

Congress of the United States
Washington, DC 20515

July 31, 2015

Shaun Donovan, Director
Office of Management and Budget
725 17th Street, NW
Washington, DC 20503

Dear Director Donovan:

We are writing to request the Office of Management and Budget (OMB) to immediately publish the proposed rule for captive marine mammals [Regulation Identifier Number 0579-AB24]. The public has waited for nearly two decades to see and comment on how best to incorporate updated science into the proposed regulation.

As you are aware, in May 2002, the U.S. Department of Agriculture (USDA) issued an advanced notice of proposed rulemaking to finalize language for sections of the Animal Welfare Act (AWA) regulation that an advisory committee was unable to find consensus on during a negotiated rulemaking conducted between 1995 and 1996. This includes indoor facilities, outdoor facilities, water quality, and space requirements. Additionally, a rule was finalized for swim-with-the-dolphin (SWTD) programs in 1998, but was later suspended after less than a year. During the public comment phase, USDA received over 300 comments from the animal exhibitor industry, animal welfare groups, scientific community, and general public. Included were recommendations on increasing tank sizes and otherwise improving facilities for marine mammals, including orcas. Yet, thirteen years after the public comment closed, multiple Administrations have failed to publish a proposed rule, much less finalize these regulations.

Due to delayed federal action, we are deeply concerned that some captive marine mammals, including orcas, may not be adequately protected under Animal and Plant Health Inspection Service's (APHIS) Marine Mammal Program, regulations, and policies. It is our understanding that APHIS submitted a proposed rule to revise these regulations to OMB in February 2012. Due to the length of time that has lapsed, we believe APHIS, due to OMB withholding the proposed rule, has not complied with Executive Order 13563, which asks agencies to update outdated regulations using the best available science in order to ensure that regulatory programs are effective. Furthermore, Executive Order 12866 establishes a 90 day review period of regulatory actions, which has been completely disregarded by OMB in this case.

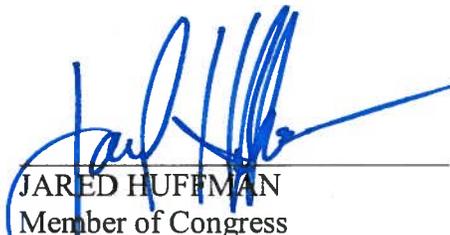
We believe the regulatory process to revise the outdated marine mammal regulations should move forward without further delay. We strongly urge you to publish the rule for a public comment period so that updated science can be incorporated into the Agency's decision to ensure that the welfare of captive marine mammals is protected.

Thank you for your consideration of our request. We look forward to your prompt response to our request.

Sincerely,



DIANNE FEINSTEIN
U.S. Senator



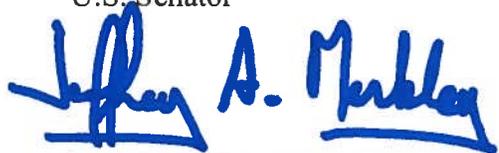
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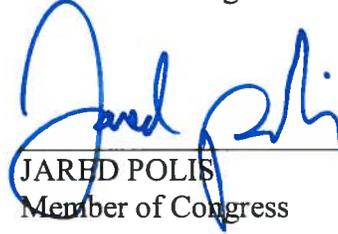
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