

Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND ACCOUNTABILITY

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April 4, 2024

The Honorable Thomas J. Vilsack
Secretary
U.S. Department of Agriculture
1400 Independence Ave. SW
Washington, D.C. 20250

Dear Secretary Vilsack:

The Committee on Oversight and Accountability is conducting oversight of the U.S. Department of Agriculture's (USDA) development of the 2025 Dietary Guidelines for Americans (Dietary Guidelines). We are concerned that the process implemented by the Biden Administration for developing the Dietary Guidelines may not be fully in accordance with federal law. Specifically, the Consolidated Appropriations Act of 2023¹ and the National Nutrition Monitoring Act require the Dietary Guidelines to be "based on the preponderance of the scientific and medical knowledge which is current at the time the report is prepared"—and that the Secretary, not a subagency, approve of such guidance.² It is imperative that USDA be actively involved in the formulation of the Dietary Guidelines and base such guidelines on rigorous, sound and objective scientific evidence and adhere to congressional intent. Therefore, we ask that you provide documents and information to assist the Committee's oversight of this matter.

In the 2023 Consolidated Appropriations Act, Congress allocated \$1.3 million for the National Academies of Sciences, Engineering, and Medicine (NASEM) to study the relationship between alcohol consumption and health outcomes such as cancer, obesity, and heart disease to inform the 2025 Dietary Guidelines.³ In preparing for the 2020 Dietary Guidelines, the Dietary Guidelines Advisory Committee (DGAC) did not complete its alcohol review and only answered one research question regarding the relationship between alcohol use and all-cause mortality.⁴ Therefore, Congress determined it was necessary to direct NASEM to study the relationship

¹ Consolidated Appropriations Act of 2023, Pub. L. No. 117-328 § 772, 136 Stat. 4508 (Dec. 29, 2022).

² National Nutrition Monitoring and Related Research Act of 1990, Pub. L. No. 110-445 § 301, 104 Stat. 1042 (Oct. 22, 1990).

³ *Supra*, n.1.

⁴ U. S. Dep't of Health & Human Servs. & U. S. Dep't of Agric., NASEM Committee: Review of Evidence on Alcohol and Health Sponsor Briefing, 8, *available at* <https://www.nationalacademies.org/documents/embed/link/LF2255DA3DD1C41C0A42D3BEF0989ACAECE3053A6A9B/file/DCFBB6F841AF48C802906589338CEED3333591F80E75?noSaveAs=1>.

between alcohol consumption and all types of health outcomes, in addition to all-cause mortality, for the 2025 Dietary Guidelines.⁵

In Section 773 of the Consolidated Appropriations Act of 2024, Congress reaffirmed its intent.⁶ Congress again directed the Secretaries of USDA and the Department of Health and Human Services (HHS) to “consider the findings and recommendations of the NASEM report in the development of the 2025 Dietary Guidelines for Americans” and reiterated that the Dietary Guidelines “shall be based on the preponderance of scientific and medical knowledge consistent with section 5341 of Title 7 of United States Code.”⁷

Despite USDA’s shared responsibility for formulating the Dietary Guidelines, HHS appears to be taking improper authority over the development of the alcohol consumption guidelines.⁸ During the January 25-26, 2024 NASEM Review of Evidence on Alcohol and Health committee meeting, a representative of the Interagency Coordinating Committee on the Prevention of Underage Drinking’s (ICCPUD), which is led by HHS’ Substance Abuse and Mental Health Services Administration (SAMHSA), presented documents to support SAMHSA’s intention to study on its own the relationship between alcohol-related mortality and alcohol consumption and use ICCPUD’s findings to inform the 2025 Dietary Guidelines.⁹ We are alarmed that HHS appears to be attempting to remove alcohol review from the DGAC and “delegate” it to ICCPUD,¹⁰ despite the statute directing the Secretaries of HHS and USDA to issue the Dietary Guidelines, not subagencies such as SAMHSA.¹¹

This is not the only basis of our concern. In April 2022, for example, HHS published a notice in the Federal Register of the scientific questions to be considered by the 2025 DGAC, none of which included questions related to health outcomes and the consumption of alcoholic beverages.¹² By removing alcohol recommendations from the 2025 Dietary Guidelines, the Biden Administration appears to be driving toward approving Dietary Guidelines that by default recommend that Americans consume no alcohol whatsoever, despite a continually evolving scientific debate about the risks and benefits of moderate alcohol consumption.¹³ As USDA works towards finalizing the 2025 Dietary Guidelines, it is imperative that the NASEM Review

⁵ *Supra*, n.1.

⁶ Consolidated Appropriations Act of 2024, Pub. L. No. 118-42 § 773 (Mar. 9, 2024).

⁷ *Id.*

⁸ Nat’l Academies Review of Evidence of Alcohol and Health, Meeting 1B (Jan. 25-26, 2024), 6-7, *available at* <https://www.nationalacademies.org/documents/embed/link/LF2255DA3DD1C41C0A42D3BEF0989ACAECE3053A6A9B/file/D36C7490DF2904B73F7E8BD588907E1E7D2B39294A3F?noSaveAs=1>.

⁹ *Id.*

¹⁰ Dietary Guidelines for Americans, Projects Related to the *Dietary Guidelines* – Alcoholic Beverages and Health, *available at* <https://www.dietaryguidelines.gov/related-projects>.

¹¹ National Nutrition Monitoring and Related Research Act of 1990, Pub. L. No. 110-445 § 301, 104 Stat. 1042 (Oct. 22, 1990).

¹² U. S. Dep’t of Health & Human Servs., Request for Comments on Scientific Questions To Be Examined To Support the Development of the Dietary Guidelines for Americans, 2025-2030, 87 Fed. Reg. 22540 (Apr. 15, 2022); Dietary Guidelines for Americans - Scientific Questions, *available at* <https://www.dietaryguidelines.gov/scientific-questions>.

¹³ Harvard Univ. T. H. Chan School of Public Health, The Nutrition Source – Alcohol: Balancing Risks and Benefits.

of Evidence on Alcohol and Health complete its work as mandated by Congress without interference or efforts to subvert it by USDA or other government agencies.

A recent Government Accountability Office (GAO) study found that USDA should collaborate better in future formulations of the Dietary Guidelines to reduce duplicative research activities.¹⁴ Specifically, GAO recommended that USDA and HHS work together to ensure that the “research each agency conducts is complementary and not overlapping or duplicative” when formulating the Dietary Guidelines.¹⁵ To avoid waste and hew to Congress’ intent, USDA should be following the spirit of those recommendations with regard to NASEM’s work on alcohol as well.

To assist the Committee’s oversight of this matter, please provide a staff-level briefing on this matter no later than April 11, 2024. Briefers should be prepared to discuss the scope of the 2025 DGAC, including specific topics and questions being studied and how those topics overlap with the charge of the NASEM Review of Evidence on Alcohol and Health.¹⁶ Additionally, briefers should be prepared to discuss the impact of any changes to the Dietary Guidelines, specifically regarding alcohol consumption, on the U.S. agricultural sector. Lastly, briefers should also be prepared to describe how USDA intends to support the NASEM Review of Evidence on Alcohol and Health and consider its findings for the 2025 Dietary Guidelines.

In addition to the staff-level briefing, please also provide the following documents and information, covering the period December 29, 2022 to present, as soon as possible but no later than April 18, 2024:

1. All documents and communications among or between USDA staff related to agency compliance with applicable rules and regulations governing the formulation of the Dietary Guidelines, including The National Nutrition Monitoring and Related Research Act of 1990, Section 772 of the Consolidated Appropriations Act of 2023, and Section 773 of the Consolidated Appropriations Act of 2024;
2. All documents and communications among or between USDA and HHS staff related to the formation of the ICCPUD Subcommittee for Alcohol Intake and Health to review alcohol consumption and health for the 2025 Dietary Guidelines;
3. All documents and communications among or between USDA and HHS staff containing any of ICCPUD’s Subcommittee for Alcohol Intake and Health meeting minutes or other notes of the Subcommittee’s meetings;

¹⁴ GOV’T ACCOUNTABILITY OFF., GAO-24-106130, DIETARY GUIDELINES FOR AMERICANS: STRENGTHENING INTERAGENCY COLLABORATION COULD HELP INFORM NUTRITION RESEARCH AND FUTURE GUIDELINES (Oct. 2023).

¹⁵ *Id.*

¹⁶ Nat’l Academies Review of Evidence of Alcohol and Health, *available at* <https://www.nationalacademies.org/our-work/review-of-evidence-on-alcohol-and-health>.

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4. All documents and communications among or between USDA about or with NASEM members and staff or HHS, related to NASEM or ICCPUD committee members' work on alcohol-related issues, disclosures and alleged conflicts of interest; and
5. All documents and communications reflecting USDA or HHS's efforts to undermine, subvert, or displace NASEM's work and its role in the process for setting the 2025 Dietary Guidelines.

To ask any follow-up questions, schedule the briefing, or arrange for the delivery of responsive documents please contact Committee on Oversight and Accountability staff at (202) 225-5074. The Committee on Oversight and Accountability is the principal oversight committee of the U.S. House of Representatives and has broad authority to investigate "any matter" at "any time" under House Rule X. Thank you in advance for your cooperation with this inquiry.

Sincerely,



James Comer
Chairman
Committee on Oversight and Accountability



Lisa McClain
Chairwoman
Subcommittee on Health Care and Financial
Services

cc: The Honorable Jamie B. Raskin, Ranking Member
Committee on Oversight and Accountability

The Honorable Katie Porter, Ranking Member
Subcommittee on Health Care and Financial Services