



The Celebration[®]

October 8, 2024

Via U.S. Mail and Electronic Mail

Thomas Vilsack
United States Secretary of Agriculture
U.S. Department of Agriculture
1400 Independence Ave. SW
Washington, DC 20250
AgSec@usda.gov

Re: Due Process Violations in USDA Enforcement of the Horse Protection Act

Dear Secretary Vilsack:

I am writing on behalf of The Tennessee Walking Horse National Celebration Association (“Association”), which operates the largest Tennessee Walking Horse show in the country—The Celebration.

I write to inform you that the U.S. Department of Agriculture (USDA) has adopted a policy of disqualifying horses as sore that is at odds with the Horse Protection Act (HPA). Specifically, USDA and Animal & Plant Health Inspection Service (APHIS) officials are declaring that, when horses suffer any injury during a competition—even an injury that occurs during a pre-show inspection—that injury meets the HPA’s definition of “sore” and warrants disqualifying the horse.

Until this recent change, for many years, USDA has acknowledged that accidental injuries are not sore violations. That common-sense recognition has also been reflected in numerous USDA training manuals, which recognize that a horse injury is not an HPA violation. *See* Exhibit A, February 2018 HIO Training Presentation at 11. However, over the last fifteen months, USDA officials have been deeming any accidental injuries to be sore violations and have disqualified horses on the basis of such injuries. Attached to this letter are three examples in which such disqualifications occurred. *See* Exhibits B-D.

Exhibit B is a picture of Ritzy Lady from Omaha, a horse that was disqualified during a post-show inspection by a USDA VMO at the Kentucky Celebration, which took place on September 13-14, 2024. The horse was disqualified for “inflammation” on the “tail head.” As the picture shows, the only injury the horse exhibited was on its tail and had no connection to the horse’s limbs.

Exhibit C is a picture of Kid Can Do, a horse that was disqualified during a post-show inspection by a USDA VMO at the Tennessee Walking Horse National Celebration, which took place between August 21-31, 2024. The horse was disqualified for “inflammation right side.” As the picture shows, the horse was injured by a spur rub, an injury that had no connection to the horse’s limbs.

Exhibit D is a picture of Form A Line, a horse that was disqualified during a post-show inspection by a USDA VMO at the Tennessee Walking Horse National Celebration, which took place between August 21-31, 2024. The horse was disqualified for “inflammation of the right hip.” As the picture shows, the horse’s injury was on its side and had no connection to the horse’s limbs.

These examples are only representative, as there are many more instances in which this policy is being implemented. Many of the injuries that USDA is citing as soring violations are not on the limbs of a horse, meaning there is no conceivable “competitive advantage” that can be gained from any such injury. When we have shown pictures of these injuries to equine veterinarians, they routinely agree that the injuries are not and could not be HPA soring violations.

Evidence of this policy is not limited to pictures. The policy was directly communicated to a representative of the Association by Dr. Aaron Rhyner, APHIS’s Associate Director for Animal Care. When questioned by the representative about how an injury a horse sustained during competition could be an HPA violation, Dr. Rhyner responded in the same manner that post show inflammation on the rear limbs is a violation. Dr. Rhyner agreed both were caused by the “act” of riding the horse.

And these new HPA injury violations are not limited to padded horses as they have also been identified on pleasure and flat shod Tennessee Walking Horses. But this new HPA injury violation has never been communicated or applied to any other horse breed subject to the HPA. Since that conversation occurred, USDA has regularly disqualified horses for such injuries.

There is additional proof of this policy. When VMOs were questioned by an equine veterinarian as to why they were disqualifying horses for accidental injuries at the 2023 Celebration, the VMOs explained that “if the act of riding the horse in the ring caused an injury, that injury met the Act’s definition of sore.” *See Exhibit E, Declaration of Richard Wilhelm (Aug. 30, 2024).*

The adoption of this policy pursuant to Dr. Rhyner’s instruction is particularly troublesome because it was done without any opportunity for the Tennessee Walking Horse Industry to be heard through the notice-and-comment process. Instead, it was implemented through directions Dr. Rhyner and USDA provided to their VMOs in the field. Congress did not grant either the USDA or Dr. Rhyner the power to issue new rules by fiat without complying with the procedures of the Administrative Procedures Act.

Even more concerning is the appearance that USDA is targeting the Tennessee Walking Horse breed with this policy. When identical injuries occur to a horse in another breed, USDA does not treat it as an HPA violation.

The failure to inform owners and trainers of even the criteria by which they will be judged also raises significant due process concerns. Those concerns are exacerbated by the lack of any way to appeal a disqualification. *See Second Amended Complaint, ECF No. 49, Wright et al. v. Vilsack et al., No. 2:24-cv-2156 (W.D. Tenn. Sept. 6, 2024).*

We ask that you immediately investigate this matter and, at a minimum, direct all USDA VMOs to cease and desist identifying all accidental injuries as HPA violations.

Sincerely,

Warren Wells
Chief Executive Officer, The Tennessee Walking Horse National Celebration

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Enclosures

Inflammation from an injury (Not soring)



Exhibit B - Tail injury



Exhibit C - Spur injury



Exhibit D – Side injury



DECLARATION OF RICHARD WILHELM

I, Richard Wilhelm, declare as follows:

1. I am an equine veterinarian. I obtained my degree in veterinary medicine from The University of Tennessee College of Veterinary Medicine in May of 2000.

2. I currently practice medicine at Wilhelm Equine Services in Shelbyville, TN. As part of my practice, I am often asked to inspect Tennessee Walking Horses to determine if they have been intentionally injured to provide them with a competitive edge in competition. For that reason, I am familiar with the Horse Protection Act, how the Act defines a “sore” horse, and the difference between a horse that is “sore” under the Act and a horse that exhibits an injury that has a natural cause.

3. The 2023 National Tennessee Walking Horse Celebration took place from August 23, 2023 to September 2, 2023. I was asked to attend the Celebration and provide my medical opinion about whether certain horses were sore as that term is defined in the Horse Protection Act. During the course of the Celebration, I was informed by a number of horse trainers that their horses had been disqualified post-show for what they believed were injuries that occurred during the horse’s performance. Some of these disqualifications were based solely on the presence of inflammation that was not detected during a pre-show inspection.

4. In response to concerns expressed by these horse trainers, I approached the USDA VMOs who were at the Celebration to ask if they could explain to me why they believed the horses they were disqualifying were sore under the Horse Protection Act. In response, I was told that these injuries (including the horses who exhibited inflammation) were violations because, if the

act of riding the horse in the ring caused an injury, that injury met the Act's definition of sore.


5. To support their opinions, the VMOs explained to me that the lesions they were seeing on horses competing in the Performance Division at Tennessee Walking Horse shows do not appear on the horses they observe in the Pleasure (or flat shod) Division of competition.

6. The VMOs also explained that a Tennessee Walking Horse that elevates its front legs too much will cause its hind feet to hit the ground at an odd angle, causing it to run dirt, rocks, or gravel. The VMOs explained that inflammation caused by this practice was a soring violation.

7. In my professional medical opinion, the horses USDA was disqualifying were not sore, as there is no indication that anything was done to these horses by a person that could reasonably be expected to cause the horse distress. In my opinion, USDA's explanations did not justify their actions or adequately show that the horses met the Horse Protection Act definition of sore. Rather, the horses I observed who were disqualified all appeared to have suffered natural injuries during their performance.

Executed this 30th day of August 2024, in Bedford County, Tennessee.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.


Richard Wilhelm