

Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND ACCOUNTABILITY

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August 9, 2024

The Honorable Phyllis K. Fong
Inspector General
U.S. Department of Agriculture
1400 Independence Ave. SW
Washington, D.C. 20250

Dear Inspector General Fong:

I write to request that the Office of Inspector General (OIG) initiate a review of the U.S. Department of Agriculture's (USDA) enforcement of the Horse Protection Act (HPA).¹ According to information received by the Committee, USDA's Animal and Plant Health Inspection Service (APHIS) appears to have exceeded its HPA authority in inspections related to horse shows. In light of these concerns, I request that your office initiate a broader review of USDA's policies and practices regarding implementation of the HPA and its impact on the horse show industry.

The Committee recognizes the importance of eliminating cruelties such as "soring"² and penalizing bad actors for inflicting harm on horses for competitive advantage, and the horse industry must be a critical partner in this endeavor. Bad faith and arbitrary enforcement are antithetical to that goal. It is therefore critical that USDA afford horse trainers and the industry due process, act within the statutory authority of the HPA, and not retaliate against horse owners and trainers who comment on or protest haphazard and arbitrary enforcement which greatly impacts their profession and livelihoods.

However, according to information received by the Committee, USDA officials have in fact arbitrarily changed commonly accepted practices through e-mail updates mere hours before a competition, haphazardly disqualified horses based on inconsistent inspection methodology, and refused to engage with industry stakeholders in a context where there is no appeals process for USDA-disqualified horses. The Committee has also received allegations that USDA

¹ 15 U.S.C. § 1821 *et seq.*

² "Soring can be accomplished through the use of certain substances, devices, and/or practices that when applied to a horse's limb can cause physical pain, distress, inflammation, or lameness when walking, trotting, or otherwise moving." Dep't of Agriculture, Animal and Plant Health Inspection Service, *Horse Protection Act* (Last Modified: July 18, 2024), available at <https://www.aphis.usda.gov/hpa>.

disqualified horses for a competition without basis and as retribution for a lawsuit filed against USDA by impacted stakeholders in the horse show industry.³

Specifically, the Committee has received allegations that the Assistant Director of USDA's Animal and Plant Health Inspection Service (APHIS), sent an e-mail to horse show representatives on new competition inspection requirements two hours prior to a competition without warning or prior notification of forthcoming guidance. This occurred even though the show had already been underway for two days. This action adversely impacted the planning of show organizers and the preparations of horse owners and trainers, as we understand these changes resulted in the disqualification of horses who would have otherwise been eligible to compete.

The timing of this action is suspect. On March 11, 2024, just days prior to that show, horse trainers filed a lawsuit against the USDA and APHIS asserting "USDA has been unlawfully disqualifying horses and violating trainers' and owners' due process rights by failing to provide any mechanism to review disqualification decisions,"⁴ among other allegations critical of USDA's stewardship of the HPA. USDA's delegation of authority to APHIS to administer pre-and post-show horse inspections appears to have been used as retribution against horse owners' and trainers' efforts to exercise their legal rights and harmed their ability to earn a living, as "[w]here a horse that a trainer brings to a show is disqualified before competition, the trainer loses the potential to earn any prize money."⁵

In light of the information received by the Committee, it is apparent that there is a need for a broader review of USDA's policies and practices regarding implementation of the HPA to prevent abuse or misuse of government resources to harm the horse show industry in ways that do not prevent animal abuse. We ask that you undertake a review of any retaliatory actions taken against the horse show industry by USDA in response to critical observations of USDA's stewardship of the HPA or its new final rule titled *Horse Protection Amendments*.⁶

I ask that your review of USDA's actions in this matter include—along with any other relevant issues you find appropriate—the following:

1. The process, if any, to contest the disqualification of a horse for competition;
2. Inspection methodology for APHIS employees or contractors;

³ See Complaint, *Wright, et al. v. Vilsack, et al.*, Case No. 2:24-cv-02156 (W.D. Tenn. filed Mar. 11, 2024).

⁴ The Walking Horse Report, *Lawsuit filed challenging enforcement of Horse Protection Act* (Mar. 11, 2024), available at <https://www.walkinghorserreport.com/news/lawsuit-filed-challenging-enforcement-of-horse-protection-act>.

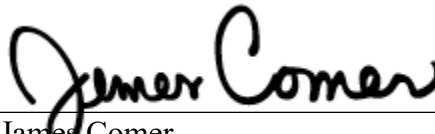
⁵ Complaint, *Wright, et al. v. Vilsack, et al.*, Case No. 2:24-cv-02156, at 8 (W.D. Tenn. filed Mar. 11, 2024).

⁶ *Horse Protection Amendments*, Docket No. APHIS-2022-0004 (May 8, 2024) (codified at 9 C.F.R. pt 11), available at <https://www.regulations.gov/document/APHIS-2022-0004-8793>.

3. Communications between APHIS employees or contractors and members of the horse show industry;
4. Guidance and technical assistance provided by APHIS employees or contractors to members of the horse show industry; and
5. Retaliatory behavior exhibited by USDA or APHIS referring or related to HPA compliance.

Thank you for your attention to this important matter. If you have any questions regarding this request, please contact the Committee on Oversight and Accountability Majority staff at (202) 225-5074. The Committee on Oversight and Accountability is the principal oversight committee of the U.S. House of Representatives and has broad authority to investigate “any matter” at “any time” under House Rule X.

Sincerely,

A handwritten signature in black ink that reads "James Comer". The signature is written in a cursive style with a large, prominent "J" and "C".

James Comer
Chairman
Committee on Oversight and Accountability

cc: The Honorable Jamie Raskin, Ranking Member
Committee on Oversight and Accountability