

search and development as may be necessary or appropriate in support of the coordinated program and the comprehensive plan and in furtherance of the purposes and objectives of this chapter.

(Pub. L. 101-445, title I, §105, Oct. 22, 1990, 104 Stat. 1040.)

§ 5316. Annual budget submission

(a) Annual report

The President, at the same time as the submission of the annual budget to the Congress, shall submit a report to the Committees on Agriculture and Science, Space, and Technology of the House of Representatives and to the Committees on Agriculture, Nutrition, and Forestry and Governmental Affairs of the Senate on expenditures required for carrying out the coordinated program and implementing the comprehensive plan. The report shall detail, for each of the agencies that are allocated responsibilities under the coordinated program—

- (1) the amounts spent on the coordinated program during the fiscal year most recently ended;
- (2) the amounts expected to be spent during the current fiscal year; and
- (3) the amounts requested in the annual budget for the fiscal year for which the budget is being submitted.

(b) Existing authority not affected

Nothing in this subchapter is intended to either—

- (1) authorize the appropriation or require the expenditure of any funds in excess of the amount of funds that would be authorized or expended for the same purposes in the absence of the coordinated program; or
- (2) limit the authority of any of the participating agencies to request and receive funds for such purposes (for use in the coordinated program) under other laws.

(Pub. L. 101-445, title I, §106, Oct. 22, 1990, 104 Stat. 1040.)

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

Committee on Governmental Affairs of Senate changed to Committee on Homeland Security and Governmental Affairs of Senate, effective Jan. 4, 2005, by Senate Resolution No. 445, One Hundred Eighth Congress, Oct. 9, 2004.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions of law requiring submittal to Congress of any annual, semiannual, or other regular periodic report listed in House Document No. 103-7 (in which the report required by subsec. (a) of this section is listed on page 31), see section 3003 of Pub. L. 104-66, as amended, and section 1(a)(4) [div. A, §1402] of Pub. L. 106-554, set out as notes under section 1113 of Title 31, Money and Finance.

SUBCHAPTER II—NATIONAL NUTRITION MONITORING ADVISORY COUNCIL

§ 5331. Structure of Council

(a) In general

(1) Establishment

The President shall establish, within ninety days after October 22, 1990, a National Nutri-

tion Monitoring Advisory Council. The Council shall assist in carrying out the purposes of this chapter, provide scientific and technical advice on the development and implementation of the coordinated program and comprehensive plan, and serve in an advisory capacity to the Secretaries.

(2) Membership

The Council shall consist of nine voting members, of whom—

- (A) five members shall be appointed by the President based upon recommendations from the Secretaries; and
- (B) four members shall be appointed by Congress, of whom—
 - (i) one shall be appointed by the Speaker of the House of Representatives;
 - (ii) one shall be appointed by the minority leader of the House of Representatives;
 - (iii) one shall be appointed by the President pro tempore of the Senate; and
 - (iv) one shall be appointed by the minority leader of the Senate.

(3) Ex officio members

The Council also shall include the joint chairpersons of the Board as ex officio non-voting members.

(b) Selection criteria

Each person appointed to the Council shall be selected solely on the basis of an established record of distinguished service and shall be eminent in one of the following fields:

- (1) public health, including clinical dietetics, public health nutrition, epidemiology, clinical medicine, health education, or nutrition education;
- (2) nutrition monitoring research, including nutrition monitoring and surveillance, food consumption patterns, nutritional anthropology, community nutrition research, nutritional biochemistry, food composition analysis, survey statistics, dietary-intake methodology, or nutrition status methodology; or
- (3) food production and distribution, including agriculture, biotechnology, food technology, food engineering, economics, consumer psychology or sociology, food-system management, or food assistance.

(c) Particular representation requirements

The Council membership, at all times, shall include at least two representatives from each of the three areas of specialization listed in subsection (b), and shall have representatives from various geographic areas, the private sector, academia, scientific and professional societies, agriculture, minority organizations, and public interest organizations and shall include a State or local government employee with a specialized interest in nutrition monitoring.

(d) Chairperson

The Chairperson of the Council shall be elected from and by the Council membership. The term of office of the Chairperson shall not exceed 5 years. If a vacancy occurs in the Chairpersonship, the Council shall elect a member to fill such vacancy.

(e) Term of office

The term of office of each of the voting members of the Council shall be 5 years, except that

of the 5 members first appointed by the President, 2 shall be appointed for a term of 2 years, 2 for terms of 3 years, and one for a term of 4 years, as designated by the President at the time of appointment. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the predecessor of such member was appointed shall be appointed for the remainder of such term. No voting member shall be eligible to serve continuously for more than 2 consecutive terms.

(f) Initial appointment

The initial members of the Council shall be appointed or designated not later than ninety days after October 22, 1990.

(g) Meetings

The Council shall meet on a regular basis at the call of the Chairperson, or on the written request of one-third of the members. A majority of the appointed members of the Council shall constitute a quorum.

(h) Limitation on Federal employment

Appointed members of the Council may not be employed by the Federal Government and shall be allowed travel expenses as authorized by section 5703 of title 5.

(i) Executive Secretary

The Administrator of Nutrition Monitoring and Related Research (if appointed under section 5311(d) of this title) shall serve as the Executive Secretary of the Council.

(j) Termination

The Council shall terminate 10 years after the final comprehensive plan is prepared under section 5313 of this title.

(Pub. L. 101-445, title II, §201, Oct. 22, 1990, 104 Stat. 1041.)

Executive Documents

EX. ORD. NO. 12747. NATIONAL NUTRITION MONITORING ADVISORY COUNCIL

Ex. Ord. No. 12747, Jan. 25, 1991, 56 F.R. 3391, provided: By the authority vested in me as President by the Constitution and the laws of the United States, including the National Nutrition Monitoring and Related Research Act of 1990 ("Act") (Public Law 101-445, October 22, 1990) [7 U.S.C. 5301 et seq.] and the Federal Advisory Committee Act, as amended ([former] 5 U.S.C. App.) [see 5 U.S.C. 1001 et seq.], it is hereby ordered as follows:

SECTION 1. *Establishment.* There is established the National Nutrition Monitoring Advisory Council ("Council"). The Council shall assist in carrying out the purposes of the Act, provide scientific and technical advice on the development and implementation of the coordinated program and comprehensive plan required by section 103 of the Act [7 U.S.C. 5313], and serve in an advisory capacity to the Secretary of Agriculture and the Secretary of Health and Human Services ("Secretaries") with respect to their responsibilities and functions under the Act.

SEC. 2. *Membership.* (A) *Composition.* The Council shall consist of nine voting members. Five of the members shall be appointed by the President upon the recommendation of the Secretaries. Four of the members shall be appointed by the Congress, of whom one shall be appointed by the Speaker of the House of Representatives, one shall be appointed by the minority leader of the House of Representatives, one shall be appointed by

the President pro tempore of the Senate, and one shall be appointed by the minority leader of the Senate. The Council shall also include the joint chairpersons of the Interagency Board for Nutrition Monitoring and Related Research as ex officio nonvoting members.

(B) *Selection Criteria.* Each person appointed to the Council shall be selected solely on the basis of an established record of distinguished service and shall be eminent in one of the following fields:

(1) public health, including clinical dietetics, public health nutrition, epidemiology, clinical medicine, health education, or nutrition education;

(2) nutrition monitoring research, including nutrition monitoring and surveillance, food consumption patterns, nutritional anthropology, community nutrition research, nutritional biochemistry, food composition analysis, survey statistics, dietary-intake methodology, or nutrition status methodology; or

(3) food production and distribution, including agriculture, biotechnology, food engineering, economics, consumer psychology or sociology, food-system management, or food assistance.

(C) *Particular Representation Requirements.* The Council membership, at all times, shall include at least two representatives from each of the three areas of specialization listed in subsection (B), and shall have representatives from various geographic areas, the private sector, academia, scientific and professional societies, agriculture, minority organizations, and public interest organizations, and shall include a State or local government employee with a specialized interest in nutrition monitoring.

(D) *Chairperson.* The Chairperson of the Council shall be elected from and by the Council membership. The term of office shall not exceed 5 years. If a vacancy occurs in the Chairpersonship, the Council shall elect a member to fill such vacancy.

(E) *Term of Office.* The term of office of each of the voting members of the Council shall be 5 years, except that of the five members first appointed by the President, two members shall be appointed for a term of 2 years, two members for a term of 3 years, and one for a term of 4 years, as designated by the President at the time of appointment. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the predecessor of such member was appointed shall be appointed for the remainder of the term. No voting member shall be eligible to serve continuously for more than two consecutive terms.

(F) *Executive Secretary.* The Administrator of Nutrition Monitoring and Related Research (if appointed under section 101(d) of the Act [7 U.S.C. 5311(d)]) shall serve as the Executive Secretary of the Council.

SEC. 3. *Functions of the Council.* The Council shall:

(a) provide scientific and technical advice on the development and implementation of all components of the coordinated program and the comprehensive plan;

(b) evaluate the scientific and technical quality of the comprehensive plan and the effectiveness of the coordinated program;

(c) recommend to the Secretaries, on an annual basis, means of enhancing the comprehensive plan and the coordinated programs; and

(d) submit to the Secretaries annual reports that shall: (1) contain the components specified in paragraphs (b) and (c); and (2) be included in full in the biennial reports of the Secretaries to the President for transmittal to the Congress under section 102(b) of the Act [7 U.S.C. 5312(b)].

SEC. 4. *Meetings.* The Council shall meet on a regular basis at the call of the Chairperson, or on the written request of one-third of the members. A majority of the appointed members of the Council shall constitute a quorum.

SEC. 5. *Administration.* (a) The heads of executive departments, agencies, and independent instrumentalities shall, to the extent permitted by law, provide the Council, upon request, with such information as it may require for the purposes of carrying out its functions.

(b) Members of the Council shall serve without compensation for their work on the Council. While engaged

in the work of the Council, members appointed from among private citizens of the United States may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law for persons serving intermittently in the Government service (5 U.S.C. 5701–5707). Appointed members of the Council may not be employed by the Federal Government.

(c) To the extent provided by law and subject to the availability of appropriations, the Department of Agriculture shall provide the Council with such administrative services, funds, facilities, staff, and other support services as may be necessary for the performance of its functions.

SEC. 6. *General provision.* Notwithstanding the provisions of any other Executive order, the functions of the President under the Federal Advisory Committee Act that are applicable to the Council shall be performed by the Secretary of Agriculture, in accordance with guidelines and procedures established by the Administrator of General Services.

SEC. 7. The Council shall terminate 10 years after the final comprehensive plan is prepared under section 103 of the Act.

GEORGE BUSH.

§ 5332. Functions of Council

The Council shall—

(1) provide scientific and technical advice on the development and implementation of all components of the coordinated program and the comprehensive plan;

(2) evaluate the scientific and technical quality of the comprehensive plan and the effectiveness of the coordinated program;

(3) recommend to the Secretaries, on an annual basis, means of enhancing the comprehensive plan and the coordinated program; and

(4) submit to the Secretaries annual reports that—

(A) shall contain the components specified in paragraphs (2) and (3); and

(B) shall be included in full in the biennial reports of the Secretaries to the President for transmittal to Congress under section 5312(b) of this title.

(Pub. L. 101–445, title II, §202, Oct. 22, 1990, 104 Stat. 1042.)

SUBCHAPTER III—DIETARY GUIDANCE

§ 5341. Establishment of dietary guidelines

(a) Report

(1) In general

At least every five years the Secretaries shall publish a report entitled “Dietary Guidelines for Americans”. Each such report shall contain nutritional and dietary information and guidelines for the general public, and shall be promoted by each Federal agency in carrying out any Federal food, nutrition, or health program.

(2) Basis of guidelines

The information and guidelines contained in each report required under paragraph (1) shall be based on the preponderance of the scientific and medical knowledge which is current at the time the report is prepared.

(3) Pregnant women and young children

Not later than the 2020 report and in each report thereafter, the Secretaries shall include

national nutritional and dietary information and guidelines for pregnant women and children from birth until the age of 2.

(b) Approval by Secretaries

(1) Review

Any Federal agency that proposes to issue any dietary guidance for the general population or identified population subgroups shall submit the text of such guidance to the Secretaries for a sixty-day review period.

(2) Basis of review

(A) In general

During the sixty-day review period established in paragraph (1), the Secretaries shall review and approve or disapprove such guidance to assure that the guidance either is consistent with the “Dietary Guidelines for Americans” or that the guidance is based on medical or new scientific knowledge which is determined to be valid by the Secretaries. If after such sixty-day period neither Secretary notifies the proposing agency that such guidance has been disapproved, then such guidance may be issued by the agency. If both Secretaries disapprove of such guidance, it shall be returned to the agency. If either Secretary finds that such guidance is inconsistent with the “Dietary Guidelines for Americans” and so notifies the proposing agency, such agency shall follow the procedures set forth in this subsection before disseminating such proposal to the public in final form. If after such sixty-day period, either Secretary disapproves such guidance as inconsistent with the “Dietary Guidelines for Americans” the proposing agency shall—

(i) publish a notice in the Federal Register of the availability of the full text of the proposal and the preamble of such proposal which shall explain the basis and purpose for the proposed dietary guidance;

(ii) provide in such notice for a public comment period of thirty days; and

(iii) make available for public inspection and copying during normal business hours any comment received by the agency during such comment period.

(B) Review of comments

After review of comments received during the comment period either Secretary may approve for dissemination by the proposing agency a final version of such dietary guidance along with an explanation of the basis and purpose for the final guidance which addresses significant and substantive comments as determined by the proposing agency.

(C) Announcement

Any such final dietary guidance to be disseminated under subparagraph (B) shall be announced in a notice published in the Federal Register, before public dissemination along with an address where copies may be obtained.

(D) Notification of disapproval

If after the thirty-day period for comment as provided under subparagraph (A)(ii), both