Horse Protection Act Review
of
Kentucky Walking Horse Association
Lexington, KY

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U.S. Department of Agriculture, Animal and Plant Health Inspection Service

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Executive Summary

The Review and Analysis Branch (RAB) in conjunction with the Animal and Plant Health Inspection Service's (APHIS) Animal Care (AC) performed a review of the 2007 show records of the Kentucky Walking Horse Association (KWHA) on October 28, 2008. The review covered the KWHA rule book, the KWHA organizational structure, Designated Qualified Person (DQP) personnel files, DQP training requirements and qualifications, DQP reports, and show records. KWHA is not a signatory Horse Industry Organization (HIO); this means KWHA did not create any additional rules or regulations to ensure the enforcement of the Horse Protection Act (HPA). All tickets written in violation of the HPA become automatic federal cases bypassing the HPA Coordinator.

KWHA conducted 117 Affiliated/Sanctioned shows during the 2007 show season and wrote 121 violations. AC was present for six shows, where KWHA wrote 74 of the 121 violations.

Year	Total Shows	Number of Shows when Animal Care Present	Percent of Shows when Animal Care Present	Total Violations Reported by KWHA	Number of Violations when Animal Care Present	Percent of Violations when Animal Care Present
2005	113	11	10%	154	98	64%
2006	126	6	5%	119	32	27%
2007	117	6	5%	121	74	61%

There was one prior review finding addressed in the 2005 report. The 2005 review referenced a violation disparity of 64 percent, which remained relatively consistent in the 2007 review when AC was present as well.

In addition, the Review Team identified processes that could be improved regarding HIO reporting.

Significant Issues:

- KWHA should reevaluate show management procedures for reporting violations.
- KWHA should retrain DQPs in ticket preparation.
- KWHA should revise its current HPA rule book to align with the HPA.

Background

The HPA (Pub. L. 91-540) was enacted by Congress in 1970 in response to public concerns about soring of horses[1]. As a Federal law (15 U.S.C. §1821 et seq.), the HPA prohibits sored horses from participating in exhibitions, sales, shows, or auctions. The HPA also prohibits persons from transporting sored horses to compete in shows. APHIS is responsible for enforcing the HPA. RAB is responsible for evaluating APHIS programs and activities for overall effectiveness and efficiency in meeting their objectives. RAB conducts regular reviews of all nine HIOs.

Purpose

The objective of this review is to ensure all KWHA policies and procedures for the 2007 show season are in compliance with the HPA of 1970 (Pub. L. 91-540), as amended by the HPA Amendments of 1976 (Pub. L. 94-360), 15 U.S.C. §1821 et seq., and any legislation amendatory thereof.

Methodology

The Review Team met with the KWHA records secretary, Gayle McCammon, in Lexington, KY to analyze the KWHA show documents for January 2007 through December 2008. The documents analyzed included compliance with the KWHA rule book, the KWHA organizational structure, Designated Qualified Person (DQP) personnel files, DQP training requirements and qualifications, DQP reports, and show records. The Review Team conducted an exit conference which ended the HIO review.

AREAS OF REVIEW

KWHA Rule Book

KWHA provided an up-to-date copy of their rule book. The rule book had previously been approved by AC. The Review Team identified a few significant findings. KWHA does not list a penalty for a post-show technical violation (heel/toe, foreign substance, etc.). In addition, KWHA does not issue suspensions for pre-show scar rule violations until the fourth scar rule violation. The majority of tickets issued by KWHA were handled according to their rule book and not according to the HPA.

Recommendation

While the KWHA rule book was approved by AC, RAB recommends that AC re-examine the KWHA rule book for compliance to the HPA rules and regulations. According to the HPA rules and regulations, a scar rule is a direct violation to the HPA whenever discovered. A scar rule violation is also an automatic federal case.

[1] USDA, Horse Protection Act (1970), (Pub. L. 91-540)

Notification should be sent to the HPA Coordinator, who would then refer the violation to the Investigative and Enforcement Services (IES) department. The violation would then go before the Office of General Counsel (OGC) who makes the final ruling to pursue a Federal Case. The HPA mandates a disqualification of offender by the Secretary in accordance with the HPA *Section 1825(c) – Violations and penalties.*

Recommendation

While suspension is appropriate, it should be listed in the rule book. Therefore, KWHA should amend their rule book to include the duration of the suspension for a post-show technical violation. KWHA should also amend their rule book to include the pre-show scar rule as a direct violation of the HPA and an instant suspension should follow. RAB recommends that AC monitor KWHA more closely by attending more shows. The HPA mandates a disqualification of offender by the Secretary in accordance with the HPA *Section 1825(c) – Violations and penalties.*

KWHA Committee Structure

KWHA made no changes to their Board of Directors. The Board of Directors' directory lists the board members, their titles, duties, and contact information.

DQP Reports

KWHA had 16 licensed DQPs who inspected horse shows as assigned by the HIO. The Review Team examined the DQP reports submitted to AC. The reports were received in accordance with the rules and regulations established by the USDA HPA.

Conflict Resolutions

There were no conflict resolutions documented for the 2007 show season.

Show Records

The Review Team examined all KWHA show records and concluded that three records were not filled out in their entirety for show management reporting. When show management is not informed of individual post-show violators; they cannot follow the KWHA rule book which states violators will forfeit winnings.

Recommendation

KWHA should present all post-show violations to show management in accordance with the Horse Protection Regulation *Section 11.20(b) (3) –"The DQP shall immediately report to the management of any horse show…any horse which, in his opinion, is sore or otherwise in violation of the Act or regulations."*

DQP Qualifications

KWHA had 16 licensed DQPs. KWHA stated all DQPs completed their required training held during the KWHA Annual Meeting on January 25-26, 2007. KWHA provided a name and signature listing of all DQP attendees which is in accordance with established USDA regulations.

DQP Personnel Files

KWHA maintains individual files for each DQP. Those files contained annual test scores, performance evaluations, applications for training, and course completion records. The KWHA HIO had supervised each DQP during an event within the 2007 show season and had provided an evaluation on the performance and conduct of each DQP. The review team reviewed each DQP file and found all to be in compliance with USDA regulations.

Violations

The Review Team analyzed each ticket for accuracy, appropriate penalty issuance, and proper notification. All recordkeeping is done by hand, there is no database. Amazingly, the paper system seemed to work very well. There was an index card system for each violator with a history of all their violations by date. This enabled tracking of progressive penalties like pre-show scar rule. Although violations matched the database maintained by AC, there were inconsistency issues found in the appeal process. The KWHA rule book states that "appeals will be handled according to the procedures adopted by the KWHA-HIO in conjunction with the USDA." If the appeals were handled according to the USDA rules and regulations, the result would be to serve an immediate suspension. KWHA does not have a set time limit for a hearing to occur after an appeal has been made.

Recommendation

KWHA should establish a time limit for serving a suspension after an appeal has been made. A time limit would serve to resolve the issue of serving a suspension outside the show season months. RAB recommends that AC monitor KWHA more closely by auditing the KWHA suspension list tracking when suspensions are served (during or after the show season).

DQP Yearly Performance

Year	Total Shows	Number of Shows when Animal Care Present	Percent of Shows when Animal Care Present	Total Violations Reported by KWHA	Number of Violations when Animal Care Present	Present of Violations when Animal Care Present
2005	113	11	10%	154	98	64%
2006	126	6	5%	119	32	27%
2007	117	6	5%	121	74	61%

Based on the chart above there appear to be a higher than normal percentage of violations when AC is present. KWHA should address the disparity in the number of tickets written when AC is present.

In addition, violations must be issued to a person (i.e. trainer or owner). The Review Team noted a few instances where the ticket showed the stable name instead of the trainer name. The stable name does not meet the requirement, because the ticket has to be issued to a person. Not having this information leads to difficulty in penalizing the correct trainer, since some stables have multiple trainers. The problem originates with an incorrect entry form and class sheet, as these are the documents used by DQPs to fill out tickets. As a result, the DPQ is filling out the tickets using the stable name instead of the trainer or owner name. Show management and DQPs need to insist that individual trainer's names are listed on class sheets. It is important that the suspension be issued to the individual who actually is responsible for training the horse. Thus, stable name should not be accepted by DQPs as trainers.

Lastly, there were a small number of tickets for "illegal shoeing" that had no further description. This could mean a heel/toe violation, pads in excess of 50% of the hoof, or non-HPA violations like a park performance pad in excess of 1 inch. These types of violations should be differentiated, especially since all are not HPA violations, only violations of the KWHA rule book.

Recommendation

It is imperative that KWHA obtain accurate information when filling in the mandatory information for a ticket or any other document used during the show season in accordance with the Horse Protection Regulation *Section 11.7(d) (1) (iii) – "Any licensed DQP…shall keep and maintain the following information…concerning any horse which said DQP recommends be disqualified or excused for any reason…. (iii) The name and address…of the horse trainer."* In addition, *Section 11.7(d)(1) (vii) – "Any licensed DQP…shall keep and maintain the following information…concerning any horse which said DQP recommends be disqualified or excused for any reason… (vii). A detailed description of all the DQP's findings and the nature of the alleged violation, or other*

reason for disqualifying or excusing the horse, including said DQP's statement regarding the evidence or facts upon which the decision…was based."

It is recommended KWHA work more closely with their DQPs, as there is a large disparity in the number of tickets written while AC is present versus when AC is not. RAB will recommend that AC monitor more closely the HIO's identification of violations and take appropriate steps to address cases of HIO noncompliance with the Act in accordance with the Horse Protection Regulation *Section 11.7(g). Revocation of DQP program certification of horse industry organizations or associations. Any horse industry organization that otherwise fails to comply with the requirements contained in this section, may have such certification of its DQP program revoked…*

Suspension List

The APHIS Veterinary Medical Officer Horse Protection Show Report indicates 61 suspensions issued and 59 taken for the 2007 show season. KWHA indicted that the DQP gives all violators a copy of the ticket issued at the show. KWHA then mails suspension notices to the violators within 10 days by certified mail. The violator then has 20 days to appeal. The Review Team examined all tickets for the 2007 show season and each was found to have the certified mail receipt attached.

KWHA reported two violations that resulted in an appeal. Both violations pled no contest resulting in penalties and the required HPA suspension of two weeks.

Case #	Exhibitor Name	Violation Date	Appeal Date	Pled	Result	Suspension Dates
1	Hernandez	5/27/07	6/9/07	No Contest	Suspension	9/4/07 to 9/17/07
2	Tooley	8/17/07	9/17/07	No Contest	Suspension	11/15/07 to 11/28/07