

# HEART OF AMERICA WALKING HORSE ASSOCIATION

Heart of America Walking Horse Association (HAWHA) is committed to promoting and protecting the welfare of the Tennessee Walking Horse, and preserving the TWH industry for future generations. Since the enactment of the Horse Protection Act (HPA) in the early 1970's, there has been significant improvement in the handling and presentation of the Tennessee Walking Horse. In order to continue this progress, the TWH industry would like to work collaboratively with USDA to further increase compliance with the HPA, and supports the appropriate use of technology to do so. The HAWHA has also previously expressed to USDA their willingness to collaborate on evaluating new technology, including providing horses that can be used in the evaluation of such technology. However, the HAWHA has several concerns about USDA's recent proposal to institute foreign substance penalties in the 2008 show season using the Gas Chromatography/Mass Spectrometry (GC/MS) test.

- 1) First of all, there is an Operating Plan currently in place for the 2007 - 2009 show seasons. The majority of HIOs are currently following this operating plan, which has been agreed to by USDA. There was a significant investment in both time and energy by the HIOs and USDA, including some very difficult negotiations, to reach agreement on this Operating Plan. This Operating Plan references and includes foreign substance violations of the Horse Protection Act. Since this Operating Plan is currently in effect, the penalties as outlined in it should be the ones that remain in place throughout the 2007 - 2009 show seasons. Any additional changes such as the addition of federal penalties should be discussed with the industry for the next iteration of the Operating Plan. Actions otherwise calls into question the sincerity, integrity, and necessity of the Operating Plan.
- 2) Unfortunately, this appears to be another eleventh hour change by the Department, just as the show season is about to start. Last year, the Department did the same thing, by making a policy decision to pull the probation period out of the Operating Plan a week or two before the show season started. The industry needs to be notified well in advance of policy decisions that could significantly impact them, so that productive discussion can occur and a level of trust in the system can be developed. Also, in order for a national program to be effectively implemented, it is critical that policy changes be introduced in such a way that the industry has adequate time to respond. Ideally, any proposed changes should initially be introduced in the fall, well prior to the start of the show season.

- 3) HAWHA supports the appropriate use of new technology in the inspection process. Before new technology is introduced however, the technology needs to be validated for use in the horse show environment and the data needs to be shared with the industry. This will ensure transparency and trust in the new technology and will allow the industry an opportunity to ask any questions, and raise any concerns. Before the new gas chromatography/mass spectrometry (GC/MS) test is used to bring federal cases, we respectfully request the following information:
- Data showing how the technology was validated for use in the show environment, and/or for use on the legs of horses. How many positive tests were correlated back to known substance use on horses? How many negative tests were correlated back to horses known to be free of all substances?
  - What is the sensitivity and specificity of the test in a horse show environment? (I.e. expected level of false positive and false negative results?)
- 4) Although the new GC/MS test has been used on a trial basis at horse shows, the industry has only been provided summary data findings. Owners have not been notified of test results on their horses, and therefore have not known when there was a need to take any corrective action. Before the new GC/MS test is used to bring federal cases, we respectfully request that for the 2008 -2009 show seasons, the GC/MS trials continue and that owners of all horses tested be notified of results.
- 5) HAWHA will work to ensure that trainers do all they can to be in compliance with the HPA. To help ensure that the "sniffer" technology works as it should without causing false positive results and in the interest of transparency, we request some guidelines on its use that can be provided to the trainers. For example;
- a. How long before a show do trainers need to be sure to not use any cosmetic or other non-injurious salves in order to avoid having the "sniffer" register a positive response? Although the HPA states that no foreign substance other than show provided lubricants are allowed on a horse's leg while at a show, there are many non-injurious substances that may routinely be used on a horse for a variety of reasons prior to the show, such as soap residue from bathing, or hoof blacking dye. What is the latest these types of non-injurious substances can be used without causing positive tests? There is an article titled "Determination of clenbuterol in horse hair by gas chromatography—Tandem mass spectrometry" by Popot et al in. In that study which was done to investigate drug detection

in samples of horse hair from the coat (on the neck), mane, and tail, three clenbuterol studies were conducted on a total of four horses. The study indicates that a retrospective analysis-measurement of clenbuterol in the tail was possible for up to 13 months after the last administration of drug. This may or may not correlate to use of the "sniffer" at horse shows, but raises some concerns regarding residual substances that may be detected.

- What if trainers/handlers have hand cream on or OTC antibiotic cream on their own hands? How much can get transferred by handling horses feet before causing a positive test? Do trainers and others need to use gloves?

- 6) Protocols for use of the GC/MS test at horse shows need to be developed and distributed prior to its use, including appropriate collection and handling of samples.

Thank you for allowing our input for without communications, nothing can be resolved.

Sincerely,



Ted Nichols

President HAWHA

March 24, 2008

Dr. Rachel Cezar  
Horse Protection Coordinator  
USDA-APHIS-Animal Care  
4700 River Road, Suite 6D03  
Riverdale, MD 20737

RE: USDA Proposed Protocol for Foreign Substance Penalty

Dear Dr. Cezar:

The undersigned representatives of their respective Horse Industry Organizations (HIOs) are writing to outline our position on the proposed Protocol for Foreign Substance Penalty, (copied below) which was distributed at our March 11, 2008 USDA/HIO meeting in Nashville, Tennessee.

*USDA Horse Protection Program*  
*ANIMAL CARE HORSE PROTECTION*  
*2/25/2008*  
**Protocol for Foreign Substance Penalty**

*Beginning with the 2008 show season, the following actions will be taken for a foreign substance violation detected by the Gas Chromatography/Mass Spectrometry (GC/MS) Test:*

***1st offense:** Issue official USDA warning (Form 7060) for violation of Federal Regulations to all parties involved.*

***2nd offense:** Initiate federal case unless HIO signatory to the Operating Plan applies the post-show foreign substance penalty specified by the plan. USDA will notify the affiliated HIO that this is the 2nd offense of the violator. If Operating Plan penalty is applied, USDA will require documentation from HIO showing that the penalty was given to all parties involved. If documentation is not provided, a federal case will be initiated.*

***3rd offense:** Initiate federal case.*

*Gas Chromatography/Mass Spectrometry (GC/MS) Test*

- Samples for GC/MS test will be randomly collected by USDA officials.*
- Tests will be conducted by USDA APHIS National Veterinary Services Laboratory in Ames, IA.*
- Turnaround time of results may vary; therefore, only the post-show penalty is applied.*

We find the violations detected through this testing procedure are unenforceable by the HIOs for the following reasons:

- The inspection is not conducted by the HIO inspectors (DQPs).
- The samples are not taken by HIO inspectors.
- The HIO does not maintain any control over the chain of custody of the evidence.
- The HIO has no involvement in selecting the laboratory conducting the testing.
- The HIO does not submit the samples to the laboratory for testing.
- The HIO does not receive the results directly from the laboratory conducting the testing.
- The suggested enforcement would be based upon a letter from the Department whose inspectors and other employees conducted the inspections, collected, tested and analyzed the samples, and maintained all the controls.
- The USDA does not and will not participate in the HIO hearing process.
- The HIO would have no USDA witnesses to verify any of the evidence.
- The letter informing the HIO of the findings would be hearsay.

The lack of HIO involvement and controls in the foreign substance inspection means the hearing and appeals process might not be sustainable, and violators could have their violations overturned. Further, we believe any HIO's application of the proposed industry suspension penalty could subject that HIO to liability and risk of potential litigation.

Having consulted with legal counsel it is our position that a USDA-certified HIO has no authority or standing to enforce this proposal and that the responsibility for enforcement rests squarely with the USDA. We believe this foreign substance penalty should be handled in the same way as any other VMO findings which result in a federal case, (i.e. a case in which the VMO and DQP disagree on their findings and are unable to resolve the conflict would be based solely on the findings of the VMO).

Further, we believe this proposed protocol is an inappropriate delegation of USDA's authority and responsibility.

For these reasons, we believe the proposed penalty protocol is unenforceable by an HIO and we object to any HIO assessing any penalties. We therefore recommend that the USDA enforce their findings, and that the Department proceed with federal cases. We would support the issuance of a form 7060 to all parties involved in a first offense of this violation, and the initiation of a federal case against all parties involved in second and subsequent offenses.

We thank you for your consideration in this matter.

Respectfully,

Horse Protection Commission  
Larry Connelly, DVM  
President/Chairman/DQP Coordinator

Friends of Sound Horses  
Keith Dane  
USDA Liaison

International Walking Horse Association  
Jack M. Haefling  
President

Oklahoma Walking Horse Association  
Ann Kuykendall  
Chairman

Western International Walking Horse Association  
Terry Jerke  
President



# National Horse Show Commission, Inc.

P. O. BOX 167 · SHELBYVILLE, TENNESSEE 37162 · PHONE 931/684-9506 · FAX 931/684-9538  
WWW.NATIONALHORSESHOWCOMMISSION.ORG

March 17, 2008

Dr. Rachel Cezar, Horse Protection Coordinator  
4700 River Road, Suite 6D03  
Riverdale, MD 20737

Dear Dr. Cezar:

The National Horse Show Commission, Inc. (NHSC) is committed to promoting and protecting the welfare of the Tennessee Walking Horse, and preserving the TWH industry for future generations. Since the enactment of the Horse Protection Act (HPA) in the early 1970s, there has been significant improvement in the handling and presentation of the Tennessee Walking Horse. In order to continue this progress, the TWH industry would like to work collaboratively with USDA to further increase compliance with the HPA, and supports the appropriate use of technology to do so. The NHSC has also previously expressed to USDA their willingness to collaborate on evaluating new technology, including providing horses that can be used in the evaluation of such technology. However, the NHSC has several concerns about USDA's recent proposal to institute foreign substance penalties in the 2008 show season using the Gas Chromatography/Mass Spectrometry (GC/MS) test.

1. There is an Operating Plan currently in place for the 2007-2009 show seasons. The majority of HIOs are currently following this Operating Plan, which has been agreed to by USDA. There was significant investment in both time and energy by the HIOs and USDA, including some very difficult negotiations, to reach agreement on this Operating Plan. This Operating Plan references and includes foreign substance violations of the Horse Protection Act. Since this Operating Plan is currently in effect, the penalties as outlined in it should be the ones that remain in place throughout the 2007-2009 show seasons. Any additional changes such as the addition of federal penalties should be discussed with the industry for the next iteration of the Operating Plan. To do otherwise calls into question the sincerity, integrity, and necessity of the Operating Plan.
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effectively implemented, it is critical that policy changes be introduced in such a way that the industry has adequate time to respond. Ideally, any proposed changes should initially be introduced in the Fall, well prior to the start of the show season.

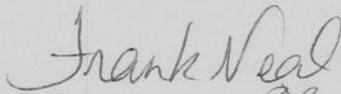
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- What if trainers/handlers have hand cream on or OTC antibiotic cream on their own hands? How much can get transferred by handling horses feet before causing a positive test? Do trainers and others need to use gloves?
6. Protocol for use of the GC/MS test at horse shows need to be developed and distributed prior to its use, including appropriate collection and handling of samples.

The NHSC would like to thank you for your time and your consideration of all these points and we look forward to hearing from you soon.

Sincerely,



Frank Neal *by RDR*  
NHSC Chairman

FEN/rdr

March 24, 2008

Dr. Rachel Cezar  
Horse Protection Coordinator  
USDA-APHIS Animal Care  
4700 River Road, Suite 6D03  
Riverdale, MD 20737

Dear Dr. Cezar:

Please accept this response as the Official communication of SHOW HIO (Tennessee Walking Horse National Celebration®) relating to the USDA Foreign Substance Protocol using Gas Chromatography/Mass Spectrometry. I want to assure you that personally as a horseman and professionally as CEO of the Tennessee Walking Horse National Celebration® that we are totally against soring or any other abuse or inhumane treatment of horses...PERIOD.

As a new Player in the HIO group, I appreciate all the things that have been done recently. It appears to me that the soring problem and subsequent actions taken by each HIO in partnership with USDA have contributed to a cleaner, more sound horse. Can it be better? Absolutely, and that is our intent. Actually, I enjoyed the dialogue at my first HIO meeting - different thoughts and backgrounds. I think we all want the same thing. I am amazed at the compromises that have been made AND as a result 12 HIO's, have signed the Operating Plan. This is significant to those directly involved in showing or selling horses, USDA and Humane Societies. I think we are all advocates of the Horse Protection Act, and I take my hat off to all parties that have contributed to the success of the HIO Operating Plan partnership.

Relating directly to the question, it appears to me all HIO's that signed the Operating Plan signed a good faith plan for 2007-2009. Included in this plan there exists a violation and penalty protocol for foreign substance. It would appear to me, as a novice to this group, that Gas Chromatography/Mass Spectrometry would follow on the heels of the existing document violation relative to foreign substances and the penalty phase.

As I listened to all parties I was surprised that you (USDA) introduced the Gas Chromatography/Mass Spectrometry as a 1-2-3. Previously, the HIO's were involved and allowed to negotiate literally every phase of the Operating Plan. However, in this instance no involvement or negotiation by HIO's was allowed relative to the penalty phase. Regardless of the HIO's position, I, thank you, for recognizing this and allowing for these responses. Additionally, I thank you for extending the date of response as our Chairman of the Board and other Board members were unavailable at the original target date.

Dr. Rachel Cezar  
Page 2 of 2  
March 24, 2008

Although this or any protocol that alters the original document (Operating Plan) should have HIO input and support. I think the HIO's that oppose the protocol, as you submitted it to them, would favor making an amendment to the Operating Plan, if self-regulation was a larger part of the presented protocol. There is a tremendous amount of difference between the current HIO's third (3) offense penalty for a foreign substance and the third (3) offense penalty under your new plan. The HIO penalty for a foreign substance violation (post show) is two (2) weeks for each occurrence. The new plan calls for the initiation of a federal case after the third violation. These two (2) penalties are miles apart. Maybe I am just new and naive, but the more we can clean up our horses within the ranks with less government intervention, the greater chance we stand for a long term compliance with HPA. I would think the trainers, etc., would work harder to please and be in favor with their peers than USDA.

I have spent the last 30 years in an academic setting as a scientist. Through the process of obtaining data, evaluating and making conclusions based on scientific evidence, and proper experimental procedure, we have the opportunity to make learned judgments. With this in mind, could you provide the HIO's with information relative to "control" information and subsequent Gas Chromatography/Mass Spectrometry list of foreign substances? Although no list is ever "complete" it would be beneficial for horse owners/trainers to know specifically which ones are foreign. For example, diesel fuel is a foreign substance. Yet this morning I sprayed "Horseman 2000" fly spray on my horse. It specifically says the product has pyrethrins, permethrins and petroleum distillate. Most of the more expensive fly sprays contain a petroleum distillate that might relate to diesel. Last month I judged a huge Quarter Horse Show in Houston, Texas, and I assure you there were no sore horses at the show. However some of the horses may NOT have passed the Gas Chromatography/Mass Spectrometry evaluation based on grooming and health items used on the horse. I am just asking...is this possible? Those who violate the foreign substance rule should be ZAPPED, but I am concerned for those that might have unintentionally used a substance that you determined was foreign.

There has been too much progress through negotiation and compromise to make any decision that would diminish the positive contribution afforded by the Operating Plan. For the good of the horse, we have got to continue these compromises and negotiations. I take offense to those that talk about Walking Horse owners and Horse Protection Act advocates as two different people. There are many people like me that love Walking Horses yet are STRONG HORSE PROTECTION ADVOCATES. If you continue to work in this position, you will become aware that our HIO will take certain positions and those positions will be independent of all other HIO's.

Please feel free to call me as the need arises.

Sincerely,

Dr. Doyle G. Meadows  
Chief Executive Officer

cn  
p.s. Hard Copy to Follow





The Spotted Saddle Horse Breeders and Exhibitors Association (SSHBEA) is committed to promoting and protecting the welfare of the Spotted Saddle Horse, and preserving the SSH industry for future generations. Since the enactment of the Horse Protection Act (HPA) in the early 1970's, there has been significant improvement in the handling and presentation of the Spotted Saddle Horse. In order to continue this progress, the SSH industry would like to work collaboratively with USDA to further increase compliance with the HPA, and supports the appropriate use of technology to do so. The SSHBEA has also previously expressed to USDA their willingness to collaborate on evaluating new technology, including providing horses that can be used in the evaluation of such technology. However, the SSHBEA has several concerns about USDA's recent proposal to institute foreign substance penalties in the 2008 show season using the Gas Chromatography/Mass Spectrometry (GC/MS) test.

- 1) First of all, there is an Operating Plan currently in place for the 2007 - 2009 show seasons. The majority of HIO's are currently following this operating plan, which has been agreed to by USDA. There was a significant investment in both time and energy by the HIO's and USDA, including some very difficult negotiations, to reach agreement on this Operating Plan. This Operating Plan references and includes foreign substance violations of the Horse Protection Act. Since this Operating Plan is currently in effect, the penalties as outlined in it should be the ones that remain in place throughout the 2007 - 2009 show seasons. Any additional changes such as the addition of federal penalties should be discussed with the industry for the next iteration of the Operating Plan. To do otherwise, calls into question the sincerity, integrity, and necessity of the Operating Plan.
- 2) Unfortunately, this appears to be another eleventh hour change by the Department, just as the show season is about to start. Last year, the Department did the same thing, by making a policy decision to pull the probation period out of the Operating Plan a week or two before the show season started. The industry needs to be notified well in advance of policy decisions that could significantly impact them, so that productive discussion can occur and a level of trust in the system can be developed. Also, in order for a national program to be effectively implemented, it is critical that policy changes be introduced in such a way that the industry has adequate time to respond. Ideally, any proposed changes should initially be introduced in the fall, well prior to the start of the show season.
- 3) The SSHBEA supports the appropriate use of new technology in the inspection process. Before new technology is introduced however, the

technology needs to be validated for use in the horse show environment and the data needs to be shared with the industry. This will ensure transparency and trust in the new technology and will allow the industry an opportunity to ask any questions, and raise any concerns. Before the new gas chromatography/mass spectrometry (GC/MS) test is used to bring federal cases, we respectfully request the following information:

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- What if trainers/handlers have hand cream on or OTC antibiotic cream on their own hands? How much can get transferred by handling horses feet before causing a positive test? Do trainers and others need to use gloves?
- 6) Protocols for use of the GC/MS test at horse shows need to be developed and distributed prior to its use, including appropriate collection and handling of samples.
  - 7) If this is not possible, at least give the HIO’s the opportunity to come up with a penalty structure that could possibly be incorporated in the current 2007-2009 Operating Plan.
  - 8) The Spotted Saddle Horse Breeders and Exhibitors Association feel as though the USDA allowed the SSHBEA to participate in all the other penalty and/or structure plans, but we did not have the opportunity to participate or voice our concerns in the “partnership” plan with the USDA that involved the Gas Chromatography/Mass Spectrometry (GC/MS) test.

Mack Motes

SSHBEA President

P.O. Box 1046

Shelbyville, Tn. 37162

931-684-7496 SSHBEA Office

931-205-2383 cell





TENNESSEE WALKING HORSE BREEDERS' AND EXHIBITORS' ASSOCIATION<sup>SM</sup>

David Pruett, President • Bob Ramsbottom, Senior Vice President • Stan R. Butt, Executive Director

March 14, 2008

Dr. Rachel Cezar  
Horse Protection Coordinator  
USDA-APHIS-Animal Care  
4700 River Road, Suite 6D03  
Riverdale, MD 20737

Dear Dr. Cezar,

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- 6) Protocols for use of the GC/MS test at horse shows need to be developed and distributed prior to its use, including appropriate collection and handling of samples.

We would ask that you and your department please take these questions and suggestions into consideration before implementing foreign substance penalties during the 2008-2009 show seasons. Please contact me if you have further questions.

Regards,

A handwritten signature in cursive script, appearing to read "David Pruett".

David Pruett  
Tennessee Walking Horse  
Breeders' & Exhibitors' Association  
Horse Industry Organization



# WALKING HORSE OWNERS ASSOCIATION

March 17, 2008

Dr. Rachel Cezar  
Horse Protection Coordinator  
USDA-APHIS-Animal Care  
4700 River Road, Suite 6D03  
Riverdale, MD 20737

Dear Dr. Cezar,

The Walking Horse Owners Association (WHOA) is committed to promoting and protecting the welfare of the Tennessee Walking Horse, and preserving the TWH industry for future generations. Since the enactment of the Horse Protection Act (HPA) in the early 1970's, there has been significant improvement in the handling and presentation of the Tennessee Walking Horse. In order to continue this progress, the TWH industry would like to work collaboratively with USDA to further increase compliance with the HPA, and supports the appropriate use of technology to do so. WHOA has several concerns about USDA's recent proposal to institute foreign substance penalties in the 2008 show season using the Gas Chromatography/Mass Spectrometry (GC/MS) test.

- 1) There is an Operating Plan currently in place for the 2007 - 2009 show seasons. The majority of HIOs are currently following this operating plan, which has been agreed to by USDA. There was a significant investment in both time and energy by the HIOs and USDA, including some very difficult negotiations, to reach agreement on this Operating Plan. This Operating Plan references and includes foreign substance violations of the Horse Protection Act. Since this Operating Plan is currently in effect, the penalties as outlined in it should be the ones that remain in place throughout the 2007 - 2009 show seasons. Any additional changes such as the addition of federal penalties should be discussed with the industry for the next iteration of the Operating Plan. To do otherwise calls into question the sincerity, integrity, and necessity of the Operating Plan.

- 2) The industry needs to be notified well in advance of policy decisions that could significantly impact them, so that productive discussion can occur and a level of trust in the system can be developed. Also, in order for a national program to be effectively implemented, it is critical that policy changes be introduced in such a way that the industry has adequate time to respond. Ideally, any proposed changes should initially be introduced in the fall, well prior to the start of the show season.
- 3) WHOA supports the appropriate use of new technology in the inspection process. Before new technology is introduced however, the technology needs to be validated for use in the horse show environment and the data needs to be shared with the industry. This will ensure transparency and trust in the new technology and will allow the industry an opportunity to ask any questions, and raise any concerns. Before the new gas chromatography/mass spectrometry (GC/MS) test is used to bring federal cases, we respectfully request the following information:
  - Data showing how the technology was validated for use in the show environment, and/or for use on the legs of horses. How many positive tests were correlated back to known substance use on horses? How many negative tests were correlated back to horses known to be free of all substances?
  - What is the sensitivity and specificity of the test in a horse show environment? (i.e. expected level of false positive and false negative results?)
- 4) Although the new GC/MS test has been used on a trial basis at horse shows, the industry has only been provided summary data findings. Owners have not been notified of test results on their horses, and therefore have not known when there was a need to take any corrective action. Before the new GC/MS test is used to bring federal cases, we respectfully request that for the 2008 -2009 show seasons, the GC/MS trials continue and that owners of all horses tested be notified of results.
- 5) WHOA will work to ensure that owners do all they can to be in compliance with the HPA. To help ensure that the “sniffer” technology works as it should without causing false positive results and in the interest of transparency, we request some guidelines on its use that can be provided to the trainers. For example;

- a. How long before a show do trainers need to be sure to not use any cosmetic or other non-injurious salves in order to avoid having the “sniffer” register a positive response? Although the HPA states that no foreign substance other than show provided lubricants are allowed on a horse’s leg while at a show, there are many non-injurious substances that may routinely be used on a horse for a variety of reasons prior to the show, such as soap residue from bathing, or hoof blacking dye. What is the latest these types of non-injurious substances can be used without causing positive tests? There is an article titled “Determination of clenbuterol in horse hair by gas chromatography—Tandem mass spectrometry” by Popot et al in. In that study which was done to investigate drug detection in samples of horse hair from the coat (on the neck), mane, and tail, three clenbuterol studies were conducted on a total of four horses. The study indicates that a retrospective analysis-measurement of clenbuterol in the tail was possible for up to 13 months after the last administration of drug. This may or may not correlate to use of the “sniffer” at horse shows, but raises some concerns regarding residual substances that may be detected.
- What if trainers/handlers have hand cream on or OTC antibiotic cream on their own hands? How much can get transferred by handling horses feet before causing a positive test? Do trainers and others need to use gloves?
- 6) Protocols for use of the GC/MS test at horse shows need to be developed and distributed prior to its use, including appropriate collection and handling of samples.

I appreciate your time concerning these issues. Please contact me if you have any further questions.

Sincerely,



Frank E. Neal

President  
Walking Horse Owners Association

**WHOA • P.O. Box 4007 • Murfreesboro, TN 37129**

## **Industry Recommendations regarding the Introduction of New Technologies for Enforcement of the Horse Protection Act**

The Tennessee Walking Horse (TWH) industry is committed to promoting and protecting the welfare of the Tennessee Walking Horse, and preserving the TWH industry for future generations. Since the enactment of the Horse Protection Act (HPA) in the early 1970's, there has been significant improvement in the handling and presentation of the Tennessee Walking Horse. In order to continue this progress, the TWH industry would like to work collaboratively with USDA to further increase compliance with the HPA, and supports the appropriate use of technology to do so. The Walking Horse Trainers Association has previously expressed to USDA their willingness to collaborate on evaluating new technology, including providing horses that can be used in the evaluation of such technology.

To ensure that any new technology that is introduced is effective and functions as it should, the industry makes the following recommendations;

- 1) Before new technology is introduced, it needs to be validated for use in a horse show environment, and for the purpose intended. This is true whether it is completely new technology or technology that is being adapted from another use, such as human medicine or forensics. This validation data, and any conclusions or plans for implementation should be offered for public comment. This will ensure that the proposed technology is well reviewed, and will ensure transparency and trust in the new technology.

Information that should be provided should include at least:

- Any time the new technology is being evaluated on privately owned horses, those test results should be provided directly to the owners and/or trainers of those horses. This will help in the evaluation process as owners or trainers can identify any discrepancies between test results and known status of the horse.
  - Data showing how the technology was validated for use in the horse show environment.
    - How many positive tests were correlated back to known substance use on horses (positive reference)?
    - How many negative tests were correlated back to horses known to be free of all substances (negative reference)?
  - What is the sensitivity and specificity of the test in a horse show environment? (i.e. expected level of false positive and false negative results?)
  - What are the cut-off thresholds for positive and negative results?
  - How many labs were involved in the validation study and how closely did results correlate from those labs?
  - What will the protocol for sampling be and how will samples be collected and handled?
- 2) The proposed technology, associated validation data, and protocols for use should also be reviewed by an independent, scientifically based third-party to help ensure that the science is sound and proposed application of the technology is appropriate. An example of such a

committee would be the United States Animal Health Association (USAHA) Committee on Animal Welfare. The membership of the USAHA is crosscutting and includes state and federal regulatory animal health officials as well as industry. The stated mission of the USAHA Committee on Animal Welfare is: “explores animal welfare concerns and seeks to present data in an honest, unbiased, science-based manner for USAHA membership to evaluate. In this capacity, the committee serves as a forum for promoting dialogue between the various animal welfare groups and industry and for promoting the development of broad-based animal welfare solutions”. This type of scientifically based external review will help protect the integrity of the program, and is general practice for other USDA animal health related programs.

- 3) To help ensure that the new technology functions as it should without causing false positive results, guidelines on its use must be provided to the industry. For example;
  - a. If gas chromatography/mass spectrometry technology (GC/MS) is used, how long before a show does a handler need to be sure to not use any non-injurious salves in order to avoid having the GC/MS register a positive response?
  - b. If trainers/handlers have hand cream or over-the-counter antibiotic cream on their own hands, can enough get transferred by handling horses to cause a positive test?
- 4) The industry needs to be notified well in advance of the introduction of new technologies or procedures, so that productive discussion can occur and a level of trust in the system can be developed. Also, it is critical that policy changes be introduced in such a way that the industry has adequate time to respond. Ideally, any proposed changes should initially be introduced in the fall, well prior to the start of the show season, so that the industry has time to become educated on any new technologies or procedures.

March 22, 2008

Dr. Rachel Cezar  
Horse Protection Coordinator  
USDA-APHIS-Animal Care  
4700 River Road, Suite 6D03  
Riverdale, MD 20737

RE: USDA Proposed Protocol for Foreign Substance Penalty

Dear Dr. Cezar,

The Western International WIWHA is committed to promoting and protecting the welfare of the Tennessee Walking Horse, and preserving the TWH industry for future generations. Since the enactment of the Horse Protection Act (HPA) in the early 1970's, there has been significant improvement in the handling and presentation of the Tennessee Walking Horse. In order to continue this progress, the TWH industry would like to work collaboratively with USDA to further increase compliance with the HPA, and supports the appropriate use of technology to do so. The WIWHA has also previously expressed to USDA their willingness to collaborate on evaluating new technology, including providing horses that can be used in the evaluation of such technology. However, the WIWHA has several concerns about USDA's recent proposal to institute foreign substance penalties in the 2008 show season using the Gas Chromatography/Mass Spectrometry (GC/MS) test.

1) First of all, there is an Operating Plan currently in place for the 2007 - 2009 show seasons. The majority of HIOs are currently following this operating plan, which has been agreed to by USDA. There was a significant investment in both time and energy by the HIOs and USDA, including some very difficult negotiations, to reach agreement on this Operating Plan. This Operating Plan references and includes foreign substance violations of the Horse Protection Act. Since this Operating Plan is currently in effect, the penalties as outlined in it should be the ones that remain in place throughout the 2007 - 2009 show seasons. Any additional changes such as the addition of federal penalties should be discussed with the industry for the next iteration of the Operating Plan. To do otherwise calls into question the sincerity, integrity, and necessity of the Operating Plan.

2) Unfortunately, this appears to be another eleventh hour change by the Department, just as the show season is about to start. Last year, the Department did the same thing, by making a policy decision to pull the probation period out of the Operating Plan a week or two before the show season started. The industry needs to be notified well in advance of policy decisions that could significantly impact them, so that productive discussion can occur and a level of trust in the system can be developed. Also, in order for a national program to be effectively implemented, it is critical that policy changes be introduced in such a way that the industry has adequate time to respond. Ideally, any proposed changes should initially be introduced in the fall, well prior to the start of the show season.

3) The WIWHA supports the appropriate use of new technology in the inspection process. Before new technology is introduced however, the technology needs to be validated for use in the horse show environment and the data needs to be shared with the industry. This will ensure transparency and trust in the new technology and will allow the industry an opportunity to ask any questions, and raise any concerns. Before the new gas chromatography/mass spectrometry (GC/MS) test is used to bring federal cases, we respectfully request the following information:

Data showing how the technology was validated for use in the show environment, and/or for use on the legs of horses. How many positive tests were correlated back to known substance use on horses? How many negative tests were correlated back to horses known to be free of all substances?

What is the sensitivity and specificity of the test in a horse show environment? (ie expected level of false positive and false negative results?)

4) Although the new GC/MS test has been used on a trial basis at horse shows, the industry has only been provided summary data findings. Owners have not been notified of test results on their horses, and therefore have not known when there was a need to take any corrective action. Before the new GC/MS test is used to bring federal cases, we respectfully request that for the 2008 -2009 show seasons, the GC/MS trials continue and that owners of all horses tested be notified of results.

5) The WIWHA will work to ensure that trainers do all they can to be in compliance with the HPA. To help ensure that the “sniffer” technology works as it should without causing false positive results and in the interest of transparency, we request some guidelines on its use that can be provided to the trainers. For example;

\* How long before a show do trainers need to be sure to not use any cosmetic or other non-injurious salves in order to avoid having the “sniffer” register a positive response? Although the HPA states that no foreign substance other than show provided lubricants are allowed on a horse’s leg while at a show, there are many non-injurious substances that may routinely be used on a horse for a variety of reasons prior to the show, such as soap residue from bathing, or hoof blacking dye. What is the latest these types of non-injurious substances can be used without causing positive tests? There is an article titled “Determination of clenbuterol in horse hair by gas chromatography—Tandem mass spectrometry” by Popot et al in. In that study which was done to investigate drug detection in samples of horse hair from the coat (on the neck), mane, and tail, three clenbuterol studies were conducted on a total of four horses. The study indicates that a retrospective analysis-measurement of clenbuterol in the tail was possible for up to 13 months after the last administration of drug. This may or may not correlate to use of the “sniffer” at horse shows, but raises some concerns regarding residual substances that may be detected.

\*What if trainers/handlers have hand cream on or OTC antibiotic cream on their own hands? How much can get transferred by handling horses feet before causing a positive test? Do trainers and others need to use gloves?

6) Protocols for use of the GC/MS test at horse shows need to be developed and

distributed prior to its use, including appropriate collection and handling of samples.

President Western International  
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