection Act ("FMIA"), 21 U.S.C. §603(a), 21 U.S.C. §601(w)(1). Until that time since 2007 federal appropriations laws prohibited the USDA from using any funds to pay the salaries or expenses of personnel to inspect horses sold for slaughter for human consumption. See, for example, Pub. L. 109-97, §§794, 119 Stat. 2120, 2164. The inspections were, in effect, defunded. Slaughter of equines for human consumption was as a result illegal in the U.S between 2007 and 2011.

Despite the reinstatement of funding for ante mortem equine inspections in 2011, under FMIA, equine slaughter facilities cannot operate without a grant of inspection and continued inspection and oversight by USDA. 21 U.S.C. §603(a). In order to be eligible for federal inspection pursuant to the FMIA, an equine slaughter facility must apply to FSIS for inspection, and FSIS is required in assessing the application to review information regarding the premises, standard operating procedures, and management of waste-streams, including sewage and water. 9 C.F.R. §416.2.

With the reinstatement of funding of ante mortem equine inspections, at least six facilities submitted applications to USDA to receive grants of inspection of horses for slaughter for human consumption:

1. Valley Meat Co. LLC ("Valley Meat") located in Roswell, New Mexico (On June 28, 2013 FSIS issued a decisional memorandum granting the modified application.)
2. Responsible Transportation of Sigourney, Iowa (Application was granted on July 1, 2013)
3. Rains Natural Meats of Gallatin, Missouri
4. American Beef Company/Unified Equine, LLC ("Unified Equine") of Rockville, Missouri
5. Trail South Meat Processing Co. ("Trail South") of Woodbury, Tennessee
6. Oklahoma Meat Company of Washington, Oklahoma.

Despite the fact that applications were submitted almost immediately after the FY 2012 Appropriations Act was signed into law on November 18, 2011, no grants of inspection were issued until June 28, 2013. Indeed, on October 12, 2012 Valley Meat filed suit in federal district court, claiming the USDA/FSIS was in violation of the Administrative Procedure Act, 5 U.S.C. §706 for failing to issue the grant of inspection.

Valley Meat claimed it met all of the requirements for issuance of the grant of inspection, but in the “spring of 2012 USDA altered its stance on this issue due to political and special interest pressure, effectively allowing the issue to become politicized. The[re was]... a marked change in cooperation of USDA with Plaintiff and sudden change in availability of USDA to be able to issue a Grant of Inspection”. Complaint, *Valley Meat v. Vilsack, et al.*

The USDA told Valley Meat the “issue of drug residue testing has been referred back to the Congressional Affairs office of USDA in Washington, D.C. ...that because horses had not been slaughtered for a number of years that FSIS would have to create new protocols for evaluating drug residue testing programs.” Complaint, *Valley Meat v. Vilsack, et al.*

Valley Meat claimed it spent over \$20,000 fitting its plan for horse slaughter and stopped slaughtering other animals in anticipation of the grant of inspection. Valley Meat claimed that as a result of the USDA’s failure to issue the grant of inspection, it has lost “over hundreds of thousands of dollars”. *Id.*

Ultimately on September 9, 2013 the case was stayed pending the action discussed *infra*, that was filed on July 2, 2013 by the Humane Society of the United States, Front Range Equine Rescue and others. But though the Court did not find any wrongdoing by USDA/FSIS and never ordered the agency to issue any grant of inspection, during the pendency of the suit, the USDA did issue the conditional grants of inspections to Valley Meat, Responsible Transportation and later to Rains Natural Meats.

The grants of inspection issued to Valley Meat and Responsible Transportation were conditional and depended on the companies validating their Hazard Analysis and Critical Control Point plans within 90 days. 9 C.F.R. §§304.3(b), 417.2, and 417.4 But once the plans were validated, the conditional grants would become permanent.

At the same time also on June 28, 2013, FSIS issued Directive 6130.1 regarding “Ante-Mortem, Postmortem Inspection of Equines and Documentation of Inspection Tasks.” This directive provided instructions to inspection program personnel (IPP) on how to perform inspections. This directive also instructed FSIS Public Health Veterinarians (PHVs) making ante-mortem and postmortem dispositions of equines how to perform residue testing, verify humane handling, verify marking of inspected equine products, and document results.

In the Directive, FSIS “recognizes that most equines presented for slaughter will likely not have been raised for human consumption” and that, therefore, there are “concerns regarding the potential presence of chemical residues from drugs not previously approved for use in all food animals including equine.” In addition to following pre-existing residue testing policies, IPP are instructed to “conduct random residue testing of normal-appearing” horses at “at least the same rate as for show livestock.” IPP are to randomly select, on the slaughter floor from normal-

appearing equine[s], “[a] minimum of 4 animals if there are more than 100 animals in the lot.”

Also on June 28, 2013 FSIS denied a petition for rulemaking filed on April 6, 2012 by Front Range Equine Rescue and the Humane Society of the United States. In this petition, they asked that USDA certify former companion, working, competition and wild horses as "U.S. Condemned" and unfit for human consumption" unless the slaughterhouse (or its agent) receiving or buying the horse obtains (1) an accurate record of all of the horse's prior owners, (2) a record of all drugs, treatments and substances administered to the horse since birth, and (3) verification that the horse has at no time been exposed to any substances prohibited for use in animals intended for use as food."

They requested that "for any horses that do satisfy those three criteria, the FSIS adopt rules and regulations that mandate the testing of the flesh and organs of all such horses going to slaughter. The petition listed more than 110 drugs and other substances commonly administered to horses that are or should be prohibited.

The groups also "request[ed] that the FSIS engage in administrative rulemaking regarding horses intended for human consumption, in order to prevent against the risk that consumers of horse meat will have painful or prolonged adverse reactions or drug side effects, or contract serious, contagious, or fatal diseases, after they have eaten the meat of horses sent to slaughter, and to ensure that proper controls are in place to prevent horses whose meat would be adulterated from being slaughtered for food."

A similar petition was filed with the U.S. Food and Drug Administration (FDA), asking the agency to declare these horses and meat produced from them as "unqualified".

### **Humane groups sue to stop plants under NEPA**

Just a few days later and only one day after the issuance of the grant of inspection to Responsible Transportation, on July 2, 2013 the Humane Society of the United States, Front Range Equine Rescue and other animal welfare organizations and individuals, later joined by Robert Redford and former New Mexico Gov. Bill Richardson' new organization, Foundation to Protect New Mexico Wildlife, filed a Complaint for Declaratory and Injunctive Relief in federal district court. The New Mexico Attorney General later intervened in the action on behalf of the state as a plaintiff.

The plaintiffs sought to enjoin USDA/FSIS from conducting ante mortem equine inspections for Valley Meat and Responsible Transportation. The plaintiffs argued the USDA granted inspections without first conducting an environmental impact study as required by National Environmental Policy Act ("NEPA"), 42 U.S.C. §4332(C) and the Administrative Procedure Act, 5 U.S.C. §§ 706(2)(A), (C), and (D).

As the Complaint explained;

“Defendants have violated NEPA by failing to prepare an environmental impact statement or an environmental assessment prior to granting inspection... Defendants’ challenged actions authorize the resumption of slaughter of American horses for human consumption after six years without domestic horse slaughter. Defendants have taken this action notwithstanding USDA’s obligations to comply with NEPA, and USDA’s actual knowledge that horse slaughter causes significant environmental harms related specifically to the means and methods of horse slaughter, the potentially toxic nature of the waste generated by this industry, and the fact that horse meat endangers consumers...”

Additionally, Defendants have violated NEPA by failing to prepare an environmental impact statement or an environmental assessment prior to adopting and implementing a new residue testing plan applicable to all horse slaughter plants throughout the nation.”

NEPA requires all federal agencies to prepare a “detailed statement” regarding all “major federal actions significantly affecting the quality of the human environment.” 42 U.S.C. §4332(C). This statement is referred to as the Environmental Impact Statement (“EIS”).

The Complaint explained that regulations implementing NEPA mandate that “[f]ederal agencies shall to the fullest extent possible . . . [u]se the NEPA process to identify and assess the reasonable alternatives to proposed actions that will avoid or minimize adverse effects . . . upon the quality of the human environment,” and “[u]se all practicable means . . . to restore and enhance the quality of the human environment and avoid or minimize any possible adverse effects of their actions upon the quality of the human environment.” 40 C.F.R. §§1500.2(a), (f).

Regulations require the USDA to “integrate the NEPA process with other planning at the earliest possible time to insure that planning and decisions reflect environmental values, to avoid delays later in the process, and to head off potential conflicts.” 40 C.F.R. §1501.2.

“Where an agency is invoking a new inspection mechanism, NEPA review is required before that mechanism can be invoked. ‘NEPA procedures must insure that environmental information is available to public officials and citizens before decisions are made and before actions are taken.’” 40 C.F.R. §1500.1(b).

“In effect, USDA/FSIS proposed to grant inspections for commercial equine slaughter for the first time since 2007 without an environmental assessment of the significant impact on the environment and endangered species.”

"By granting inspection to a horse slaughter plant and by adopting a new residue testing plan to apply to horse slaughter nationwide, USDA has substantively changed its operations by allocating its finite resources to authorize and oversee horse slaughter. This is a major change in policy and practice that has direct, indirect, and cumulative impacts on the environment. The grant of inspection to a horse slaughter facility creates a significant change in the status quo because without it, horse slaughterhouses could not legally operate... In addition to the domestic change in status quo from a practical prohibition on horse slaughter since 2006 to now USDA issuing a grant of inspection to domestic horse slaughterhouses, relevant international regulations of horse meat have also changed. The European Union (EU) adopted in 2009 new regulations that will require any imported horse meat to satisfy additional and higher export safety and inspection requirements... USDA has not incorporated any change in policy or inspection requirements to address the adopted EU regulations. Horses slaughtered in the U.S. are exported to EU markets, and U.S. horse meat will have to satisfy these new EU regulations. ...USDA needs to revise its inspection procedures to [comply with these new regulations.] This is an additional change in the status quo triggering the requirements of NEPA."

Also the Complaint pointed out that horse slaughtering produces the following danger to endangered species: "(1) manure, contents of rumen and intestines; (2) edible products, including offal and blood; (3) inedible products such as bones, and hair; (4) fat; and (5) large volumes of wastewater....Most slaughterhouse processes require the use of water, and the pollutants contained in wastewater can impact the environment when the wastewater runoff enters into groundwater, streams, and rivers. Horse slaughtering also requires large amounts of hot water and steam for sterilizing and cleaning. Generating the energy for heating water emits gasses, which contribute to air pollution.... Horse slaughter facilities, with their combination of contaminated by-products and excessive steam generation and the need to discharge massive amounts of wastewater, represent a threat to the environment as well as threatened and endangered species in the area."

On August 2, 2013 U.S. District Court Judge M. Christina Armijo issued a temporary restraining order enjoining USDA from providing the ante-mortem equine inspections or providing any inspection-related services related to horse slaughter to Valley Meat and Responsible Transportation. These companies were also enjoined from engaging in commercial horse slaughter. On September 20, 2013 upon learning a grant of inspection would be given to Rains Natural Meats, the Court amended the TRO to include that company as well.

But on November 1, 2013 the Court dismissed the plaintiffs' claims, thus dissolving the TRO. The plaintiffs appealed to the Tenth Circuit Court of Appeals, and on November 4, 2013 the Court granted a temporary stay and injunctive relief that basically continued the terms of the lower court's TRO. On December 13, 2013, however, the Court vacated the stay and injunction. The plaintiffs' claims remain pending.

## Other efforts to stop the plants

There were other efforts to stop horse slaughter facilities from opening following the 2011 Act authorizing USDA/FSIS to resume providing ante mortem inspections. In 2013 Front Range Equine Rescue and the Humane Society of the United States filed petitions with the Iowa Department of Inspection and Appeals and the Missouri Department of Health and Senior Services, asking each to declare horse meat “adulterated” and ban its sale within the state.

They filed a petition before the New Mexico Environmental Improvement Board, requesting the agency to classify all horses under the New Mexico Food Act, 25-2-1 et seq. that were “formerly companion animals, wild horses, work or sport horses and any other horses without a proven lifetime medical history as unqualified for production of horse meat for human consumption”.

They also requested rulemaking to prevent against risk that “consumers will have painful or prolonged adverse reactions or drug side effects or contract disease after eating meat of horses sent to slaughter and ensure that proper controls are in place to prevent horses whose meat would be adulterated from being slaughtered for food”. Included with the petition was a long list of drugs and other substances given to these horses during their lives.

## New Mexico Attorney General joins fight against plants

On December 19, 2013 the New Mexico Attorney General Gary King filed suit on behalf of the state in Santa Fe County against Valley Meat to stop its proposed equine slaughter operations. The suit followed an opinion his office issued that declared horse meat fitting the legal definition of an adulterated food product under the state Food Act may not be manufactured, sold, or delivered anywhere in New Mexico, regardless of where the food is ultimately sold or consumed.

The opinion states, “Based on our examination of the relevant constitutional, statutory and case law authorities, and the information available to us at this time, we conclude horse meat from U.S. horses would fit the legal definition of an adulterated food product under the NM Food Act if the meat came from horses that had been treated with chemical substances that the federal Food and Drug Administration (“FDA”) has deemed unfit for human consumption. We also conclude that if horse meat were an adulterated food product, the NM Food Act would prohibit its manufacture, sale or delivery.”

In the state action King requested a temporary restraining order to stop the plant from opening. The Complaint cited the serious environmental, health and consumer protection concerns from operation of a horse slaughter facility particularly by a company with a long history of violation of state laws. The Complaint alleged Valley Meat’s proposed horse slaughter facility would violate New Mexico’s Food Act, NMSA 1978 Sections 25-2-1 et seq.; the state Unfair Practices Act, NMSA 1978, Sections 57-12-1, et seq.; and Water Quality Act, NMSA 1978, Section 74-6-5(A) and accompanying regulations.

The court granted the TRO on December 30, 2013 and then a preliminary injunction was issued on January 17, 2013 by District Court Judge Matthew Wilson. The preliminary injunction will remain in effect until the claims have been resolved.

### **Wastewater discharge permits challenged**

Before any plant could open, it would likely be required to obtain a wastewater discharge permit under state or local law. There would also be a routine monitoring process after a permit was issued. Valley Meat requested a permit to operate a discharge lagoon using a plastic liner.

On October 21st and 22nd of 2013, the New Mexico Department of the Environment held a hearing GWB 13-05 (P) in the matter of issuing a discharge permit to Valley Meat in the city of Roswell New Mexico, Chavez County.

The GWQB (Ground Water Quality Bureau), VMC (Valley Meat Company), FRER (Front Range Equine Rescue), Ari Biernoff of the NM AG and John Holland of the Equine Welfare Alliance provided technical testimony. Testimony against the permit centered on the drugs and toxic substances present in horses and the extremely shallow depth of the water table (six to ten feet in many areas), as well as the past violations of both Valley Meats individually and the horse slaughter industry collectively.

On January 7, 2014 hearing officer, Felicia L. Orth, recommended denial of a wastewater discharge permit to Valley Meat “[b]ased upon [its] history of willful disregard for environmental laws”. The officer noted that in just the period between June 3, 2000 and May 24, 2013 Valley Meat has “committed thousands of violations of New Mexico environmental laws”. The final order is still pending.

### **The administration comes out against horse slaughter**

While the litigation and administrative agency actions to stop commercial horse slaughter proceeded, President Barack Obama’s administration recommended in 2013 the defunding once again of ante mortem equine inspections in its USDA FY 2014 budget, p. 197, Sec. 725: None of the funds made available in this Act may be used to pay the salaries or expenses of personnel to—(1) inspect horses under section 3 of the Federal Meat Inspection Act (21 U.S.C. 603); (2) inspect horses under section 903 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 1901 note; Public Law 104127); or (3) implement or enforce section 352.19 of title 9, Code of Federal Regulations.

Rep. Jim Moran (D-VA) offered as an amendment to the House of Representatives’ Agriculture Appropriations bill the defunding provision recommended by the administration. Sen. Mary Landrieu (D-LA) offered the same amendment to the Senate version of the Agriculture Appropriations bill.

Victoria McCullough, owner of Chesapeake Petroleum, had privately hired Florida State Senator Joseph Abruzzo as a registered lobbyist exclusively dedicated to equine welfare issues. This marked the first time there had been a lobbyist focused exclusively on these issues.

In 2013 Secretary of Agriculture Vilsack and Vice President Joseph Biden both took an official position of being opposed to the return of horse slaughter to the US in keeping with the President's position.

### **Slaughter inspections again defunded through Omnibus bill**

Both the House of Representatives and the Senate approved the inspections defunding amendments that became part of H.R. 3547, the Consolidated Appropriations Act, 2014, Division A, Title VII, Sec. 746. The defunding provision is on p. 37 of the 639 page Consolidated Appropriations Act, 2014. The Act was signed into law by President Obama on January 17, 2014.

### **Defunding has a ripple effect**

On January 23, 2014 the Missouri Department of Natural Resources denied Rains Natural Meats' application to modify its state general wastewater operating permit to allow horse slaughter, citing to the newly enacted law once again defunding ante mortem inspections. DNR pointed out that "[b]ecause this federal action effectively prohibits the processing of horses, further evaluation of your application....is unwarranted".

Earlier a Missouri state judge, Daniel Green, issued a preliminary injunction to prevent DNR from issuing a permit to Rains Natural Meats in a lawsuit brought by horse rescuers and local residents. Rains Natural Meat had failed to request a permit that would allow it to store and dispose of drugs given to equines that are banned in food producing animals and dangerous for human consumption. The plaintiffs produced evidence that these drugs do end up in wastewater. The drugs do not degrade in wastewater treatment facilities or on land.

DNR issued Rains a permit that excluded horse slaughter activities, and Rains appealed. Rains then dismissed the appeal and instead filed the amended application that was ultimately denied on January 23, 2014.

On May 22, 2014 the Senate Appropriations Committee approved by a vote of 18-12 an amendment offered by Sen. Mary Landrieu to continue the defunding of ante mortem equine inspections in the FY 2015 Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, S. 2389, Title VII, Sec. 746.

Also, on May 29, 2014 by a vote of 28-22 the House of Representatives Appropriations Committee approved a motion by Rep. Moran to add a provision to the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, to continue to defund ante mortem equine inspections. See p. 76 of the 109 page H. Rept. 113-468 and H.R. 4800, Sec. 741.

The House of Representatives and Senate have as of this writing yet to vote on these measures.

## The SAFE Act

The latest federal legislative effort to ban not only horse slaughter in the U.S. but export of American equines for slaughter, the Safeguard American Food Exports Act, ("SAFE Act"), H.R. 1094/S.B. 541, introduced in 2013, remains stalled in committee.

The bill would amend the federal Food, Drug and Cosmetic Act, 21 U.S.C. Section 331, by adding provisions declaring equine parts are unsafe as food and prohibiting the "knowing sale or transport of equines or equine parts in interstate or foreign commerce for purposes of human consumption".

Sens. Landrieu and Lindsay Graham (R-SC) are co-sponsors of the Senate version pending in the Committee on Health, Education, Labor, and Pensions. The House of Representative sponsor is Rep. Patrick Meehan (D-PA). The House version remains in the Subcommittee on Livestock, Rural Development, and Credit.

The text of the SAFE Act contains strong talking points:

- (1) horses and other equines are domestic animals that are used primarily for recreation, pleasure, and sport;
- (2) horses and other members of the equidae family are not raised for the purpose of human consumption;
- (3) equines raised in the United States are frequently treated with drugs, including phenylbutazone, acepromazine, boldenone undecylenate, omeprazole, ketoprofen, xylazine, hyaluronic acid, nitrofurazone, polysulfated glycosaminoglycan, clenbuterol, tolazoline, and ponazuril, which are not approved for use in horses intended for human consumption;
- (4) consuming parts of an equine raised in the United States likely poses a serious threat to human health and the public should be protected from these unsafe products; and
- (5) the sale and transport of equines for the purpose of processing for human consumption, and the sale and transport of equine parts for human consumption, are economic in nature and substantially affect interstate and foreign commerce. Equine slaughter for human consumption remains illegal in Texas, Agric. Code §149.001, et seq.; California, Pen Code §598c; Illinois, 225 ILCS 635; Mississippi, Code §75-33-3; and New Jersey, N.J. Stat. §4:22-25.5. In 2013 Oklahoma replaced its 50 year old ban on horse slaughter with a law that would allow horse slaughter in the state as long as the horse meat is then exported for sale elsewhere. 2 OKL. Stat. §6-192. In 2013-2014 more states considered equine slaughter bans – Iowa, SB 2178; New Mexico, NM HB 121; Maine, ME HB 913; New York, A 3905/S 4615, and Maryland, MD HB 1392.