

104TH CONGRESS
1ST SESSION

H. R. 2502

To amend various commodity research and promotion laws to make participation in such programs voluntary.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 18, 1995

Mr. SCHUMER (for himself and Mr. ZIMMER) introduced the following bill; which was referred to the Committee on Agriculture

A BILL

To amend various commodity research and promotion laws to make participation in such programs voluntary.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. VOLUNTARY PARTICIPATION IN THE BEEF**
4 **PROMOTION AND RESEARCH PROGRAM.**

5 (a) CONGRESSIONAL FINDINGS AND DECLARATION
6 OF POLICY.—Section 2(b) of the Beef Research and Infor-
7 mation Act (7 U.S.C. 2901(b)) is amended by striking
8 “through assessments on all cattle” and inserting
9 “through voluntary assessments on cattle”.

1 (b) DEFINITIONS.—Section 3 of such Act (7 U.S.C.
2 2902) is amended—

3 (1) in paragraph (8)—

4 (A) by inserting “(A)” after “(8)”; and

5 (B) by adding at the end the following new
6 subparagraph:

7 “(B) the term ‘participating importer’ means
8 an importer who voluntarily chooses to participate in
9 the order and has paid all assessments as provided
10 in section 5(8);”; and

11 (2) in paragraph (12)—

12 (A) by inserting “(A)” after “(12)”; and

13 (B) by adding at the end the following new
14 subparagraph:

15 “(B) the term ‘participating producer’ means a
16 producer who voluntarily chooses to participate in
17 the order and has paid all assessments as provided
18 in section 5(8);”.

19 (c) REQUIRED TERMS IN ORDERS.—Section 5 of
20 such Act (7 U.S.C. 2904) is amended—

21 (1) in paragraph (1)—

22 (A) by striking “Members of the Board
23 shall be cattle producers and importers” and in-
24 serting “Members of the Board shall be partici-
25 pating producers and participating importers”;

(B) by striking “nominations submitted by importers” and inserting “nominations submitted by participating importers”;

(C) by striking “Each State that has a total cattle” and inserting “Each State whose participating producers have a total cattle”;

(D) by striking “A State that has a total inventory of fewer than” and inserting “A State whose participating producers have a total inventory of fewer than”; and

(E) by striking “The number of members on the Board that represent importers” and inserting “The number of members on the Board that represent participating importers”;

(2) in paragraph (4)(A), by striking "and ten producers elected" and inserting "and ten participating producers elected";

(3) in paragraph (8)(A), by striking “payment to a producer for cattle purchased from the producer” and inserting “payment to a participating producer for cattle purchased from the participating producer”; and

(4) in paragraph (8)(C)—

(A) by striking "shall provide that each importer of cattle, beef, or beef products shall

1 pay an assessment” and inserting “shall pro-
2 vide that each participating importer may pay
3 a voluntary assessment”; and

4 (B) by striking “from cattle of the person’s
5 own production shall” and inserting “from cat-
6 tle of the person’s own production may”; and

7 (5) in paragraph (11), by striking the first sen-
8 tence and inserting “The Secretary shall establish
9 appropriate accounting and bookkeeping require-
10 ments in the order to effectuate the policy of this
11 Act.”.

12 (d) CERTIFICATION OF ORGANIZATIONS TO NOMI-
13 NATE.—Section 6 of such Act (7 U.S.C. 2905) is amend-
14 ed—

15 (1) in subsection (a), by striking “The eligi-
16 bility of any State organization to represent produc-
17 ers” and inserting “The eligibility of any State orga-
18 nization to represent participating producers”; and

19 (2) in subsection (b)—

20 (A) in paragraph (1), by striking “cattle
21 producers or the association or organization’s
22 total paid membership represents at least a ma-
23 jority of the cattle producers” and inserting
24 “participating cattle producers or the associa-
25 tion or organization’s total paid membership

1 represents at least a majority of the participating cattle producers”; and

3 (B) in paragraph (2), by striking “rep-
4 resents a substantial number of producers” and
5 inserting “represents a substantial number of
6 participating producers”.

7 (e) REQUIREMENTS OF REFERENDUM.—Section 7 of
8 such Act (7 U.S.C. 2906) is amended by striking sub-
9 section (b) and redesignating subsection (c) as subsection
10 (b).

11 (f) ENFORCEMENT.—Section 9 of such Act (7 U.S.C.
12 2908) is amended by adding at the end the following new
13 subsection:

14 “(d) Nothing in this section shall permit the Sec-
15 retary to require or enforce the collection of assessments
16 from producers that are not participating producers and
17 importers that are not participating importers.”.

18 (g) INVESTIGATIONS.—Section 10 of such Act (7
19 U.S.C. 2909) is amended by adding at the end the follow-
20 ing new sentence: Nothing in this section shall permit the
21 Secretary to require or enforce the collection of assess-
22 ments from producers that are not participating producers
23 and importers that are not participating importers.”.

1 **SEC. 2. VOLUNTARY PARTICIPATION IN THE PORK PRO-**2 **MOTION AND RESEARCH PROGRAM.**

3 (a) CONGRESSIONAL FINDINGS AND DECLARATION
4 OF PURPOSE.—Section 1612(b)(1) of the Pork Pro-
5 motion, Research, and Consumer Information Act of 1985
6 (7 U.S.C. 4801(b)(1)) is amended by striking “through
7 adequate assessments” and insert “through voluntary as-
8 sessments”.

9 (b) DEFINITIONS.—Section 1613 of such Act (7
10 U.S.C. 4802)—

11 (1) in paragraph (5)—

12 (A) by inserting “(A)” after (5)”; and
13 (B) by adding at the end the following new
14 subparagraph:

15 “(B) The term ‘participating importer’ means
16 an importer who voluntarily chooses to participate in
17 the pork promotion and research order issued under
18 section 1614 and has paid all assessments as pro-
19 vided in section 1620.”; and

20 (2) in paragraph (11)—

21 (A) by inserting “(A)” after (11)”; and
22 (B) by adding at the end the following new
23 subparagraph:

24 “(B) The term ‘participating producer’ means a
25 producer who chooses to participate in the pork pro-
26 motion and research order issued under section 1614

1 and has paid all assessments as provided in section
2 1620.”.

3 (c) PORK AND PORK PRODUCT ORDERS.—Section
4 1614(a) of such Act (7 U.S.C. 4803(a)) is amended—

5 (1) by striking “persons engaged in—” and in-
6 serting “all participating producers and participat-
7 ing importers.”; and

8 (2) by striking paragraphs (1) and (2).

9 (d) NATIONAL PORK PRODUCERS DELEGATE
10 BODY.—Section 1617 of such Act (7 U.S.C. 4806) is
11 amended—

12 (1) in subsection (b)(1)—

13 (A) in subparagraph (A), by striking “pro-
14 ducers” and inserting “participating produc-
15 ers”; and

16 (B) in subparagraph (B), by striking “im-
17 porters” and inserting “participating import-
18 ers”;

19 (2) in subsection (b)(2)(A)(i), by striking “mar-
20 keted from such State” and inserting “marketed by
21 participating producers from such State”; and

22 (3) in subsection (b)(3)(A)(ii), by striking
23 “from importers” and inserting “from participating
24 importers”.

1 (e) SELECTION OF DELEGATE BODY.—Section
2 1618(c)(3) of such Act (7 U.S.C. 4807(c)(3)) is amended
3 by striking “must—” and all that follows through the end
4 of subparagraph (C) and inserting “must be a participat-
5 ing producer who is a resident of such State.”.

6 (f) NATIONAL PORK BOARD.—Section 1619 (a) of
7 such Act (7 U.S.C. 4808(a)) is amended—

8 (1) in the first paragraph (2), by striking “con-
9 sist of producers representing at least 12 States and
10 importers” and inserting “consist of participating
11 producers representing at least 12 States and par-
12 ticipating importers”; and

13 (2) by striking the second paragraph (2).

14 (g) ASSESSMENTS.—Section 1620 of such Act (7
15 U.S.C. 4809) is amended—

16 (1) in subsection (a), by striking paragraph (3)
17 and inserting the following new paragraph:

18 “(3) Effective January 1, 1996, assessments
19 shall be paid by participating producers and partici-
20 pating importers on a voluntary basis and nothing in
21 this section shall permit the Secretary to require the
22 collection of assessments from producers that are
23 not participating producers and importers that are
24 not participating importers.”;

25 (2) in subsection (b)(4)—

9 (h) PERMISSIVE PROVISIONS.—Section 1621 of such

10 Act (7 U.S.C. 4810) is amended—

11 (1) by striking subsection (a) and inserting in
12 lieu thereof the following new subsection:

13 “(a) The Secretary shall establish appropriate ac-
14 counting and bookkeeping requirements by order to effec-
15 tuate the policy of this subtitle.”;

19 (3) in subsection (c), by striking “subsection
20 (a)(1) or (b)” and inserting “subsection (a)”.

21 (i) REFERENDUM.—Section 1622(e) of such Act (7
22 U.S.C. 4811(e)) is amended by striking “pursuant to this
23 section” and inserting “among all participating producers
24 and participating importers”.

1 (j) SUSPENSION AND TERMINATION OF ORDERS.—

2 Section 1623 of such Act (7 U.S.C. 4812) is amended by
3 striking subsection (b) and redesignating subsection (c) as
4 subsection (b).5 (k) ENFORCEMENT.—Section 1626 of such Act (7
6 U.S.C. 4815) is amended by adding at the end the follow-
7 ing new subsection:8 “(d) Nothing in this section shall permit the Sec-
9 retary to require or enforce the collection of assessments
10 from producers that are not participating producers and
11 importers that are not participating importers.”.12 (l) INVESTIGATIONS.—Section 1627 of such Act (7
13 U.S.C. 4816) is amended by adding at the end the follow-
14 ing new subsection:15 “(d) Nothing in this section shall permit the Sec-
16 retary to require or enforce the collection of assessments
17 from producers that are not participating producers and
18 importers that are not participating importers.”.19 **SEC. 3. VOLUNTARY PARTICIPATION IN DAIRY RESEARCH**20 **AND PROMOTION PROGRAM.**21 (a) CONGRESSIONAL FINDINGS AND DECLARATION
22 OF POLICY.—Section 110(b) of the Dairy Production Sta-
23 bilization Act of 1983 (7 U.S.C. 4501(b)) is amended by
24 striking “through assessments on all milk” and inserting
25 “through voluntary assessments on milk”.

1 (b) DEFINITIONS.—Section 111 of such Act (7
2 U.S.C. 4502) is amended—

3 (1) by inserting “(1)” after (h)”; and
4 (2) by adding at the end the following new
5 paragraph:

6 “(2) the term ‘participating producer’ means
7 any producer who voluntarily chooses to participate
8 in the dairy research and promotion order issued
9 under section 112 and has paid all assessments as
10 provided in section 113(g);”.

11 (c) REQUIRED TERMS IN ORDERS.—Section 113 of
12 such Act (7 U.S.C. 4504) is amended—

13 (1) in subsection (b)—

14 (A) by striking “Members of the Board
15 shall be milk producers” and inserting “Mem-
16 bers of the Board shall be participating produc-
17 ers;

18 (B) by striking “if the Secretary deter-
19 mines that a substantial number of milk pro-
20 ducers are not members” and inserting “if the
21 Secretary determines that a substantial number
22 of participating producers are not members”;

23 (C) by striking “the geographical distribu-
24 tion of milk production volume throughout the
25 United States” and inserting “the geographical

1 distribution of milk production volume by all
2 participating producers in the United States";
3 and

4 (D) by striking "shall equally reflect each
5 of the different regions in the United States in
6 which milk is produced" and inserting "shall
7 equally reflect each of the different regions in
8 which milk is produced by participating produc-
9 ers";

10 (2) in section (g)—

11 (A) by striking "The order shall provide
12 that each person making payment to a producer
13 for milk produced in the United States and
14 purchased from the producer" and inserting
15 "The order shall provide that each person mak-
16 ing payment to a participating producer and
17 purchased from the participating producer";
18 and

19 (B) by striking "Any person marketing
20 milk of that person's own production directly to
21 consumers shall remit" and inserting "Any per-
22 son marketing milk of that person's own pro-
23 duction directly to consumers may remit"; and

24 (3) in subsection (k), by striking the first sen-
25 tence and inserting the following: "The Secretary

1 shall establish appropriate accounting and book-
2 keeping requirements in the order to effectuate the
3 policy of this title.”.

4 (d) CERTIFICATION OF ORGANIZATIONS.—Section
5 114 of such Act (7 U.S.C. 4505) is amended—

6 (1) in subsection (a), by striking “to represent
7 milk producers” and inserting “to represent partici-
8 pating producers”;

9 (2) in subsection (b)(2), by inserting “who are
10 participating producers after “active milk produc-
11 ers”; and

12 (3) in the matter following paragraph (6) of
13 subsection (b), by striking “shall be whether its
14 membership consists primarily of milk producers”
15 and inserting “shall be whether its membership con-
16 sists primarily of participating producers”.

17 (e) SUSPENSION AND TERMINATION OF ORDERS.—
18 Section 116 of such Act (7 U.S.C. 4507) is amended by
19 striking subsection (b) and by redesignating subsection (c)
20 as subsection (b).

21 (f) COOPERATIVE ASSOCIATION REPRESENTATION.—
22 Section 117 of such Act (7 U.S.C. 4508) is repealed.

23 (g) ENFORCEMENT.—Section 119 of such Act (7
24 U.S.C. 4510) is amended by adding at the end the follow-
25 ing new subsection:

1 “(d) Nothing in this section shall permit the Sec-
2 retary to require or enforce the collection of assessments
3 from producers that are not participating producers.”.

4 (h) INVESTIGATIONS; POWER TO SUBPOENA.—Sec-
5 tion 120 of such Act (7 U.S.C. 4511) is amended by add-
6 ing at the end the following new sentence: “Nothing in
7 this section shall permit the Secretary to require or en-
8 force the collection of assessments from producers that are
9 not participating producers.”.

10 **SEC. 4. VOLUNTARY PARTICIPATION IN THE EGG RE-**
11 **SEARCH AND PROMOTION PROGRAM.**

12 (a) CONGRESSIONAL FINDINGS AND DECLARATION
13 OF POLICY.—The third paragraph of section 2 of the Egg
14 Research and Consumer Information Act (7 U.S.C. 2701)
15 is amended by striking “financing through an adequate
16 assessment” and inserting “financing through a voluntary
17 assessment”.

18 (b) DEFINITIONS.—Section 3(e) of such Act (7
19 U.S.C. 2702(e)) is amended—

20 (1) by inserting “(1)” after (e); and
21 (2) by adding at the end the following new
22 paragraph:

23 “(2) The term ‘participating egg producer’ means an
24 egg producer who voluntarily chooses to participate in the
25 egg research and consumer information order issued under

1 section 4 and has paid all assessments as provided in sec-
2 tion 8(e).”.

3 (c) ISSUANCE OF ORDERS.—Section 4 of such Act
4 (7 U.S.C. 2703) is amended by striking “persons engaged
5 in the hatching and/or sale of egg-type baby chicks” and
6 all that follows through the end of the section and insert-
7 ing “participating egg producers”.

8 (d) PERMISSIVE TERMS AND CONDITIONS IN OR-
9 DERS.—Section 7(c) of such Act (7 U.S.C. 2706(c)) is
10 amended—

11 (1) by striking “Providing that hatchery” and
12 all that follows through “pursuant to this chapter:”
13 and inserting “Providing for the establishment of
14 appropriate accounting and bookkeeping require-
15 ments to effectuate the policy of this Act:”; and

16 (2) by inserting at the end the following new
17 sentence: “Nothing in this section shall permit the
18 Secretary to require or enforce the collection of as-
19 sessments from egg producers that are not partici-
20 pating egg producers.”.

21 (e) REQUIRED TERMS AND CONDITIONS IN OR-
22 DERS.—Section 8 of such Act (7 U.S.C. 2708) is amend-
23 ed—

24 (1) in subsection (b)—

6 (B) by striking “if the Secretary deter-
7 mines that a substantial number of egg produc-
8 ers” and inserting “if the Secretary determines
9 that a substantial number of participating egg
10 producers”; and

11 (C) by striking “the proportion of eggs
12 produced in each geographic area” and insert-
13 ing “the proportion of eggs produced by partici-
14 pating egg producers in each geographic area”;
15 (2) insertion (c)(1)

16 (A) by striking “each egg producer” and
17 inserting “each participating egg producer”;
18 and

19 (B) by striking “an assessment” and in-
20 serting “a voluntary assessment”; and

1 (f) REFERENDUM AMONG EGG PRODUCERS.—Section 9 of such Act (7 U.S.C. 2708) is amended—

3 (1) in subsection (a)—

4 (A) by striking “The Secretary shall con-
5 duct a referendum among egg producers not ex-
6 empt hereunder” and inserting “The Secretary
7 shall conduct a referendum among participating
8 egg producers”; and

9 (B) in the last sentence, by inserting “by
10 all participating egg producers” after “commer-
11 cial eggs produced”;

12 (2) in subsection (b)(2)(A)—

13 (A) by striking “egg producers not exempt
14 from this Act” and inserting “participating egg
15 producers”; and

16 (B) by inserting “participating egg” after
17 “ascertaining whether the”;

18 (3) in subsection (b)(4), by striking “is ap-
19 proved by producers in a referendum conducted
20 under this subsection, the Secretary shall amend the
21 order to reflect the vote of the producers” and insert
22 in lieu thereof “is approved by participating egg pro-
23 ducers in a referendum conducted under this sub-
24 section, the Secretary shall amend the order to re-

1 flect the vote of the participating egg producers";
2 and

3 (4) in subsection (c), by striking "egg produc-
4 ers" and inserting "participating egg producers".

5 (g) TERMINATION OR SUSPENSION OF ORDERS.—

6 Section 10 of such Act (7 U.S.C. 2709) is amended—

7 (1) by striking subsection (b); and

8 (2) by redesignating subsection (c) as sub-
9 section (b).

10 (h) EXEMPTED EGG PRODUCERS AND BREEDING
11 HEN FLOCKS; CONDITIONS AND PROCEDURES.—Section
12 12 of such Act (7 U.S.C. 2711) is repealed.

13 (i) CIVIL ENFORCEMENT PROCEEDINGS.—Section 15
14 of such Act (7 U.S.C. 2714) by adding at the end the
15 following new subsection:

16 “(c) Nothing in this section shall permit the Sec-
17 retary to require or enforce the collection of assessments
18 from egg producers that are not participating egg produc-
19 ers.”.

20 (j) INVESTIGATIONS.—Section 18 of such Act (7
21 U.S.C. 2717) is amended by adding at the end the follow-
22 ing new sentence: “Nothing in this section shall permit
23 the Secretary to require or enforce the collection of assess-
24 ments from egg producers that are not participating egg
25 producers.”.

1 **SEC. 5. VOLUNTARY PARTICIPATION IN THE SHEEP AND**
2 **SHEEP PRODUCTS PROMOTION AND RE-**
3 **SEARCH PROGRAM.**

4 (a) CONGRESSIONAL FINDINGS AND DECLARATION
5 OF POLICY.—Section 2(b) of the Sheep Promotion, Re-
6 search, and Information Act of 1994 (7 U.S.C. 7101(b))
7 is amended by striking “through adequate assessments”
8 and inserting “through voluntary assessments”.

9 (b) DEFINITIONS.—Section 3 of such Act (7 U.S.C.
10 7102) is amended—

11 (1) in paragraph (9)—

12 (A) by inserting “(A)” after “(9)”; and
13 (B) by adding at the end the following new
14 subparagraph:

15 “(B) The term ‘participating exporter’ means
16 an exporter who voluntarily chooses to participate in
17 the order and has paid all assessments as provided
18 in section 5(i).”;

19 (2) in paragraph (10)—

20 (A) by inserting “(A)” after “(10)”; and
21 (B) by adding at the end the following new
22 subparagraph:

23 “(B) The term ‘participating feeder’ means a
24 feeder who voluntarily chooses to participate in the
25 order and has paid all assessments as provided in
26 section 5(i).”;

1 (3) in paragraph (12)—

2 (A) by inserting “(A)” after “(12)”; and

3 (B) by adding at the end the following new
4 subparagraph:

5 “(B) The term ‘participating handler’ means a
6 handler who voluntarily chooses to participate in the
7 order and has paid all assessments as provided in
8 section 5(i).”;

9 (4) in paragraph (13)—

10 (A) by inserting “(A)” after “(13)”; and

11 (B) by adding at the end the following new
12 subparagraph:

13 “(B) The term ‘participating importer’ means
14 an importer who voluntarily chooses to participate in
15 the order and has paid all assessments as provided
16 in section 5(i).”; and

17 (5) in paragraph (18)—

18 (A) by inserting "(A)" after "(18)"; and

19 (B) by adding at the end the following new
20 subparagraph:

21 “(B) The term ‘participating producer’ means a
22 producer who voluntarily chooses to participate in
23 the order and has paid all assessments as provided
24 in section 5(i).”.

1 (c) REQUIRED TERMS IN ORDERS.—Section 5 of
2 such Act (7 U.S.C. 7104) is amended—

3 (1) in subsection (b)(1)—

4 (A) in subparagraph (A), by striking “Pro-
5 ducers” and inserting “Participating produc-
6 ers”;

7 (B) in subparagraph (B), by inserting
8 “who are participating feeders” before the pe-
9 riod; and

10 (C) in subparagraph (C), by striking “Im-
11 porters” and inserting “Participating import-
12 ers”;

13 (2) in subsection (c)(1)(i), by striking “feeders
14 or importers” and inserting “participating feeders or
15 participating importers”;

16 (3) in subsection (c)(3)(B)(ii), by striking “pro-
17 ducers” and inserting “participating producers”;

18 (4) in subsection (c)(3)(C)(i), by striking “pro-
19 ducers” and inserting “participating producers”;

20 (5) in subsection (e)(12), by striking “produc-
21 ers, feeders, and importers” and inserting “partici-
22 pating producers, participating feeders, and partici-
23 pating importers”;

24 (6) in subsection (g)(2)(A)—

1 (A) in clause (i), by striking “producers”
2 and inserting “participating producers”;

3 (B) in clause (ii), by striking “feeders”
4 and inserting “participating feeders”; and

5 (C) in clause (iii), by striking “importers”
6 and inserting “participating importers”;

13 (d) ASSESSMENTS.—Subsection (i) of section 5 of
14 such Act (7 U.S.C. 7104) is amended—

4 (5) in paragraph (4), by striking “person ex-
5 porting” and inserting “any participating exporter
6 who exports”; and

7 (6) in paragraph (5), by striking "any person"
8 both places it appears and inserting "any importer
9 who is".

10 (e) REQUIREMENTS OF REFERENDUM.—Section 6 of
11 such Act (7 U.S.C. 7105) is amended by striking sub-
12 section (b) and redesignating subsection (c) as subsection
13 (b).

14 (f) ENFORCEMENT.—Section 8 of such Act (7 U.S.C.
15 7107) is amended by adding at the end the following new
16 subsection:

17 “(h) CLARIFICATION OF VOLUNTARY NATURE OF
18 ORDER.—Nothing in this section shall permit the Sec-
19 retary to require or enforce the collection of assessments
20 under section 5(i) from persons who are not voluntarily
21 participating in the order.”.

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