



June 21, 2021

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U.S. Department of Agriculture
Room 5336 South Building
1400 Independence Avenue SW
Washington, DC 20250-2024

Submitted via email to: ombofficer@nass.usda.gov

RE: Public Comments on Notice of Intent to Request Revision and Extension of Mink Survey (Docket/OMB Control No. 0535-0212)

Dear Mr. Hancock:

The Animal Welfare Institute, Humane Society Legislative Fund, Humane Society of the United States, Center for Biological Diversity, Animal Defenders International, Animal Legal Defense Fund, and Born Free USA thank you for this opportunity to comment on the U.S. Department of Agriculture (“USDA”) National Agricultural Statistics Service’s (“NASS”) notice of intent to request revision and extension of its annual mink survey (“Notice”). *See* 86 Fed. Reg. 20,481 (April 20, 2021).

On its website, NASS explains that the mink survey is used by producers to inform business decisions and by economists and other analysts to monitor the health of the industry and to compute the industry’s contribution to the agricultural sector.¹ While not mentioned by NASS, the survey results are also used by the public to better understand the nature and scale of the mink production industry, and—increasingly since the onset of the COVID-19 pandemic—the

¹ *See Mink Survey*, NAT’L AGRIC. STAT. SERV., U.S. DEP’T OF AGRIC., https://www.nass.usda.gov/Surveys/Guide_to_NASS_Surveys/Mink/index.php (last updated Oct. 19, 2020).

potential risk that mink farms pose to public health. With this Notice, NASS has the opportunity to enhance the usefulness of this survey to the general public, public health officials, and other government entities by expanding the scope of the information collected and shared.

As discussed in more detail below, to increase public awareness and understanding of the fur industry, inform health decisions by policy makers, and better serve public health and safety, we urge NASS to expand the scope of its mink survey in three ways. First, NASS should add several more questions to the mink survey questionnaire in order to collect additional data about mink farms that is relevant to protecting public health. Second, NASS should expand the mink survey so that it is no longer solely a mink survey, but instead a broader “fur farm survey” that is distributed to all fur operations, and that asks the same questions, and seeks to collect the same data, regarding all species raised for their fur as it does for mink. Doing so is not only important for public health and safety, it is required by federal law. Third, NASS must appropriately disclose all of the information it gathers to the public.

I. NASS Should Collect Additional Information about Mink Farms Relevant to Public Health and Safety.

NASS should gather and disseminate additional information about mink production to provide a better understanding of the industry’s impacts on public health and safety. The fur production industry poses serious risks to human health because fur farms provide potential channels for diseases to be transmitted from one animal to another, and create conditions in which viruses may genetically recombine into forms potentially virulent to humans.²

Mustelid species, especially mink, have shown particular vulnerability to infection with the SARS-CoV-2 virus.³ This has led to warnings from organizations such as the World Health Organization that “minks can act as a reservoir of SARS-CoV-2, passing the virus between them, and pose a risk for virus spill-over from mink to humans.”⁴ Global health and food safety organizations have issued warnings that mink fur farms pose a serious risk for spreading COVID-19 and should be monitored strictly. The reports—one from the Food and Agriculture Organization of the United Nations, the World Health Organization, and the World Organization

² See, e.g., FOOD AND AGRIC. ORG. OF THE UNITED NATIONS, WORLD ORG. FOR ANIMAL HEALTH & WORLD HEALTH ORG., SARS-CoV-2 IN ANIMALS USED FOR FUR FARMING: GLEWS+ RISK ASSESSMENT 3 (2021), <http://www.fao.org/3/cb3368en/cb3368en.pdf> (“hereinafter FAO ET AL. GLEWS+ RISK ASSESSMENT”); EUROPEAN FOOD SAFETY AUTH. & EUROPEAN CTR. FOR DISEASE PREVENTION AND CONTROL, MONITORING OF SARS-CoV-2 INFECTION IN MUSTELIDS 38 (2021), <https://efsa.onlinelibrary.wiley.com/doi/epdf/10.2903/j.efsa.2021.6459> (hereinafter “EFSA ET AL. MONITORING IN MUSTELIDS”); *HSVMA Statement on Fur-Farmed Animals and the Risk of Disease*, HUMANE SOC’Y VETERINARY MEDICAL ASS’N, https://www.hsvma.org/index.php?option=com_content&view=article&id=1179:fur_riskofdisease&catid=19:default (last visited June 21, 2021).

³ HUMANE SOC’Y INT’L EUR., FUR FARMING, COVID-19 AND ZOOONOTIC DISEASE RISKS 2, 7 (2020), <https://www.hsi.org/wp-content/uploads/2020/12/HSI-white-paper-on-fur-production-and-zoonotic-disease.pdf>.

⁴ *SARS-CoV-2 mink-associated variant strain – Denmark*, WORLD HEALTH ORG. (Nov. 6, 2020), <https://www.who.int/csr/don/06-november-2020-mink-associated-sars-cov2-denmark/en/>.

for Animal Health (Europe), and the other from the European Food Safety Agency and the European Centre for Disease Prevention and Control—warn that in regions with a high density of fur farms, the virus is likely to spread from one mink farm to the next.⁵

Indeed, since COVID-19 was confirmed in mink on a fur farm in the Netherlands in April 2020, the zoonotic disease has devastated farmed mink herds in various European countries as well as in the United States and Canada.⁶ More than 12,000 farmed mink have died from COVID-19 in the United States alone; millions more have been culled in Europe in an attempt to prevent the spread of the disease.⁷ Additionally, according to the Center for Disease Control (“CDC”), “mink-to-human spread of SARS-CoV-2 has been reported in the Netherlands, Denmark, and Poland, and new data suggests it might have occurred in the United States.”⁸ Of further concern, wild mink have tested positive for the same variant of the virus that has been found in mink in fur farms in the United States and Spain, suggesting transmission of the disease from captive to wild populations.⁹

In response, some countries have required the implementation of biosecurity measures to try to prevent further transmission;¹⁰ others have required the preventive culling of millions of animals.¹¹ Several European countries have already banned, or are in the process of banning, fur farming,¹² including the United Kingdom, Austria, Croatia, and, most recently, Estonia.¹³ Slovakia, Norway, and Belgium are phasing out fur farming,¹⁴ and bans are under consideration in Ireland, Montenegro, Bulgaria, Lithuania, and Ukraine.¹⁵ The crisis has prompted Denmark,

⁵ FAO ET AL. GLEWS+ RISK ASSESSMENT, *supra* note 2, at vii, 1; EFSA ET AL. MONITORING IN MUSTELIDS, *supra* note 2, at 3.

⁶ EFSA ET AL. MONITORING IN MUSTELIDS, *supra* note 2, at 20–21.

⁷ Dina Fine Maron, *What the mink COVID-19 outbreaks taught us about pandemics*, NAT’L GEOGRAPHIC (Feb. 24, 2021), <https://www.nationalgeographic.com/animals/article/what-the-mink-coronavirus-pandemic-has-taught-us?loggedin=true>.

⁸ *COVID-19 and Animals*, CTR. FOR DISEASE CONTROL AND PREVENTION, <https://www.cdc.gov/coronavirus/2019-ncov/daily-life-coping/animals.html> (last updated June 4, 2021). *See also*, HUMANE SOC’Y INT’L EUR., *supra* note 3, at 10.

⁹ *See e.g.*, FAO ET AL. GLEWS+ RISK ASSESSMENT, *supra* note 2, at 5.

¹⁰ For example, Greece, Spain and Italy have implemented a host of biosecurity measures such as increased surveillance and testing, and mandatory use of personal protective equipment. EFSA ET AL. MONITORING IN MUSTELIDS, *supra* note 2, at 16, 18.

¹¹ *See e.g.*, HUMANE SOC’Y INT’L EUR., *supra* note 3, at 8 (the Netherlands preventatively culled approximately three million mink on fur farms detected with SARS-CoV-2). Other countries that have mandated mass cullings of farmed mink include Denmark, Spain, Italy, Greece, and France. *Id.* at 8–10.

¹² Some countries are banning or considering bans on the farming of all species for their fur, while others are doing so for certain species, such as fox, chinchilla, or raccoon dog. *See Fur Farming Bans*, FUR FREE ALLIANCE, <https://www.furfreealliance.com/fur-bans/> (last visited June 21, 2021).

¹³ *See* Sophie Hirsh, *Estonia is Shutting Down All Its Fur Farms*, GREEN MATTERS (June 3, 2021), <https://www.greenmatters.com/p/estonia-bans-fur-farming>.

¹⁴ HUMANE SOC’Y INT’L EUR., *supra* note 3, at 12.

¹⁵ *Id.*; *Fur Farming Bans*, FUR FREE ALLIANCE, <https://www.furfreealliance.com/fur-bans/> (last visited June 21, 2021).

Sweden and Italy to suspend mink fur production,¹⁶ the Netherlands to move up its deadline for ending all mink fur production from 2024 to the end of this year,¹⁷ and France to announce its intent to ban mink fur production.¹⁸ Last year, the world's largest fur auction house, based in Denmark, announced that it would close within the next three years.¹⁹ And although Hungary does not currently have any operating mink fur farms, the government proactively banned mink and other fur farming to prevent the industry from moving to that country.²⁰

In the United States, the USDA has issued guidance to industry on the handling of farmed mink and other mustelids in light of COVID-19,²¹ as well as guidance to animal health and public health officials on containment protocols.²² It has also worked with the CDC and state animal and public health partners to provide monitoring on mink farms and their surrounding areas. However, outbreaks on fur farms have persisted despite biosecurity measures supposedly taken by mink farmers to prevent the further spread of COVID-19, and experts have expressed concern that mink farms could serve as reservoirs of the SARS-CoV-2 virus within human communities.²³ In short, mink farms present a clear threat to public health and safety, and the USDA's lack of meaningful data collection makes it impossible for the federal government, or the public, to sufficiently monitor the known and potential infectious diseases incubated or spread at these farms.

It is vital that the USDA heed the recommendations of the World Health Organization, the Food and Agriculture Organization of the United Nations, and other global health and food safety organizations that recommend monitoring mink farms more closely. Implementing these recommendations will require the agency to collect more data than it currently does. At present, NASS's mink survey questionnaire requests information only about the number of females bred

¹⁶ HUMANE SOC'Y INT'L EUR., *supra* note 3, at 9–10; *Sweden suspends mink fur farming in wake of COVID-19*, HUMANE SOC'Y INT'L (Jan. 27, 2021), <https://www.hsi.org/news-media/sweden-suspends-mink-fur-farming-in-wake-of-covid-19/>.

¹⁷ HUMANE SOC'Y INT'L EUR., *supra* note 3, at 8.

¹⁸ *Id.* at 12. *See also*, FUR FREE ALLIANCE, *supra* note 15.

¹⁹ *World's largest fur auction house will close as demand for animal pelts drops*, HUMANE SOC'Y OF THE U.S. (Nov. 13, 2020), <https://blog.humanesociety.org/2020/11/worlds-largest-fur-auction-house-will-close-as-demand-for-animal-pelts-drops.html>.

²⁰ *Hungary Bans Fur Farming of Minks, Foxes and Ferrets Due to 'Public Health Concerns' amid COVID-19*, Eurogroup for Animals (Nov. 27, 2020), <https://www.eurogroupforanimals.org/news/hungary-bans-fur-farming-minks-foxes-and-ferrets-due-public-health-concerns-amid-covid-19>.

²¹ ANIMAL AND PLANT HEALTH INSPECTION SERV., U.S. DEP'T OF AGRIC., INTERIM SARS-CoV-2 GUIDANCE AND RECOMMENDATIONS FOR FARMED MINK AND OTHER MUSTELIDS, https://www.aphis.usda.gov/animal_health/one_health/downloads/sars-cov-2-guidance-for-farmed-mink.pdf.

²² ANIMAL AND PLANT HEALTH INSPECTION SERV., U.S. DEP'T OF AGRIC., RESPONSE AND CONTAINMENT GUIDELINES: INTERIM GUIDANCE FOR ANIMAL HEALTH AND PUBLIC HEALTH OFFICIALS MANAGING FARMED MINK AND OTHER FARMED MUSTELIDS WITH SARS-CoV-2 (2020), https://www.aphis.usda.gov/publications/animal_health/sars-cov-2-mink-guidance.pdf.

²³ *See* Bas B. Oude Munnink et al., *Transmission of SARS-CoV-2 on Mink Farms Between Humans and Mink and Back to Humans*, 371 SCIENCE 172, 172–77 (2021), <https://science.sciencemag.org/content/371/6525/172/tab-pdf>; Marion Koopmans, *SARS-CoV-2 and the Human-Animal Interface: Outbreaks on Mink Farms*, 21 THE LANCET 18, 19 (2021), [https://doi.org/10.1016/S1473-3099\(20\)30912-9](https://doi.org/10.1016/S1473-3099(20)30912-9). HUMANE SOC'Y INT'L EUR., *supra* note 3, at 11.

on each farm, the number and color of pelts produced, the name and address of any new owners of the operation, and any persons nearby who may have recently started or returned to raising mink.²⁴ It fails to request a wide range of other information relevant to public safety and health, such as what specific measures farms have taken to mitigate transmission of COVID-19 or other diseases, making it impossible to easily monitor the potential infectious diseases incubated or spread at these farms. As such, we recommend that NASS request the following additional information about mink operations in its annual mink survey questionnaire:

- To the extent not already collected, the full contact information for all of the mink farm’s owners and operators;
- The address of each place of business at which the mink farm conducted business;
- The legal descriptions of any lands upon which the mink farm conducted business;
- All trade names under which the mink farm conducted business;
- The number of individuals who worked on the farm;
- The number and sex of individual mink raised;
- The source of each individual mink and a detailed description of how the animals were transported, and the route taken, if applicable;
- The number of individual mink purchased, transferred, or sold and the name of each person or entity to whom or from whom such animals were purchased, transferred, or sold;
- A description of the size, number, and type of the mink farm’s pens, cages, or other such enclosures;
- A description of the barrier(s) that were used to contain the mink on the farm and prevent other animals from gaining access to the farm;
- A description of the procedures the mink farm used to dispose of manure, and carcasses and any parts thereof, to ensure the health and safety of farm workers, the public, and the captive and wild animals;
- The number of mink that died or were killed, the cause of death, and, if killed by humans, the reason each was killed and the method used;
- A description of the measures the mink farm adhered to in compliance with the current American Veterinary Medical Association guidelines relevant to fur farm operations, including euthanasia and depopulation; and
- A description of the measures the mink farm adhered to in compliance with the latest guidelines and recommendations developed by the USDA, the CDC, and any other federal agencies, in order to prevent the transmission of COVID-19 or other diseases to mink or other captive furbearing animals or to wildlife, fur farm workers, and the public.

²⁴ See *Mink Survey*, NAT’L AGRIC. STAT. SERV., U.S. DEP’T OF AGRIC. (May 2012), https://www.nass.usda.gov/Publications/Methodology_and_Data_Quality/Mink/07_2012/Mink_2012_questionnaire.pdf. Although the most recent questionnaire available is from 2012, it does not appear to have changed since then, because the mink survey has been “approved without change” by the Office of Management and Budget since 2012. See *OMB Control Number History*, OFF. OF MGMT. AND BUDGET, OFF. OF INFO. AND REG. AFF., <https://www.reginfo.gov/public/do/PRAOMBHistory?ombControlNumber=0535-0212> (last visited June 21, 2021).

Requiring this additional information would benefit public health and safety. First, collecting more information about farm owners, operators, business names, and locations (including farms that may have multiple locations) would enhance the USDA’s ability to locate, monitor, inspect, and communicate with the farms in the event of a disease outbreak or other public health emergency. Second, more detailed information about the number of workers on each farm, the number of mink on each farm, the method of conveyance and routes of any mink that were transported, the type of enclosures the mink are kept in, and the cause of individual mink mortality would be useful for assessing the scale, origin, and potential transmissibility of any zoonotic disease.

Third, information about barriers used to enclose the farms (to keep the mink contained while preventing other animals from gaining access) and how the farms dispose of manure and carcasses would help determine the likelihood of unintentional spread of disease to wild animal populations or into the environment. Fourth, information about how the mink are being treated would help determine the minks’ susceptibility to disease, because chronically stressed animals can be more immunocompromised.²⁵ Such information would help government officials and the general public gain a better understanding of the mink production industry’s public health threats and impacts.

II. NASS Must Collect Data about All Fur Farms

As described above, in the interest of protecting public health and safety, NASS should collect additional information about mink farms relevant to potential disease outbreaks or other public health emergencies. For the same reasons, NASS should collect identical information about all other types of fur farms. For example, foxes—another species that appears to be raised on fur farms in the United States—are also susceptible to COVID-19 and could transmit it to humans.²⁶ Other species raised for their fur could be vulnerable to, and potentially serve as dangerous reservoirs for, future zoonoses.²⁷

Further, NASS must collect this information because federal law requires it to collect data about all fur producing operations, not just those raising certain species. According to the Notice, NASS collects data about mink farms under the authority of 7 U.S.C. 2204(a). *See* 86 Fed. Reg. at 20481. That statute states, “The Secretary of Agriculture shall procure and preserve all

²⁵ *See, e.g.,* Lynn B. Martin et al., *Stress and Animal Health: Physiological Mechanisms and Ecological Consequences*, NATURE EDUC. KNOWLEDGE (2011), <https://www.nature.com/scitable/knowledge/library/stress-and-animal-health-physiological-mechanisms-and-23672697/>.

²⁶ *See* Yinghui Liu et al., *Functional and Genetic Analysis of Viral Receptor ACE2 Orthologs Reveals a Broad Potential Host Range of SARS-CoV-2*, 118 PROCEEDINGS OF THE NAT’L ACAD. OF SCI. 1, 4 (2021), <https://doi.org/10.1073/pnas.2025373118>; Ilya R. Fischhoff et al., *Predicting the zoonotic capacity of mammals to transmit SARS-CoV-2*, 19, 21 (BioRxiv, preprint, 2021), <https://doi.org/10.1101/2021.02.18.431844>; Jane Dalton, *It’s not just mink: Foxes and raccoon dogs on fur farms ‘may infect humans with coronaviruses,’ scientists warn*, INDEPENDENT (Nov. 26, 2020), <https://www.independent.co.uk/climate-change/news/mink-fur-farm-covid-foxes-raccoon-dogs-b1759223.html>.

²⁷ Hilde Kruse, Anne-Mette Kirkemo & Kjell Handeland, *Wildlife as Source of Zoonotic Infections*, 10 EMERGING INFECTIOUS DISEASES 2067 (2004), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3323390/>.

information concerning agriculture” 7 U.S.C. § 2204(a). First, the word “shall” indicates that the Secretary is obligated, not simply authorized, to collect such data. *See, e.g., Forest Guardians v. Babbitt*, 174 F.3d 1178, 1187 (10th Cir. 1999) (“The Supreme Court and this circuit have made clear that when a statute uses the word ‘shall,’ Congress has imposed a mandatory duty upon the subject of the command.”) (citing, among other cases, *Pierce v. Underwood*, 487 U.S. 552, 569-70 (1988)).

Second, the statute requires that “all” agricultural information, not just select data, be gathered. A separate federal statute classifies the raising of all fur-bearing animals as agriculture:

For the purposes of all classification and administration of Acts of Congress, Executive orders, administrative orders, and regulations pertaining to—

(a) fox, rabbit, mink, chinchilla, marten, fisher, muskrat, karakul and all other fur-bearing animals, raised in captivity for breeding or other useful purposes shall be deemed domestic animals;

(b) such animals and the products thereof shall be deemed agricultural products; and

(c) the breeding, raising, producing, or marketing of such animals or their products by the producer shall be deemed an agricultural pursuit.

7 U.S.C. § 399.

NASS is specifically tasked with collecting this information. The Secretary of Agriculture has delegated its responsibility to collect agricultural information to the Under Secretary for Research, Education, and Economics. *See* 7 C.F.R. § 2.21(a)(3), (8). The Under Secretary has, in turn, delegated this responsibility to the NASS Administrator. *See* 7 C.F.R. § 2.68(a). Thus, NASS has an obligation to gather “all information concerning agriculture,” including all operations which breed, raise, produce, or market furbearing animals.

The extent to which NASS currently fulfills this responsibility is unclear. As indicated by the Notice, NASS gathers information about mink farms through its Mink Survey. *See* 86 Fed. Reg. at 20,481. The agency also collects information about rabbit producing operations.²⁸ However, it appears to collect virtually no information about other fur producing operations.

For example, the form NASS used to collect information (every five years) for its 2017 Census of Agriculture (Census) asked producers to indicate the quantity of “fur or pelts” produced that

²⁸ *See, e.g., Quick Stats - Commodity: Rabbits*, NAT’L AGRIC. STAT. SERV., U.S. DEP’T OF AGRIC., <https://quickstats.nass.usda.gov/> (last visited June 21, 2021).

year.²⁹ However, the form’s instruction sheet said to “[i]nclude pelts . . . from mink and rabbits.”³⁰ It did not instruct producers filling out the form to include fur or pelts from other species.³¹ Similarly, the form asked producers to indicate the number of “other livestock” raised in their operations that year, but provided no specific code for, and suggested no specific examples of, furbearing “livestock” other than mink and rabbits.³²

This may be because NASS has not requested or received approval from the Office of Management and Budget (“OMB”) to collect such data. Under the Paperwork Reduction Act, 44 U.S.C. §§ 3501 *et seq.*, in order to conduct a survey or otherwise collect information about a particular topic, NASS must first propose to do so and receive approval and a “control number” from the OMB. *See* 44 U.S.C. § 3507(a). It does not appear that either of these steps have occurred with respect to furbearing animals (other than mink and rabbits).

On its “Inventory of Approved Collections” webpage, OMB lists “all collections of information from the public for which a Federal agency has received prior approval from OMB, as required by the Paperwork Reduction Act.”³³ While the list includes the NASS Mink Survey, and a collection that includes “rabbit products,” the list does not appear to include any information collections involving other types of fur products or other species of furbearing animals.³⁴

However, it is clear that the production of furbearing animals other than mink and rabbits occurs in the United States. In a 2020 report, Born Free USA reported a minimum of 17 non-mink fur farms.³⁵ The website “Truth About Fur” indicates that there are 56 fox farms in 10 states producing 1,500 pelts per year.³⁶ Chinchilla farms have raised hundreds of animals for their pelts, to be sold as pets,³⁷ and to supply biomedical labs.³⁸ Data from the U.S. Fish and Wildlife Service’s (“USFWS”) Law Enforcement Management Information System (“LEMIS”) also

²⁹ *See* U.S. DEP’T OF AGRIC., *2017 Census of Agriculture: United States Summary and State Data*, 1 GEOGRAPHIC AREA SERIES Pt. 51, App. B, B-43, Sec. 21, Item 3 (2019) (hereinafter “2017 Census”), https://www.nass.usda.gov/Publications/AgCensus/2017/Full_Report/Volume_1_Chapter_1_US/usv1.pdf.

³⁰ *Id.* at B-53.

³¹ *Id.*

³² *Id.*

³³ *See Federal Collection of Information: Information Collection Review*, OFF. OF MGMT. AND BUDGET, <https://www.whitehouse.gov/omb/information-regulatory-affairs/federal-collection-information/> (last visited June 21, 2021).

³⁴ *See Information Collection Review: Current Inventory*, OFF. OF MGMT. AND BUDGET, OFF. OF INFO. AND REG. AFF. (June 21, 2021), <https://www.reginfo.gov/public/do/PRAMain>.

³⁵ JULIE KLUCK, BORN FREE USA, *SILENT SUFFERING IN OUR OWN BACKYARDS: FUR FARMING IN THE UNITED STATES* 12 (2020) (hereinafter “Born Free Report”).

³⁶ *See Fox Farming: Fox Farming at a Glance*, TRUTH ABOUT FUR, <https://www.truthaboutfur.com/en/fox-farming> (last visited June 21, 2021).

³⁷ David Wright, *Highland County chinchilla ranch ‘not like anything most people think,’* THE TIMES-GAZETTE (Feb. 15, 2017), <https://www.timesgazette.com/news/19504/highland-county-chinchilla-ranch-not-like-anything-most-people-think>.

³⁸ *See* Meredith Wadman, *Sick chinchillas languish as farms that supply U.S. researchers*, SCIENCE (May 26, 2020), <https://www.sciencemag.org/news/2020/05/sick-chinchillas-languish-farms-supply-us-researchers> (last visited June 21, 2021).

indicates that thousands of skins, skin pieces, and trim derived from captive-bred animals, including muskrats, raccoons, martens, foxes, chinchillas, beavers, and coyotes were exported from the United States in 2015 (the latest data available) alone.³⁹

Further, some states' laws and regulations indicate that a wide range of species can be raised for their fur. For example, licensed fur farms in Montana can raise "marten or sable, otter, muskrat, fisher, bobcat, lynx, wolverine, or beaver." Mont. Code Ann. § 87-4-1001(2). Species that can be possessed and sold by "fur-bearing animal propagators" in Texas are "wild beaver, otter, mink, ring-tailed cat, badger, skunk, raccoon, muskrat, opossum, fox, or nutria." Tex. Parks & Wild. Code Ann. § 71.001. Holders of furbearing mammal breeder permits in Illinois may raise "muskrat, raccoon, striped skunk, weasel, bobcat, opossum, beaver, river otter, badger, gray fox, and coyote," and those without permits may farm "mink, red fox, and arctic fox" if those individuals meet certain criteria. 520 Ill. Comp. Stat. Ann. 5/1.2g, 5/3.25. Licensed fur farms in New York may raise "beaver, bobcat, coyote, raccoon, sable or marten, skunk, otter, fisher, nutria, and muskrat." N.Y. Env't Conserv. Law § 11-1907. In North Carolina, individuals with a furbearer propagation license may farm "red foxes" and "furbearing animals" including beavers, bobcats, foxes, mink, nutria, opossums, otters, raccoons, skunks, and weasels. 15A N.C. Admin. Code 10H.1101, 10H.1104. In addition, chinchillas and rabbits are commonly raised in captivity for their fur. *See, e.g.*, Wis. Stat. Ann. § 29.627; N.J. Stat. Ann. § 4:2-15.

Because NASS does not collect or disseminate any specific data about fur farms in the United States (other than those that raise mink or rabbit), it is unclear in which states or even in how many states fur farms are located, what species they raise, how many pelts they produce annually, the market value of the pelts, the production expenses the farms incur, characteristics of the producers, or other information that NASS regularly supplies for mink and rabbit farms. Nor is it possible to determine whether or to what extent such operations present health risks to the public due to the potential transmission of COVID-19 or other zoonotic diseases. The Notice explains that "[m]ink estimates are used by . . . State governments to administer fur farm programs and health regulations," 86 Fed. Reg. at 20,481, but it is unclear how states could use data solely about mink farms to administer programs and health regulations relevant to the wide range of other species raised for their fur.

It is clear that production of furbearing animals other than mink and rabbits occurs in the United States and that, under federal law, fur producing operations constitute agricultural operations. As such, NASS has a legal obligation to collect data about these operations, and to disseminate that information, as discussed below. If it does not do so, there will continue to be "no way of knowing the true extent of this practice in the U.S.,"⁴⁰ and no way for government regulators or the public to understand, prepare for, or guard against threats posed by the industry to public health and safety.

³⁹ Information compiled from LEMIS data provided to the Animal Welfare Institute and other advocacy organizations by USFWS in response to requests made pursuant to the Freedom of Information Act, 5 U.S.C. § 552.

⁴⁰ Born Free Report, *supra* note 35, at 12.

III. NASS Must Disseminate Data About All Fur Farms to the Public

NASS must not only collect data about all types of fur producing operations, it must also appropriately disclose that information to the public. Federal law requires NASS to report statistical information to the public. The Confidential Information Protection and Statistical Efficiency Act (“CIPSEA”) requires the OMB Director to designate certain, qualifying agencies as “statistical agencies.” *See* 44 U.S.C. § 3562(a). Statistical agencies are those “whose activities are predominantly the collection, compilation, processing, or analysis of information for statistical purposes.” 44 U.S.C. § 3561. “Statistical purposes” are those that involve “the description, estimation, or analysis of the characteristics of groups, without identifying the individuals or organizations that comprise such groups.” 44 U.S.C. § 3561(12)(A). The OMB Director has designated NASS as a statistical agency. *See* 72 Fed. Reg. 33362, 33368 (June 15, 2007). CIPSEA requires statistical agencies to conduct credible, accurate, and objective statistical activities, and to “produce and disseminate relevant and timely statistical information.” 44 U.S.C. § 3563(a)(1)(A)-(C). “Relevant” means “processes, activities, and other such matters likely to be useful to policymakers and public and private sector data users.” 44 U.S.C. § 3563(d)(4).

More specifically, NASS must report statistical information about agriculture. NASS’s own regulations indicate that the agency’s primary responsibilities include the “dissemination of national and State agricultural statistics.” 7 C.F.R. § 3600.1. Similarly, according to its website, the agency’s mission is to “provide[] timely, accurate, and useful statistics in service to U.S. agriculture.”⁴¹ Thus, to fulfill both its mission and its legal obligations, NASS must not only collect information pertaining to all fur farms in the United States, it must also appropriately disclose that information to the public.

Appropriate disclosure involves adhering to federal confidentiality laws that prohibit the use of data gathered for statistical purposes in a way that would identify the individuals who provided the information. CIPSEA, for example, states that “[d]ata or information acquired by an agency under a pledge of confidentiality for exclusively statistical purposes shall not be disclosed by an agency in identifiable form, for any use other than an exclusively statistical purpose, except with the informed consent of the respondent.” 44 U.S.C. 3572(c)(1).

Likewise, the Food Security Act of 1985 (“FSA”) proscribes the disclosure of agricultural information collected pursuant to 7 U.S.C. 2204(a) in a manner that would identify the person who supplied the information. *See* 7 U.S.C. § 2276; 86 Fed. Reg. at 20,481. Neither the Food Security Act nor CIPSEA, however, prevents the disclosure of such information in a “statistical or aggregate form” that is not individually identifying. Indeed, NASS has long demonstrated its ability to disseminate important statistical information pertaining to mink and rabbit production while remaining within these confidentiality guardrails. It should, and must, do the same with respect to all fur production operations in the United States.

⁴¹ *See About NASS*, NAT’L AGRIC. STAT. SERV., U.S. DEP’T OF AGRIC., https://www.nass.usda.gov/About_NASS/Mission_Statement/index.php (last updated May 4, 2018).

It does not appear that NASS currently discloses any specific information pertaining to fur farms other than those that produce mink and rabbits. For example, the 2017 Census included a single line item indicating that there were 773 farms that year involving “fur-bearing animal and rabbit production.”⁴² However, the Census did not explain what species were encompassed by the term “fur-bearing animal.” Nor did it make any additional reference to, or provide any further information about, furbearing animal production, other than to state that raising furbearing animals fell into the category of “other animal production.”⁴³

The Census also did not specifically report how many operations produced “fur or pelts,” or the types of fur or pelts produced. Instead, it reported that 4,569 farms produced “Other livestock products”⁴⁴—a term broadly defined as including “beeswax, breeding fees, embryos, fur or pelts, horns, manure sold, and semen”⁴⁵—without further dividing that number into any of those categories.

Nor does NASS’s online “Quick Stats” database disclose any data specific to fur, pelts, or furbearing animals, other than mink and rabbits. It does provide data regarding operations that produce “specialty animals.”⁴⁶ However, the Quick Stats glossary defines “specialty animals” as “include[ing] equine, mink, bees, bison deer, alpacas, etc.”⁴⁷ Thus, it is unclear if this category includes production of furbearers other than mink.⁴⁸

Despite federal requirements and its own stated mission to disclose statistical information concerning agriculture, NASS does not appear to provide any specific information regarding non-mink or non-rabbit fur producing operations. To comply with its legal obligations, and in the interest of protecting public health, it must do so.

V. Conclusion

To better serve public health, NASS should collect and appropriately publish the additional data regarding mink farms in the United States identified in these comments. NASS must also collect and appropriately disclose the same information about all other types of fur operations in the United States, as required by federal law.

Thank you for considering our comments.

⁴² 2017 Census, *supra* note 29, at 59 (T.48).

⁴³ *Id.* at App. B, B-9.

⁴⁴ *See id.* at 28 (T.33).

⁴⁵ *Id.* at App. B, B-18.

⁴⁶ *See Quick Stats*, NAT’L AGRIC. STAT. SERV., U.S. DEP’T OF AGRIC., <https://quickstats.nass.usda.gov/> (last visited June 21, 2021).

⁴⁷ *Quick Stats Glossary*, NAT’L AGRIC. STAT. SERV., U.S. DEP’T OF AGRIC. 4 (May 2014), <https://quickstats.nass.usda.gov/src/glossary.pdf>.

⁴⁸ This definition is also confusing because the Quick Stats database provides separate data specific to mink production, so it is not apparent if the 3,611 “specialty animal operations with inventory” reported in 2017 includes the 236 “live mink operations with inventory” reported for that year.

Sincerely,



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