

TO: Office of Information & Regulatory Affairs (OIRA)

FROM: Joseph D. Wilson, Esq.
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Horse National Celebration Association

RE: APHIS'S Proposed Rule re: Horse Protection [USDA Docket No. APHIS
2011-0009; RIN 0579-AE19; NPRM, 81 Fed. Reg. 49112 (Jul. 26, 2016)]

DATE: For Meeting with OIRA, Thursday, Dec. 22, 2016, 2:00 PM

Below is the outline of the presentation that The Tennessee Walking Horse National Celebration Association (Association) will make to OIRA at the meeting noted above. Notably, the Association will explain at the meeting significant legal and other issues, including those under Executive Order 12866, with the above-noted APHIS pending proposed rule (Rule). Based on these issues, the Rule should not be permitted to be adopted as a final rule.

- **Background**
 - The practice of “soring” horses & the federal Horse Protection Act (HPA)
 - APHIS’s motivation for the Rule & purported problem that Rule is to address
 - Changes the Rule will make to the current horse protection regulations
- **APHIS’s Could Not Have Meaningfully Responded To The 11,000+ Comments on the Rule, as Required By The Administrative Procedure Act**
- **The Rule Will Have Significant Costs, But No Offsetting Benefits**
 - The Rule will devastate, if not destroy, the TWH show industry
 - The Rule will not do anything to help eliminate soring, and actually be detrimental to horse welfare in several ways
- **APHIS’s Regulatory Impact Analysis Was Clearly Deficient and Wrong, and A Clear Attempt By APHIS To Avoid Its Obligations Under The Regulatory Flexibility Act**
- **If Adopted, The Rule Will Be Illegal and Make For Bad Public Policy In Several Respects**
 - The scientific and other evidence does not show the uses of the equipment that the Rule will ban causes soring; indeed, the evidence shows the opposite
 - Exceeds APHIS’s rulemaking authority under the HPA; arbitrary and capricious
 - The Rule irrationally, and illegally, singles out TWHs and Racking Horses, rather than applying to all horse breeds
- **The Association’s Alternative Regulatory Proposal Will Be Much Less Costly and Much More Effective In Eliminating Soring Than The Rule and The Current Regulations – As Well As Fairer To Participants In Horse Shows**