

**Congress of the United States**  
**Washington, DC 20515**

April 28, 2016

The Honorable Thomas J. Vilsack  
Secretary of Agriculture  
United States Department of Agriculture  
1400 Independence Ave, SW, Room 200A  
Washington, DC 20250

Dear Secretary Vilsack:

We are writing to provide comments on the proposed rule to amend the *Animal Welfare Act* regulations regarding captive marine mammals [Docket No. APHIS-2006-0085]. While we are pleased that the Animal and Plant Health Inspection Service proposes updates to its captive marine mammal regulations after nearly two decades, we urge the agency to strengthen several key safeguards.

We have serious concerns that the proposed rule has no updates to tank size provisions, leaving in place the 1984 standards. This does not reflect the most recent knowledge on animal welfare. In fact, the proposed rule could potentially reduce protections for marine mammals by updating the formula from which minimum tank size is calculated. The new formula would be based on the average sizes of certain animals in captivity, which would decrease the calculated minimum space requirements. Furthermore, according to the National Oceanic and Atmospheric Administration, which administers the *Marine Mammal Protection Act*, the figure does not take into account animals potentially added from the wild or more recently published information on size.

We are pleased that the agency has proposed to reinstate enforcement of what was formerly known as the “swim-with-the-dolphin program,” as the newly named “interactive program.” However, the proposed changes would reduce protections for captive marine mammals and the public. The proposed interactive program standards explicitly remove the requirement that facilities hosting such programs provide a buffer zone. The buffer zone serves as a valuable area for the animal’s wellbeing, as it is a safe space for the animal to retreat to, but still remain in the program if it chooses. Eliminating the buffer zone would reduce an animal’s ability to remove itself from the interactive program when it felt threatened or unsafe, with animals forced to be in either the interactive area or the sanctuary. Furthermore, the proposed rule would increase animals’ participation time in interactive programs from two hours to three hours per day.

Overall, we are concerned that there are several missed opportunities in the proposed regulations to strengthen important welfare protections for marine mammals, which are some of the most intelligent and social animals on the planet. For example, while the agency's proposal makes improvements to salinity requirements for captive marine mammals, it also creates an exemption that allows the industry to continue business as usual by conceding that pinnipeds held in freshwater can be provided salt supplements and daily saltwater eye baths, noting that "we expect this will minimize additional costs and renovations at existing facilities."

Again, we are pleased that the agency has finally taken an important step toward updating the animal welfare regulations for captive marine mammals. There is a clear desire among the public for an improvement in the welfare of captive marine mammals, and we urge you to revise the proposed rule based on the comments that you receive from the scientific community, non-profits, and the public at large to ensure that the final regulations reflect the latest science on animal welfare and marine mammal biology.

Thank you for your consideration of our comments.

Sincerely,



Dianne Feinstein  
United States Senator



Jared Huffman  
Member of Congress



Barbara Boxer  
United States Senator



Adam Schiff  
Member of Congress



Barbara A. Mikulski  
United States Senator



Eleanor Holmes Norton  
Member of Congress



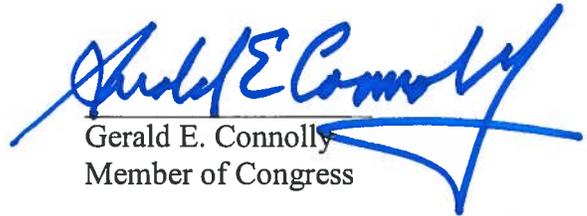
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Katherine Clark  
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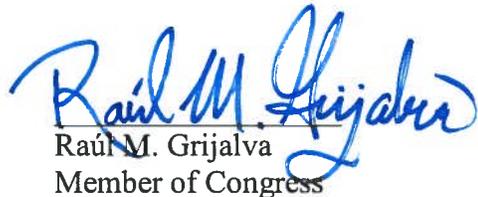
Sheldon Whitehouse  
United States Senator



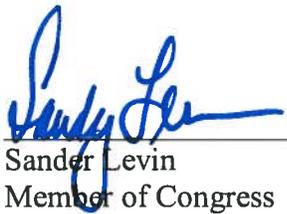
Gerald E. Connolly  
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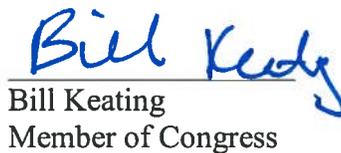
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Ted W. Lieu  
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John Conyers, Jr.  
Member of Congress

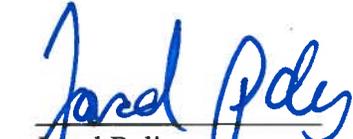


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