

(Pub. L. 99-659, title II, §204, Nov. 14, 1986, 100 Stat. 3716.)

§ 4004. Establishment of National Council

(a) Establishment

There is established the National Fish and Seafood Promotional Council.

(b) Composition

(1) The National Council shall be composed of the Secretary, who shall be a nonvoting member, and fifteen voting members appointed by the Secretary.

(2) Nominations for appointees shall be submitted in a manner prescribed by the Secretary.

(c) Regional representation

The National Council shall be comprised of regional representation from the Northeast, Southeast, Pacific, and Alaska regions. The Northeast region shall consist of the States of Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Delaware, Pennsylvania, Maryland and Virginia. The Southeast region shall consist of the States of North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana and Texas, the Commonwealth of Puerto Rico, and the territory of the Virgin Islands. The Pacific region shall consist of the States of Idaho, Washington, Oregon, California, and Hawaii, the territories of Guam and American Samoa, and the Commonwealth of the Northern Mariana Islands. The Alaska region shall consist of the State of Alaska.

(d) Voting members

(1) The voting members of the National Council shall be—

(A) three members who reside in or do substantial fishing industry business in the Northeast region;

(B) three members who reside in or do substantial fishing industry business in the Southeast region;

(C) three members who reside in or do substantial fishing industry business in the Pacific region;

(D) three members who reside in or do substantial fishing industry business in the Alaska region;

(E) two members-at-large with demonstrated expertise in fresh-water and inland commercial fisheries, at least one of whom is not a resident of the States of the Alaska, Pacific, Southeast, and Northeast regions; and

(F) one member-at-large who is either a person professionally engaged in the dissemination of information pertaining to the nutritional benefits and preparation of fish and fish products or a person who is a member of an organized labor union and has expertise in the United States fisheries.

(2) Of the members appointed pursuant to each of paragraphs (1)(A) through (D) of this subsection, one shall be a harvester, one shall be a processor or a receiver, and one shall be a marketer.

(e) Term of office

Members of the National Council shall be appointed for a term of 4 years. A vacancy in the

National Council shall not affect its ability to function. The Secretary shall appoint a new member within sixty days to fill a vacancy in an unexpired term. Any member may remain on the National Council beyond that member's term until a successor is appointed.

(f) Chairman

The National Council shall annually elect a Chairman by a majority of those voting, if a quorum is present. Ten members of the National Council shall constitute a quorum, but a lesser number may hold hearings.

(g) First meeting

The National Council shall first meet within one hundred and eighty days after November 14, 1986.

(h) Compensation of members

Members of the National Council shall serve without compensation, but shall be reimbursed in accordance with section 5703 of title 5 for reasonable travel costs and expenses incurred in performing their duties as members of the National Council.

(Pub. L. 99-659, title II, §205, Nov. 14, 1986, 100 Stat. 3717; Pub. L. 100-350, §3, June 27, 1988, 102 Stat. 660.)

AMENDMENTS

1988—Subsec. (d)(1)(E). Pub. L. 100-350 which directed the substitution of “, at least one of whom is not a resident of the States of the Alaska, Pacific, Southeast, and Northeast regions” for “and who are not residents of the States of the Alaska, Pacific, Southeast, or Northeast regions” was executed by substituting that phrase for “and who are not residents of the states of the Alaska, Pacific, Southeast, or Northeast regions”.

CONTINUITY OF NATIONAL COUNCIL MEMBERSHIP

Pub. L. 101-627, title VII, §704(a), (b), Nov. 28, 1990, 104 Stat. 4464, provided that:

“(a) UNINTERRUPTED SERVICE.—Individuals serving on September 30, 1990, as members of the National Fish and Seafood Promotional Council shall be deemed to continue as members in uninterrupted service since the date of their initial appointment.

“(b) FILLING OF VACANCIES.—Notwithstanding section 206(e) of the Fish and Seafood Promotion Act of 1986 (16 U.S.C. 4005(e)), any vacancy on the National Fish and Seafood Promotion Act [Promotional Council] not filled as of September 30, 1990, shall be filled within 60 days after the date of enactment of this Act [Nov. 28, 1990].”

§ 4005. Functions and duties of National Council

(a) Functions and duties

The National Council shall—

(1) prepare and submit to the Secretary, for the Secretary's review and approval, an annual marketing and promotion plan which contains descriptions of consumer education, research, and other marketing and promotion activities of the National Council for the following year, including plans to coordinate the activities of councils established under section 4009 of this title;

(2) prepare and submit to the Secretary, for the Secretary's review and approval, an annual budget of the anticipated expenses and disbursements of the National Council, including probable costs of consumer education, re-

search, and other marketing and promotion plans or projects, and referenda under section 4009 of this title;

(3) maintain accounting records of the receipt and disbursement of all funds entrusted to the National Council, subject to the Secretary's right to review or inspect such records;

(4) maintain such books and records as the Secretary determines appropriate; and

(5) prepare and submit to the Secretary from time to time such reports or proposals as the Secretary or the National Council determines appropriate for furthering the purposes and policies of this chapter.

(b) Annual plan

Each annual marketing and promotion plan shall be directed to—

(1) increasing the general demand for fish and fish products;

(2) encouraging, expanding, or improving the marketing and promotion and utilization of fish and fish products; and

(3) improving the dissemination of data collected by consumer education, research, and other marketing promotion activities.

(c) Prohibition on certain references

Consumer education and other marketing and promotion activities of the National Council shall contain no reference to a private brand or trade name and shall avoid use of deceptive acts or practices in behalf of fish or fish products or with respect to the quality, value, or use of any competing product or group of products. In addition, the National Council may not promote the consumption or purchase of a single or group of similar fish species (such as members of the same genera); except that the Council may use illustrations of a single or group of similar fish species in the course of promoting the generic consumption of fish and fish products.

(d) Executive director

The National Council may employ and determine the salary of an executive director, but such salary shall not exceed Senior Executive Service Level 6. The executive director shall have demonstrated expertise in the marketing and promotion of food products and may, without regard to the provisions of title 5, with the approval of the National Council, select and employ additional staff as necessary.

(e) Funding of referendum

The National Council may enter into agreements with applicants proposing to establish a council under section 4009 of this title for the purposes of funding a referendum establishing the council. The National Council may enter into agreements with the councils established under section 4009 of this title for the purpose of funding a referendum to establish quality standards, or a referendum to terminate any such council.

(f) Agreements

The National Council may enter into agreements to develop and carry out activities authorized under this chapter.

(g) Termination of National Council

The National Council shall cease to exist on December 31, 1991.

(Pub. L. 99-659, title II, §206, Nov. 14, 1986, 100 Stat. 3718; Pub. L. 101-627, title VII, §701, Nov. 28, 1990, 104 Stat. 4463.)

REFERENCES IN TEXT

Senior Executive Service, referred to in subsec. (d), see section 5382 of Title 5, Government Organization and Employees.

AMENDMENTS

1990—Subsec. (g). Pub. L. 101-627 substituted “December 31, 1991” for “October 1, 1990”.

CONTINUITY OF COUNCIL FUNCTIONS, CONTRACTS, AND PERSONNEL

Section 705 of Pub. L. 101-627 provided that: “All current functions, contracts in force, and existing personnel of the National Fish and Seafood Promotional Council as of September 30, 1990, are reauthorized and extended, and shall continue as if uninterrupted, notwithstanding section 206(g) of the Fish and Seafood Promotion Act of 1986 (16 U.S.C. 4005(g)) as in effect on September 30, 1990.”

§ 4006. Duties of Secretary with regard to National Council

(a) Duties of Secretary

The Secretary shall—

(1) within sixty days after its submission by the National Council, review the annual marketing and promotion plan and budget and, if the Secretary determines that such plan and budget are in accordance with the purposes and policies of this chapter, approve such plan and budget;

(2) administer the Fund and, in accordance with subsection (b) of this section, withdraw from the Fund such sums as are necessary to carry out the National Council's approved marketing and promotion plan and budget;

(3) promulgate regulations necessary to carry out the purposes and policies of this chapter;

(4) provide such administrative assistance as the National Council may require for purposes of its initial organization and operation; and

(5) make all initial appointments to the National Council within ninety days after November 14, 1986.

(b) Withdrawal of funds

The Secretary shall make withdrawals of sums from the Fund under this section at the request of the National Council, unless the Secretary determines that the purposes for which such sums are requested are not reasonably likely to further the purposes and policies of this chapter.

(Pub. L. 99-659, title II, §207, Nov. 14, 1986, 100 Stat. 3719; Pub. L. 101-627, title VII, §704(c), Nov. 28, 1990, 104 Stat. 4464.)

AMENDMENTS

1990—Subsec. (a)(5). Pub. L. 101-627 inserted “initial” before “appointments”.

§ 4007. Voluntary payments

Any person may make voluntary payments to assist the National Council to carry out its annual marketing and promotion plan and annual budget. The Secretary shall deposit such payments into the Fund.

(Pub. L. 99-659, title II, §208, Nov. 14, 1986, 100 Stat. 3720.)