

Congress of the United States
Washington, DC 20515

May 29, 2014

Secretary Thomas Vilsack
United States Department of Agriculture
Jamie L. Whitten Federal Building
1400 Independence Ave, SW, Room 200A
Washington, DC 20250

Dear Secretary Vilsack:

We are writing to request the U.S. Department of Agriculture (USDA) take immediate steps to prioritize the regulations for captive marine mammals from your 2002 advanced notice of proposed rulemaking [Docket No. 93-076-17], publish the proposed rule, allow a public comment period to incorporate updated science, and then quickly finalize the rule.

For almost two decades, USDA has failed to update the Animal Welfare Act (AWA) regulations for captive marine mammals. In 1995, a Marine Mammal Negotiated Rulemaking Advisory Committee advised USDA on revisions to the marine mammal regulations but no consensus language was developed for five sections of the AWA regulations - indoor facilities, outdoor facilities, water quality, space requirements, and swim-with-the-dolphin (SWLD) programs.

Seven years later, in May 2002, USDA issued an advanced notice of proposed rulemaking to finalize language for the five sections of the AWA regulation that the Advisory Committee was unable to find consensus on. 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, twelve years after the public comment closed, USDA has failed to publish a proposed rule, much less finalize these regulations.

In the meantime, we continue to hear about tragic incidents involving marine mammals in captivity, including the death in 2010 of SeaWorld trainer Dawn Brancheau by the orca Tilikum. This situation has garnered great attention by the general public, especially with the release of the documentary film *Blackfish* that calls into question the feasibility of keeping orcas humanely in captivity due to the enormous physical and psychological impact on orcas kept in confinement and regularly required to perform for the public.

The twelve year lapse in action by USDA coupled with continued advancements in science and research of marine mammals means that the information USDA currently has on the proposed rule is likely outdated. Specifically in need of renewed review and the incorporation of updated science are care and maintenance regulations such as increasing minimum space requirements, establishing species-specific ambient temperature ranges, the swim-with-the-dolphin programs, and considering the effects of noise on animals.

We therefore strongly urge USDA to prioritize this proposed rule, publish the rule for a public comment period so that updated science can be incorporated into the agency's decision, and then quickly finalize it in order to provide the most updated and scientifically supported humane standards for captive marine mammals.

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

Sincerely,

Jared Huffman
Member of Congress

Adam B. Schiff
Member of Congress

Peter DeFazio
Member of Congress

James P. Moran
Member of Congress

Zoe Lofgren
Member of Congress

Louise M. Slaughter
Member of Congress

George Miller
Member of Congress

Barbara Lee
Member of Congress

John Conyers, Jr.
Member of Congress

Nita M. Lowey
Member of Congress

Alcee L. Hastings
Member of Congress

Bobby L. Rush
Member of Congress