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## DEPARTMENT OF AGRICULTURE

### Commodity Credit Corporation

#### 7 CFR Part 1430

RIN 0560-AH47

#### Milk Income Loss Contract Program

**AGENCIES:** Commodity Credit Corporation, USDA.

**ACTION:** Final rule.

**SUMMARY:** This rule amends the regulations for the Milk Income Loss Contract (MILC) Program as authorized by the Agriculture Reconciliation Act of 2005 to extend the program from October 1, 2005, to September 30, 2007. This rule also decreases the percentage rate for the payment calculation and removes the transition rule required at the beginning of the program.

**DATES:** *Effective Date:* April 13, 2006.

**FOR FURTHER INFORMATION CONTACT:** Danielle Cooke, Special Programs Manager, Price Support Division, FSA/USDA, STOP 0512, 1400 Independence Ave., SW., Washington, DC 20250-0512; telephone (202) 720-1919; facsimile (202) 690-1536; e-mail:

*Danielle.Cooke@wdc.usda.gov*. Persons with disabilities who require alternative means for communication (Braille, large print, audiotape, etc.) should contact the USDA Target Center at (202) 720-2600 (voice and TDD).

#### SUPPLEMENTARY INFORMATION:

##### Background

This final rule implements amendments made by section 1101 of the Deficit Reduction Act of 2005 (2005 Act) to section 1502 of the Farm Security and Rural Investment Act of 2002 (2002 Act), which is the authority for the Milk Income Loss Contract (MILC) Program administered by the Commodity Credit Corporation (CCC). The MILC program was implemented by

a final rule on October 18, 2002 (67 FR 64454). The program was in effect from December 1, 2001, through September 30, 2005 and was extended by the 2005 Act with minor amendments.

Accordingly, this rule amends 7 CFR part 1430 to: continue the MILC program until September 30, 2007; decrease the payment rate percentage during the extension period; and remove transition payment provisions.

The MILC Program supports the dairy industry by providing direct counter-cyclical payments to milk producers when the Boston Milk Marketing Order Class I price for fluid milk falls below the benchmark of \$16.94 per hundredweight (cwt). An eligible operation is determined in each state in the same manner as under Dairy Market Loss Assistance (DMLA) Program contracts. Any new contracts must be unaffiliated with prior DMLA operations. Each fiscal year, eligible dairy operations can receive a monthly payment based on monthly commercial milk marketings, up to a maximum of 2.4 million pounds per dairy operation for the fiscal year. A dairy operation's eligible monthly payment was based on the quantity of milk sold in that month, up to a maximum of 2.4 million pounds, multiplied by 45 percent of the difference between \$16.94/cwt and the Federal milk marketing order Class I milk price per cwt in Boston, Massachusetts for that month. To facilitate the transition to this new program from previous DMLA programs administered by FSA, a transition period provision was implemented using a similar payment calculation for the period from December 1, 2001, through the month preceding the month the producer enters into a contract with CCC.

To be eligible for the MILC program producers in a dairy operation must: (1) Produce in the United States and market milk commercially during the period December 1, 2001, through September 30, 2005; (2) enter into a contract with CCC to provide monthly marketing data to receive payments; and (3) be engaged in the business of producing and marketing agricultural products at the time of signing the MILC program contract. MILC contracts under these program provisions expired on September 30, 2005.

The extension of the MILC program commences October 1, 2005 and ends

September 30, 2007. Generally other program provisions remain the same under the MILC Program extension, except that a dairy operation's eligible monthly payment will be the quantity of milk sold in that month, up to a maximum of 2.4 million pounds, multiplied by 34 percent of the difference between \$16.94 per cwt and the Federal milk marketing order Class I milk price per cwt in Boston for that month. Also, section 1101 of the 2005 Act provides: (1) As of September 1, 2007, the percent difference in price per cwt used to calculate payments is zero (0%); (2) the program will expire on September 30, 2007, and; (3) transition period provisions which were necessary for the transition from previous Dairy Market Loss Assistance programs to the new MILC Program are deleted.

To be eligible producers must: (1) Enter into a contract with CCC to provide monthly marketing data to receive payments during the extended period; (2) agree to the program provisions for the extended period; (3) be actively engaged in the business of producing and marketing agricultural products anytime during the period of October 1, 2005, through September 30, 2007; and (4) select the MILC production start month that the dairy operation would like to begin receiving payment from CCC based on the selected month's commercially marketed production. Dairy operations may apply in person at FSA county offices during regular business hours, or via facsimile or the Internet at <http://www.fsa.usda.gov/dafp/psd/>. Since the legislation authorizing the extension of this program was signed after the beginning date of the extended period and although a payment rate was not in effect during the months of October and November 2005, payment rates have been established for the months of December 2005 through May 2006. Therefore, for the CCC fiscal year (FY) 2006 only, during a sign-up period from April 13, 2006 to May 17, 2006, producers in dairy operations will be allowed to select retroactively, with some limitations, the MILC production start month from these months. Producers choosing not to select from the retroactive months of October 2005 through May 2006, will be allowed, with some limitations, to choose a month from the months remaining in the fiscal year for which CCC will begin

issuing payments based on the selected month's commercial milk marketings. Producers entering into a MILC after the designated sign-up period ends but before the program expires on September 30, 2007, and producers during FY 2007 are also allowed to choose the MILC production start month for the dairy operation. Those selections, however, under this rule must be made in advance of the announcement of the Boston Class I milk price and establishment of the MILC payment rate for those months. Producers submitting contracts after the designated sign-up period will not have the option to select from retroactive months.

MILC payments will be based on the commercially-marketed milk production from the MILC production start month selected by the dairy operation, and continue with each subsequent month's commercial milk production consecutively thereafter until the earlier of the maximum payment quantity of 2.4 million pounds is reached or the end of the applicable FY. Other policy determinations necessary to implement the statute are reflected in the text of the rule.

#### Notice and Comment

Section 1601(c) of the Farm Security and Rural Investment Act of 2002 (Pub. L. 107-171) requires that the regulations necessary to implement Title I of the 2002 Act are to be promulgated without regard to the notice and comment provisions of 5 U.S.C. 553 or the Statement of Policy of the Secretary of Agriculture effective July 24, 1971, (36 FR 13804) relating to notices of proposed rulemaking and public participation in rulemaking. These regulations are thus issued as final.

#### Executive Order 12866

This final rule is economically significant according to Executive Order 12866 and has been reviewed by the Office of Management and Budget (OMB). A cost-benefit assessment of the actions this rule will take was completed and is summarized after the background section.

#### Federal Assistance Programs

The title and number of the Federal assistance program in the Catalog of Federal Domestic Assistance to which this final rule applies is 10.051—Commodity Loans and Loan Deficiency Payments.

#### Regulatory Flexibility Act

The Regulatory Flexibility Act is not applicable to this rule because the Office of the Secretary, FSA and CCC

are not required by 5 U.S.C. 553 or any other law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

#### Environmental Assessment

The environmental impacts of this final rule were considered in accordance with the provisions of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 et seq., the regulations of the Council on Environmental Quality (40 CFR parts 1500-1508), and FSA's regulations for compliance with NEPA, 7 CFR part 799. FSA has concluded that the rule will have no significant impacts upon the human environment as documented through the completion of an environmental evaluation. A copy of the environmental evaluation is available for inspection and review upon request.

#### Executive Order 12778

The final rule has been reviewed under Executive Order 12778. This rule preempts State laws that are inconsistent with its provisions. This rule is retroactive to September 30, 2005. Before any judicial action may be brought regarding this rule, all administrative remedies must be exhausted.

#### Executive Order 12372

This program is not subject to Executive Order 12372, which requires consultation with State and local officials. See the notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115 (June 24, 1983).

#### Unfunded Mandates

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) does not apply to this rule because the Office of the Secretary, FSA and CCC are not required by 5 U.S.C. 553 or any other law to publish a notice of proposed rulemaking about the subject matter of this rule. Further, this rule imposes no unfunded mandates, as defined in UMRA, on any local, state, or tribal government or the private sector.

#### Paperwork Reduction Act

Section 1601(c) of the 2002 Act provides that the promulgation of regulations and the administration of Title I of the 2002 Act shall be made without regard to chapter 5 of title 44 of the United States Code (the Paperwork Reduction Act). Accordingly, these regulations and the forms, and other information collection activities needed to administer the program authorized by these regulations, are not subject to review by the Office of

Management and Budget under the Paperwork Reduction Act.

#### Summary of Economic Impacts

The MILC has paid about \$2.0 billion to dairy operations over the four initial years of operation. Expenditures during the extended period, FY 2006 and FY 2007, are expected to be between \$700 and \$900 million based on estimated milk prices during the period. Dairy farm income and Government expenditures will increase equally.

#### List of Subjects in 7 CFR Part 1430

Dairy products, Loan programs/ agriculture, Price support programs, Reporting and recordkeeping requirements.

■ For the reasons set out in the preamble, 7 CFR part 1430 is amended as set forth below.

#### PART 1430—DAIRY PRODUCTS

■ 1. The authority citation continues to read as follows:

**Authority:** 7 U.S.C. 7981 and 7982; 15 U.S.C. 714b and 714c; Pub. L. 108-324, 118 Stat. 1220.

#### Subpart B—Milk Income Loss Contract Program

■ 2. Amend § 1430.202 by revising the definition of "Eligible production" to read as follows:

##### § 1430.202 Definitions.

\* \* \* \* \*

*Eligible production* means milk that was produced by cows in the United States and marketed commercially during the period of December 1, 2001, through September 30, 2007, up to a maximum of 2.4 million pounds per dairy operation per fiscal year.

\* \* \* \* \*

■ 3. Amend § 1430.203 by revising paragraphs (a) and (f) to read as follows:

##### § 1430.203 Eligibility.

\* \* \* \* \*

(a) Have produced milk in the United States and commercially marketed the milk produced anytime during the period of December 1, 2001, through September 30, 2007;

\* \* \* \* \*

(f) Be actively engaged in the business of producing and marketing agricultural products anytime during the period of December 1, 2001, through September 30, 2007.

\* \* \* \* \*

■ 4. Revise § 1430.205 to read as follows:

**§ 1430.205 Selection of starting month.**

(a) A dairy operation that enters into a MILC with CCC must designate the starting production month that it desires CCC to begin making payments to them. The starting production month must be selected on or before the 15th of the month before the month for which payment is sought during fiscal year 2002 through fiscal year 2005. The starting production month must be selected on or before the 14th of the month before the month for which payment is sought during fiscal year 2006 and fiscal year 2007. If such date falls on a weekend, the dairy operation production start month selection must be made on the last business day preceding the weekend. A dairy operation cannot select a month for payment which:

- (1) Has already begun, except as provided in paragraph (c)(1) of this section;
- (2) Has already passed; or
- (3) During which no milk production was produced by the dairy operation.

(b) During fiscal year 2006 only, during April 13, 2006 to May 17, 2006, a dairy operation can select from:

- (1) Any month beginning October 2005 through May 2006, in which there was a payment rate in effect; or
- (2) Any month beginning June 2006 through September 2006, for which the payment rate is not known and in accordance with paragraph (a) of this section.

(c) Dairy operations that submit a MILC after the CCC-designated signup period for fiscal year 2006 set forth in paragraph (b) of this section, but before September 30, 2007, can select the MILC production start month from:

- (1) The month the MILC is submitted to CCC by the dairy operation or the next consecutive month with a payment rate in effect following the month the MILC is submitted to CCC by the dairy operation, if no payment rate is in effect in the month the MILC is submitted;
- (2) The months remaining in the fiscal year in which the MILC is submitted for which the payment rate is not known in accordance with paragraph (a) of this section.

(d) Dairy operations may change the production starting month on or before:

- (1) The 15th day of the month previously selected during fiscal years 2002 through 2005;
- (2) The 14th day of the month previously selected during fiscal years 2006 and 2007.

(e) If a change of the production starting month is not made by the dates required by paragraph (d) of this section, the MILC production starting month cannot be changed until the next

fiscal year. If the selected MILC production starting month is never modified, it will remain the same throughout the duration of the contract.

(f) MILC payments will be made consecutively to the dairy operation on a monthly basis after the production starting month has been designated until the earlier of the following:

- (1) Payment quantity is reached in accordance with § 1430.207; or
- (2) The end of the applicable fiscal year.

(g)(1) During fiscal years 2002 through 2005, dairy operations that did not designate the month to begin receiving payments from CCC were issued consecutive payments on a monthly basis on marketed milk production beginning in the first month of the fiscal year with a payment rate in effect, unless FSA was notified that a month would be designated at a later date.

During fiscal years 2006 and 2007, dairy operations must designate a MILC production start month to begin receiving payments from CCC. MILC production start month selections made during the signup period designated by CCC may be made as provided in paragraph (b)(1) of this section, otherwise MILC production start month selections must be made in accordance with paragraph (c) of this section.

(2) Dairy operations with MILC production start months that begin with the month a MILC is submitted to FSA or that begin with the first month of the fiscal year with an effective payment rate will receive payments made by CCC consecutively on a monthly basis until the earlier of the following:

- (i) The maximum payment quantity is reached as determined in accordance with § 1430.207; or
- (ii) The end of the applicable fiscal year.

(h) All producers involved in the dairy operation must agree to the month designated. The dairy operation assumes the risk of not reaching the maximum payment quantity based on the month selected by the dairy operation. Payments will not be issued for past months for the sole purpose of reaching the maximum payment quantity.

**§ 1430.206 [Removed]**

■ 5. Section 1430.206 is removed and reserved.

■ 6. Amend § 1430.208 by revising paragraphs (a), (b)(2), and adding (b)(3) and (c)(3) to read as follows:

**§ 1430.208 Payment rate and dairy operation payment.**

(a) Payments under this subpart may be made to dairy operations when the

Boston Class I milk price under the applicable Federal milk marketing order is below \$16.94 per cwt. No payments will be made to dairy operations for marketings during the months that the Boston Class I milk price under the applicable milk marketing order is equal to or exceeds \$16.94.

(b) \* \* \*

(2) Multiplying the difference by 34 percent during the period beginning on October 1, 2005, and ending on August 31, 2007; and

(3) Multiplying the difference by 0 percent during the period beginning on September 1, 2007, and ending on September 30, 2007.

(c) \* \* \*

(3) Payments to dairy operations will be based on calculated payment rates rounded seven places to the right of the decimal.

\* \* \* \* \*

■ 7. Amend § 1430.209 by revising the section heading and paragraph (a) to read as follows:

**§ 1430.209 Proof of market loss production.**

(a) A dairy operation entering into a MILC must, based on instructions issued by the Deputy Administrator, provide adequate proof of the dairy operation's eligible production during the months of each fiscal year designated in the MILC. The dairy operation must also provide proof that the eligible production was commercially marketed during the months beginning October 1, 2005, and ending September 30, 2007. Evidence of milk production claimed for payment shall be provided to CCC with supporting documentation under paragraph (b) of this section. All information provided is subject to verification, spot check and audit by FSA. Further verification information may be obtained from the dairy operation's milk handler or marketing cooperative if deemed necessary by CCC to verify provided information. Refusal to allow a representative of CCC or any other agency of the Department of Agriculture to verify any information provided will result in a determination of ineligibility for benefits under this subpart.

\* \* \* \* \*

■ 8. Amend § 1430.211 by revising paragraph (a) to read as follows:

**§ 1430.211 Duration of contracts.**

(a) Except as provided in §§ 1430.205, or elsewhere in this subpart, a MILC entered into by producers in a dairy operation shall cover eligible production marketed by the producers

in the dairy operation during the period beginning with the first day of the month the producers in the dairy operation enter into an MILC and ending on September 30, 2007.

\* \* \* \* \*

Signed in Washington, DC, on April 12, 2006.

**Thomas B. Hofeller,**

*Acting Executive Vice President, Commodity Credit Corporation.*

[FR Doc. 06-3669 Filed 4-13-06; 1:29 pm]

BILLING CODE 3410-05-P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA-2006-24447; Directorate Identifier 2005-SW-35-AD; Amendment 39-14562; AD 2006-08-07]

RIN 2120-AA64

#### **Airworthiness Directives; Brantly International, Inc. Model B-2, B-2A, and B-2B Helicopters**

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Final rule; request for comments.

**SUMMARY:** This amendment adopts a new airworthiness directive (AD) for the specified Brantly International, Inc. (Brantly) model helicopters. This action requires certain inspections and measurements of the upper tail rotor vertical gearbox (gearbox), vertical shaft (shaft) and shaft housing (housing) and their associated parts; and of the intermediate gear box bushing (bushing). This amendment is prompted by an accident and an incident report of fatigue cracking of a shaft. The actions specified in this AD are intended to prevent fatigue cracking of a shaft, failure of a shaft, and subsequent loss of control of the helicopter.

**DATES:** Effective May 2, 2006.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of May 2, 2006.

Comments for inclusion in the Rules Docket must be received on or before June 16, 2006.

**ADDRESSES:** Use one of the following addresses to submit comments on this AD:

- DOT Docket Web site: Go to <http://dms.dot.gov> and follow the instructions for sending your comments electronically;

- Government-wide rulemaking Web site: Go to <http://www.regulations.gov> and follow the instructions for sending your comments electronically;

- Mail: Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL-401, Washington, DC 20590;

- Fax: (202) 493-2251; or
- Hand Delivery: Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

You may get the service information identified in this AD from Brantly International, Inc., Wilbarger County Airport, 12399 Airport Drive, Vernon, Texas 76384, telephone 940-552-5451.

#### **Examining the Docket**

You may examine the docket that contains the AD, any comments, and other information on the Internet at <http://dms.dot.gov>, or in person at the Docket Management System (DMS) Docket Offices between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone (800) 647-5227) is located on the plaza level of the Department of Transportation Nassif Building at the street address stated in the **ADDRESSES** section. Comments will be available in the AD docket shortly after the DMS receives them.

**FOR FURTHER INFORMATION CONTACT:** Marc Belhumeur, Aviation Safety Engineer, FAA, Rotorcraft Directorate, Rotorcraft Certification Office, Fort Worth, Texas 76193-0170, telephone (817) 222-5177, fax (817) 222-5783.

**SUPPLEMENTARY INFORMATION:** This amendment adopts a new AD for the specified Brantly model helicopters. This action requires certain inspections and measurements of the gearbox, shaft, housing and their associated parts; and of the bushing. This amendment is prompted by an accident and an incident report of fatigue cracking of a shaft. The fatigue cracking may have been caused by higher than expected loads, most likely due to misalignment. Fatigue cracking of the shaft, if not detected, could result in failure of the shaft and subsequent loss of control of the helicopter.

We have reviewed Brantly Service Bulletin No. 105, Revision A, dated August 3, 2005 (SB), which describe procedures for certain inspections of the gearbox, shaft, housing, and bushing for helicopters, serial number 2001 and larger, or any serial-numbered helicopter with a shaft, part number (P/N) 249-10, installed, that was purchased after 1994.

This unsafe condition is likely to exist or develop on other helicopters of the same type design. Therefore, this AD is being issued to prevent fatigue cracking of the shaft, failure of the shaft, and subsequent loss of control of the helicopter. This AD requires, within 10 hours time-in-service (TIS) and before further flight after any hard landing or any main or tail rotor sudden stoppage:

- Removing the gearbox, P/N 278-200; shaft, P/N 249-10; housing, P/N 249-3; and the bushing, P/N 252-4.

- Inspecting and measuring the flange retainer, P/N 15-17, and replacing the flange retainer with an airworthy flange retainer if the part is deformed or if the inside diameter is not 1.5050 to 1.5060 inches.

- Inspecting and measuring the housing, P/N 249-3, and replacing the housing with an airworthy housing if the part is deformed or if any outer diameter not on the flared end is not 1.497 to 1.500 inches or if the outer diameter of the flared end is not 1.844 to 1.875 inches.

- Inspecting and measuring the bushing, P/N 252-4, and replacing it if its length is not .292 to .302 inch or if nicks or scoring is found.

- Inspecting and measuring the bevel pinion gear (gear), P/N 15-8, and replacing the gear with an airworthy gear if certain conditions exist.

- Inspecting each vertical shaft attachment bolt, P/N 15-201 and P/N 249-11, measuring the grip diameter, and replacing any bolt with an airworthy bolt if it has fretting or nicks or if the grip diameter is not .1889 to .1894 inch.

- Inspecting the male coupling, P/N 249-9, and measuring the bolt hole and bore diameter and replacing the male coupling with an airworthy male coupling if certain conditions exist.

- Inspecting the shaft, P/N 249-10, for misalignment; measuring the diameter of the bolt holes; inspecting for straightness of the shaft; magnetic particle inspecting the shaft for a crack; visually inspecting the shaft; and replacing the shaft if certain conditions exist.

- Assembling and inspecting the gearbox, P/N 278-200, the shaft, P/N 249-10, and the housing, P/N 249-3; inspecting the bore for foreign objects or burrs before assembling the pinion gear and the male coupling to the shaft; and replacing any unairworthy parts.

This AD further requires:

- Ensuring that the intermediate gearbox, P/N 278-100, its cover, P/N 252-3, and the bushing, P/N 252-4, the long horizontal shaft housing, P/N 14-13, and its retainer flange, P/N 15-17, are aligned and bolted down without