

## 7 USC Ch. 84: NATIONAL NUTRITION MONITORING AND RELATED RESEARCH

### From Title 7—AGRICULTURE

#### CHAPTER 84—NATIONAL NUTRITION MONITORING AND RELATED RESEARCH

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### **§5301. Congressional statement of purposes**

The purposes of this chapter are to—

- (1) make more effective use of Federal and State expenditures for nutrition monitoring, and enhance the performance and benefits of current Federal nutrition monitoring and related research activities;
- (2) establish and facilitate the timely implementation of a coordinated National Nutrition Monitoring and Related Research Program, and thereby provide a scientific basis for the maintenance and improvement of the nutritional status of the people of the United States and the nutritional quality (including, but not limited to, nutritive and nonnutritive content) of food consumed in the United States;
- (3) establish and implement a comprehensive plan for the National Nutrition Monitoring and Related Research Program to assess, on a continuing basis, the dietary and nutritional status of the people of the United States and the trends with respect to such status, the state of the art with respect to nutrition monitoring and related research, future monitoring and related research priorities, and the relevant policy implications;
- (4) establish and improve the quality of national nutritional and health status data and related data bases and networks, and stimulate research necessary to develop uniform indicators, standards, methodologies, technologies, and procedures for nutrition monitoring;
- (5) establish a central Federal focus for the coordination, management, and direction of Federal nutrition monitoring activities;
- (6) establish mechanisms for addressing the nutrition monitoring needs of Federal, State, and local governments, the private sector, scientific and engineering communities, health care professionals, and the public in support of the foregoing purposes; and
- (7) provide for the conduct of such scientific research and development as may be necessary or appropriate in support of such purposes.

(Pub. L. 101–445, §2, Oct. 22, 1990, 104 Stat. 1034.)

#### **SHORT TITLE**

Pub. L. 101–445, §1, Oct. 22, 1990, 104 Stat. 1034, provided that: "This Act [enacting this chapter] may be cited as the 'National Nutrition Monitoring and Related Research Act of 1990'."

## §5302. Definitions

As used in this chapter—

- (1) the term "comprehensive plan" means the comprehensive plan prepared under section 5313 of this title;
- (2) the term "coordinated program" means the National Nutrition Monitoring and Related Research Program established by section 5311(a) of this title;
- (3) the terms "Interagency Board for Nutrition Monitoring and Related Research" and "Board" mean the Federal coordinating body established by section 5311(c) of this title;
- (4) the term "Joint Implementation Plan for a Comprehensive National Nutrition Monitoring System" means the plan of that title dated August 18, 1981 and submitted by the Department of Agriculture and the Department of Health and Human Services under section 3178 of this title;
- (5) the term "local government" means a local general unit of government or local educational unit;
- (6) the terms "National Nutrition Monitoring Advisory Council" and "Council" mean the advisory body established under section 5331 of this title;
- (7) the term "nutrition monitoring and related research" means the set of activities necessary to provide timely information about the role and status of factors that bear on the contribution that nutrition makes to the health of the people of the United States, including—
  - (A) dietary, nutritional, and health status measurements;
  - (B) food consumption measurements;
  - (C) food composition measurements and nutrient data banks;
  - (D) dietary knowledge and attitude measurements; and
  - (E) food supply and demand determinations;
- (8) the term "nutritional quality" means—
  - (A) the appropriate levels of individual nutrients in the diet;
  - (B) the appropriate levels between nutrients in the diet;
  - (C) the bioavailability of nutrients such as absorption, digestion, and utilization; and
  - (D) the nutritional importance of nonnutrient substances such as fiber, phytate, and such substances that are naturally found in the food supply; and
- (9) the term "Secretaries" means the Secretary of Agriculture and the Secretary of Health and Human Services, acting jointly.

(Pub. L. 101–445, §3, Oct. 22, 1990, 104 Stat. 1035.)

## SUBCHAPTER I—NUTRITION MONITORING AND RELATED RESEARCH

### §5311. Establishment of coordinated program

#### (a) In general

There is established a ten-year coordinated program, to be known as the National Nutrition Monitoring and Related Research Program, to carry out the purposes of this chapter.

#### (b) Implementation responsibility

The Secretaries shall be responsible for the implementation of the coordinated program.

#### (c) Establishment of Board

To assist in implementing the coordinated program, there is established an Interagency Board for Nutrition Monitoring and Related Research, of which an Assistant Secretary in the Department of Agriculture (designated by the Secretary of Agriculture) and an Assistant Secretary in the Department of Health and Human Services (designated by the Secretary of Health and Human Services) shall be joint chairpersons. The remaining membership of the Board shall consist of additional representatives of Federal agencies, as determined appropriate by the joint chairpersons of the Board. The Board shall meet no less often than once every three months for the two-year period following October 22, 1990, and when appropriate thereafter.

#### (d) Administrator

To establish a central focus and coordinator for the coordinated program, the Secretaries may appoint an Administrator of Nutrition Monitoring and Related Research. The Administrator shall—

- (1) be an individual who is eminent in the field of nutrition monitoring and related areas and be selected on the basis of the established record of expertise and distinguished service of such individual; and

(2) administer the coordinated program with the advice and counsel of the joint chairpersons of the Board, serve as the focal point for the coordinated program, and serve as the Executive Secretary for the National Nutrition Monitoring Advisory Council.

(Pub. L. 101–445, [title I, §101, Oct. 22, 1990](#), 104 Stat. 1035.)

## **§5311a. Joint nutrition monitoring and related research activities**

The Secretary and the Secretary of Health and Human Services shall continue to provide jointly for national nutrition monitoring and related research activities carried out as of the date of enactment of this Act—

- (1) to collect continuous dietary, health, physical activity, and diet and health knowledge data on a nationally representative sample;
- (2) to periodically collect data on special at-risk populations, as identified by the Secretaries;
- (3) to distribute information on health, nutrition, the environment, and physical activity to the public in a timely fashion;
- (4) to analyze new data that becomes available;
- (5) to continuously update food composition tables; and
- (6) to research and develop data collection methods and standards.

(Pub. L. 110–234, [title IV, §4403, May 22, 2008](#), 122 Stat. 1137; Pub. L. 110–246, [§4\(a\), title IV, §4403, June 18, 2008](#), 122 Stat. 1664, [1898](#).)

## **REFERENCES IN TEXT**

The date of enactment of this Act, referred to in text, is the date of enactment of Pub. L. 110–246, which was approved June 18, 2008.

## **CODIFICATION**

Pub. L. 110–234 and Pub. L. 110–246 enacted identical sections. Pub. L. 110–234 was repealed by section 4(a) of Pub. L. 110–246.

Section was enacted as part of the Food, Conservation, and Energy Act of 2008, and not as part of the National Nutrition Monitoring and Related Research Act of 1990 which comprises this chapter.

## **EFFECTIVE DATE**

Enactment of this section and repeal of Pub. L. 110–234 by Pub. L. 110–246 effective May 22, 2008, the date of enactment of Pub. L. 110–234, except as otherwise provided, see section 4 of Pub. L. 110–246, set out as a note under section 8701 of this title.

Section effective Oct. 1, 2008, see section 4407 of Pub. L. 110–246, set out as an Effective Date of 2008 Amendment note under section 1161 of Title 2, The Congress.

## **DEFINITION OF "SECRETARY"**

"Secretary" as meaning the Secretary of Agriculture, see section 8701 of this title.

## **§5312. Functions of Secretaries**

### **(a) In general**

The Secretaries, with the advice of the Board, shall—

- (1) establish the goals of the coordinated program, identify the activities required to meet such goals, and identify the responsible agencies with respect to the coordinated program;
- (2) update the Joint Implementation Plan for a Comprehensive National Nutrition Monitoring System, and integrate it into the coordinated program;
- (3) ensure the timely implementation of the coordinated program and the comprehensive plan prepared under section 5313 of this title;
- (4) include in the coordinated program and the comprehensive plan a competitive grants program, to be implemented to the extent funds are available, in accordance with the provisions of this chapter to encourage and assist the conduct, by Federal entities, and by non-Federal entities on an appropriate matching funds basis, of research (including research described in section 5313(a)(3) of this title) that will accelerate the development of uniform and cost-effective standards and indicators for the assessment and monitoring of nutritional and dietary status and for relating food consumption patterns to nutritional and health status;
- (5) include in the coordinated program and the comprehensive plan a grants program, in accordance with the provisions of this chapter, to encourage and assist State and local governments in developing the capacity to conduct monitoring and surveillance of nutritional status, food consumption, and nutrition knowledge and in using

such capacity to enhance nutrition services (including activities described in section 5313(a)(5) and 5313(b)(9) of this title);

(6) include in the coordinated program each fiscal year an annual interagency budget for each fiscal year of the program;

(7) foster productive interaction, with respect to nutrition monitoring and related research, among Federal efforts, State and local governments, the private sector, scientific communities, health professionals, and the public;

(8)(A) contract with a scientific body, such as the National Academy of Sciences or the Federation of American Societies for Experimental Biology, to interpret available data analyses, and publish every two years, or more frequently if appropriate, except as provided in subparagraph (B), a report on the dietary, nutritional, and health-related status of the people of the United States and the nutritional quality (including the nutritive and nonnutritive content) of food consumed in the United States; or

(B) if the Secretaries determine that sufficient data analyses are not available to warrant interpretation of such data analyses, inform Congress of such fact at the time a report required in subparagraph (A) would have been published, and publish such report at least once every five years; and

(9)(A) foster cost recovery management techniques in the coordinated program; and

(B) impose appropriate charges and fees for publications of the coordinated program, including print and electronic forms of data and analysis, and use the proceeds of such charges and fees for purposes of the coordinated program (except that no such charge or fee imposed on an educational or other nonprofit organization shall exceed the actual costs incurred by the coordinated program in providing the publications involved).

#### **(b) Biennial report**

The Secretaries shall submit to the President for transmittal to Congress by January 15 of each alternate year, beginning with January 15 following October 22, 1990, a biennial report that shall—

(1) evaluate the progress of the coordinated program;

(2) summarize the results of such coordinated program components as are developed under section 5313 of this title;

(3) describe and evaluate any policy implications of the analytical findings in the scientific reports required under subsection (a)(8), and future priorities for nutrition monitoring and related research;

(4) include in full the annual reports of the Council provided for in section 5332 of this title; and

(5) include an executive summary of the report most recently published by the scientific body, as provided for in subsection (a)(8).

(Pub. L. 101–445, title I, §102, Oct. 22, 1990, 104 Stat. 1036.)

### **TERMINATION OF REPORTING REQUIREMENTS**

For termination, effective May 15, 2000, of provisions in subsec. (b) of this section requiring submission of biennial report to Congress, see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and page 31 of House Document No. 103–7.

## **§5313. Development of comprehensive plan for National Nutrition Monitoring and Related Research Program**

#### **(a) Comprehensive plan**

The Secretaries, with the advice of the Board, shall prepare and implement a comprehensive plan for the coordinated program which shall be designed to—

(1) assess, collate data with respect to, analyze, and report, on a continuous basis, the dietary and nutritional status of the people of the United States, and the trends with respect to such status (dealing with such status and trends separately in the case of preschool and school-age children, pregnant and lactating women, elderly individuals, low-income populations, blacks, Hispanics, and other groups, at the discretion of the Secretaries), the state of the art with respect to nutrition monitoring and related research, future monitoring and related research priorities, and relevant policy implications of findings with respect to such status, trends, and research;

(2) sample representative subsets of identifiable low-income populations (such as Native Americans, Hispanics, or the homeless), and assess, analyze, and report, on a continuous basis, for a representative sample of the low-income population, food and household expenditures, participation in food assistance programs, and periods experienced when nutrition benefits are not sufficient to provide an adequate diet;

(3) sponsor or conduct research necessary to develop uniform indicators, standards, methodologies, technologies, and procedures for conducting and reporting nutrition monitoring and surveillance;

(4) develop and keep updated a national dietary and nutritional status data bank, a nutrient data bank, and other data resources as required;

(5) assist State and local government agencies in developing procedures and networks for nutrition monitoring and surveillance; and

(6) focus the nutrition monitoring activities of Federal agencies.

#### **(b) Components of plan**

The comprehensive plan, at a minimum, shall include components to—

(1) maintain and coordinate the National Health and Nutrition Examination Survey (NHANES) and the Nationwide Food Consumption Survey (NFCS);

(2) provide, by 1991, for the continuous collection, processing, and analysis of nutritional and dietary status data through stratified probability samples of the people of the United States designed to permit statistically reliable estimates of high-risk groups and geographic areas, and to permit accelerated data analysis (including annual analysis, as appropriate);

(3) maintain and enhance other Federal nutrition monitoring efforts such as the Centers for Disease Control Nutrition Surveillance Program and the Food and Drug Administration Total Diet Study, and, to the extent possible, coordinate such efforts with the surveys described in paragraphs (1) and (2);

(4) incorporate, in survey design, military and (where appropriate) institutionalized populations;

(5) complete the analysis and interpretation of the data sets from the surveys described in paragraph (1) collected prior to 1984 within the first year of the comprehensive plan;

(6) improve the methodologies and technologies, including those suitable for use by States and localities, available for the assessment of nutritional and dietary status and trends;

(7) develop uniform standards and indicators for the assessment and monitoring of nutritional and dietary status, for relating food consumption patterns to nutritional and health status, and for use in the evaluation of Federal food and nutrition intervention programs;

(8) establish national baseline data and procedures for nutrition monitoring;

(9) provide scientific and technical assistance, training, and consultation to State and local governments for the purpose of—

(A) obtaining dietary and nutrition status data;

(B) developing related data bases; and

(C) promoting the development of regional, State, and local data collection services to become an integral component of a national nutritional status network;

(10) establish mechanisms to identify the needs of users of nutrition monitoring data and to encourage the private sector and the academic community to participate in the development and implementation of the comprehensive plan and contribute relevant data from non-Federal sources to promote the development of a national nutritional status network;

(11) compile an inventory of Federal, State, and nongovernment activities related to nutrition monitoring and related research;

(12) focus on national nutrition monitoring needs while building on the responsibilities and expertise of the individual membership of the Board;

(13) administer the coordinated program, define program objectives, priorities, oversight, responsibilities, and resources, and define the organization and management of the Board and the Council; and

(14) provide a mechanism for periodically evaluating and refining the coordinated program and the comprehensive plan that facilitates cooperation and interaction by State and local governments, the private sector, scientific communities, and health care professionals, and that facilitates coordination with non-Federal activities.

### **(c) Additional requirements of plan**

The comprehensive plan shall—

(1) allocate all of the projected functions and activities under the coordinated program among the various Federal agencies and offices that will be involved;

(2) contain an affirmative statement and description of the functions to be performed and activities to be undertaken by each of such agencies and offices in carrying out the coordinated program; and

(3) constitute the basis on which each agency participating in the coordinated program requests authorizations and appropriations for nutrition monitoring and related research during the ten-year period of the program.

### **(d) Publication of plan**

#### **(1) Proposed plan**

Within 12 months after October 22, 1990, the Secretaries shall publish in the Federal Register a proposed comprehensive plan for public review for a comment period of no less than sixty days.

#### **(2) Final plan**

Within sixty days after the comment period under paragraph (1) expires, and after considering any comments received, the Secretaries shall submit to the President, for submission to the Congress and for publication in the Federal Register, the final comprehensive plan.

### **(e) Prohibition on construing**

Nothing in this section may be construed as modifying, or as authorizing the Secretaries or the comprehensive plan to modify, any provision of an appropriation Act (or any other provision of law relating to the use of appropriated funds) that specifies—

(1) the department or agency to which funds are appropriated; or

(2) the obligations of such department or agency with respect to the use of such funds.

(Pub. L. 101–445, title I, §103, Oct. 22, 1990, 104 Stat. 1037.)

## **§5314. Implementation of comprehensive plan**

### **(a) In general**

The comprehensive plan shall be carried out during the period ending with the close of the ninth fiscal year following the fiscal year in which the comprehensive plan is submitted in its final form under section 5313(d)(2) of this title and shall be—

- (1) carried out in accordance with, and meet the program objectives specified in, section 5313(a) of this title and section 5313(b) of this title;
- (2) carried out, by the Federal agencies involved, in accordance with the allocation of functions and activities under section 5313(c) of this title; and
- (3) funded by appropriations made to such agencies for each fiscal year of the program.

### **(b) Existing law not affected**

Nothing in this subchapter may be construed to grant any new regulatory authority or to limit, expand, or otherwise modify any regulatory authority under existing law, or to establish new criteria, standards, or requirements for regulation under existing law.

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

## **§5315. Scientific research and development in support of coordinated program and comprehensive plan**

The Secretaries shall coordinate the conduct of, and may contract with the National Science Foundation, the National Aeronautics and Space Administration, the National Oceanic and Atmospheric Administration, the National Institute of Standards and Technology, and other suitable Federal agencies for, such scientific research 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.)

## **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 Nutrition 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 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 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.)

**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 (5 U.S.C. App.), 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 Secretaries disapprove a proposed dietary guidance, the Secretaries shall notify the Federal agency submitting such guidance of such disapproval, and such guidance may not be issued, except as provided in subparagraph (E).

**(E) Review of disapproval**

If a proposed dietary guidance is disapproved by both Secretaries under subparagraph (D), the Federal agency proposing such guidance may, within fifteen days after receiving notification of such disapproval under subparagraph (D), request the Secretaries to review such disapproval. Within fifteen days after receiving a request for such a review, the Secretaries shall conduct such review. If, pursuant to such review, either Secretary approves such proposed dietary guidance, such guidance may be issued by the Federal agency.

**(3) Limitation on definition of guidance**

For purposes of this subsection, the term "dietary guidance for the general population" does not include any rule or regulation issued by a Federal agency.

**(4) "Identified population subgroups" defined**

For purposes of this subsection, the term "identified population subgroups" shall include, but not be limited to, groups based on factors such as age, sex, or race.

**(c) Existing authority not affected**

This section does not place any limitations on—

- (1) the conduct or support of any scientific or medical research by any Federal agency;
- (2) the presentation of any scientific or medical findings or the exchange or review of scientific or medical information by any Federal agency; or
- (3) the authority of the Food and Drug Administration under the provisions of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 301 et seq.].

(Pub. L. 101–445, title III, §301, Oct. 22, 1990, 104 Stat. 1042; Pub. L. 113–79, title IV, §4204, Feb. 7, 2014, 128 Stat. 822.)

## REFERENCES IN TEXT

The Federal Food, Drug, and Cosmetic Act, referred to in subsec. (c)(3), is act [June 25, 1938, ch. 675, 52 Stat. 1040](#), as amended, which is classified generally to chapter 9 (§301 et seq.) of Title 21, Food and Drugs. For complete classification of this Act to the Code, see section 301 of Title 21 and Tables.

## AMENDMENTS

**2014**—Subsec. (a)(3). Pub. L. 113–79 added par. (3).

### **§5342. Nutrition training report**

The Secretary of Health and Human Services, in consultation with the Secretaries of Agriculture, Education, and Defense, and the Director of the National Science Foundation, shall submit, within one year after October 22, 1990, a report describing the appropriate Federal role in assuring that students enrolled in United States medical schools and physicians practicing in the United States have access to adequate training in the field of nutrition and its relationship to human health.

(Pub. L. 101–445, [title III, §302, Oct. 22, 1990](#), 104 Stat. 1044.)