

Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND ACCOUNTABILITY

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

MAJORITY (202) 225-5074
MINORITY (202) 225-5051
<https://oversight.house.gov>

November 19, 2024

Dr. Aaron Rhyner
Assistant Director
Animal and Plant Health Inspection Service-Animal Care
U.S. Department of Agriculture
1400 Independence Avenue SW
Washington, D.C. 20250

Dear Dr. Rhyner:

The Committee on Oversight and Accountability is conducting oversight of the U.S. Department of Agriculture's (USDA) enforcement of the Horse Protection Act (HPA)¹ and its promulgation of a final rule titled *Horse Protection Amendments* (final rule) that will update USDA's standards regarding the HPA.² The majority of the final rule's provisions will take effect on February 1, 2025. The final rule has drawn criticism from stakeholders who argue that it imposes overly strict and burdensome requirements, potentially impacting their ability to compete fairly. Stakeholders have also expressed concerns that the new standards could lead to inconsistent enforcement and create an environment where subjective interpretations by inspectors result in unfair penalties. The rule also raises broader concerns about government overreach and the right of individuals to pursue their livelihoods under fair and consistent standards. The Committee initiated this oversight specifically due to concerns regarding USDA's compliance with the HPA in light of recent actions at Tennessee Walking Horse shows. The Committee is investigating this matter to determine if legislation is necessary to ensure fair and consistent enforcement by USDA of relevant provisions of the HPA and to ensure fair and consistent enforcement of the final rule.

The Committee initially requested documents and information from USDA regarding these matters on August 9, 2024.³ Among the materials sought by the Committee were lists of the horse shows attended by USDA's Animal and Plant Health Inspection Service (APHIS) inspectors, communications between APHIS officials and inspectors or other stakeholders in the horse show industry, documents and communications relating to HPA enforcement, and

¹ Letter from Chairman James Comer, H. Comm. on Oversight & Accountability to Sec'y Thomas Vilsack at 2 (Aug. 9, 2024).

² 15 U.S.C. § 1821 *et seq.*; *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 *Supra*, n.1.

documents and communications related to the lawsuit filed by horse trainers against USDA.⁴ A response to the Committee's requests was required by August 23.⁵ USDA failed to respond by the deadline or even acknowledge receipt of the Committee's letter until several weeks later.⁶ USDA made its initial production on September 12 and included a small number of non-public responsive documents, but most were not relevant to the Committee's request.⁷ USDA made small, subsequent document productions on October 2 and November 7, both of which included APHIS's summaries of alleged HPA violations for fiscal years 2021 through 2023, but not summaries of more recent violations occurring after the lawsuit referenced in my August 9 letter and alleged to have resulted from retaliation by USDA inspectors.⁸ USDA has not indicated that any further document production will be forthcoming, despite the Committee asking for a timeline.

Due to the small number of documents USDA has produced, and the slow pace at which USDA has been producing them, the Committee requested a transcribed interview with you as the Assistant Director of APHIS on October 8, 2024.⁹ However, USDA refused to allow you to participate in a transcribed interview, claiming the request was "premature."¹⁰ USDA's excuse for failing to provide your testimony was that its document production was incomplete, though USDA has failed to provide a timeline for production of the outstanding documents. USDA's continued refusal to timely produce the requested information has made the Committee's need even more acute. During phone discussions with Committee staff, USDA ultimately offered a briefing with subject matter experts who would explain how USDA intends to carry out enforcement of the HPA. The Committee conveyed that it would accept a briefing as an accommodation so long as you participated, given your direct authority over HPA enforcement.¹¹ USDA again refused to make you available, even for the briefing.¹² This is alarming considering you are the official public point of contact for the rule as published in the Federal Register.¹³ It is therefore clear that USDA does not intend to make you available to the Committee voluntarily to provide your knowledge of the relevant subject matter.

⁴ *Id.* at 2-3.

⁵ *Id.* at 2.

⁶ Email from U.S. Dep't of Ag. Staff to H. Comm. on Oversight & Accountability Staff (Sept. 12, 2024).

⁷ Letter from Thomas Vilsack, Sec'y, U.S. Dep't of Ag. to James Comer, Chairman, H. Comm. on Oversight & Accountability at *Enclosure* (Sept. 12, 2024).

⁸ Email from U.S. Dep't of Ag. Staff to H. Comm. on Oversight & Accountability Staff (Oct. 2, 2024); Email from U.S. Dep't of Ag. Staff to H. Comm. on Oversight & Accountability Staff (Nov. 7, 2024).

⁹ Letter from Chairman James Comer, H. Comm. on Oversight & Accountability to Sec'y Thomas Vilsack at 2 (Oct. 8, 2024).

¹⁰ Email from U.S. Dep't of Ag. Staff to H. Comm. on Oversight & Accountability Staff (Oct. 23, 2024).

¹¹ Email from H. Comm. on Oversight & Accountability Staff to U.S. Dep't of Ag. Staff (Nov. 4, 2024).

¹² Email from U.S. Dep't of Ag. Staff to H. Comm. on Oversight & Accountability Staff (Nov. 7, 2024).

¹³ *Proposed Rule on Horse Protection Amendments*, 89 Fed. Reg. 39194 (May 8, 2024), available at <https://www.govinfo.gov/content/pkg/FR-2024-05-08/pdf/2024-09469.pdf>. ("FOR FURTHER INFORMATION CONTACT: Dr. Aaron Rhyner, DVM, Assistant Director, USDA-APHIS-Animal Care...").

This lack of cooperation by USDA raises additional questions about the transparency and accountability of USDA's operations related to enforcement of the HPA and the enactment of the final rule. The HPA was enacted to prevent the cruel practice of "soring" and ensure that bad actors within the horse industry are penalized for inflicting harm on horses for competitive advantage. USDA's role in enforcing this Act, largely through APHIS, is not only a matter of legal compliance but also of ethical responsibility. It is imperative that USDA enforces HPA and the final rule in a manner that is fair, consistent, and within the bounds of its statutory authority.

The Committee has oversight jurisdiction and "may at any time conduct investigations of any matter..." notwithstanding concurrent jurisdiction maintained by another standing committee under House Rule X, clause 4(c)(2). House Rule X, clause 1(n)(6) additionally charges the Committee with legislative jurisdiction over "[o]verall economy, efficiency, and management of government operations and activities." Oversight of USDA's enforcement of HPA and enactment of the final rule is necessary to ensure that the Department is not only upholding the law but also acting in a manner that is fair, consistent, and transparent. The Committee's role in this oversight is to safeguard the integrity of HPA's implementation and to protect the rights of those within the horse industry who depend on fair and consistent enforcement of the law as Congress intended. As such, the Committee requires information in pursuit of its legislative purposes, including consideration of whether additional legislation is necessary to ensure proper enforcement of the HPA by USDA.

It has now been six weeks since the Committee's initial request for the transcribed interview, and USDA has failed to make you available for a transcribed interview or a briefing. As a result, attached is a subpoena for a deposition pursuant to Rule XI, clause 2(m)(1)(B) of the Rules of the House of Representatives and Rule 12(g) of the Committee's Rules. You are obligated to appear before the Committee on December 9, 2024.

As Chairman of the Committee, I urge you to cooperate speedily and in good faith with this subpoena. If you have any questions regarding this subpoena, please coordinate with Oversight Committee staff at (202) 225-5074.

Sincerely,



James Comer
Chairman
Committee on Oversight and Accountability

SUBPOENA

BY AUTHORITY OF THE HOUSE OF REPRESENTATIVES OF THE CONGRESS OF THE UNITED STATES OF AMERICA

Dr. Aaron Rhyner, Assistant Director, Animal and Plant Health Inspection Service-Animal Care, U.S.
Department of Agriculture

To

You are hereby commanded to be and appear before the
Committee on Oversight and Accountability

of the House of Representatives of the United States at the place, date, and time specified below.

- to produce the things identified on the attached schedule touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of production: _____
Date: _____ Time: _____

- to testify at a deposition touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: 6480 O'Neill House Office Building
Date: December 9, 2024 Time: 10:00 a.m.

- to testify at a hearing touching matters of inquiry committed to said committee or subcommittee; and you are not to depart without leave of said committee or subcommittee.

Place of testimony: _____
Date: _____ Time: _____

To any authorized staff member or the U.S. Marshals Service

_____ to serve and make return.

Witness my hand and the seal of the House of Representatives of the United States, at

the city of Washington, D.C. this 19 day of November, 2024.

Attest:

Kevin F. McCulber

Clerk

James Gomez
Chairman or Authorized Member