

# Rules and Regulations

Federal Register

Vol. 76, No. 1

Monday, January 3, 2011

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

## DEPARTMENT OF AGRICULTURE

### Rural Housing Service

#### 7 CFR Part 3565

RIN 0575-AC80

#### Continuous Construction-Permanent Loan Guarantees Under the Section 538 Guaranteed Rural Rental Housing Program

**AGENCY:** Rural Housing Service, USDA.  
**ACTION:** Final rule.

**SUMMARY:** The Rural Housing Service (RHS) (an agency within the Rural Development mission area) is amending its regulations to add an additional form of guarantee that is now available under its Guaranteed Rural Rental Housing Program. A single, continuous guarantee during the construction phase for construction advances and the permanent financing phase of the project (for loans that meet certain criteria) will now be provided in addition to the two existing forms of guarantees under the program. This action is taken to enhance efficiency, flexibility, and effectiveness in managing the program.

**DATES:** *Effective Date:* The final rule is effective on February 2, 2011.

**FOR FURTHER INFORMATION CONTACT:** Tammy S. Daniels, Financial and Loan Analyst, USDA Rural Development Guaranteed Rural Rental Housing Program, Multi-Family Housing Guaranteed Loan Division, U.S. Department of Agriculture, South Agriculture Building, Room 1271, STOP 0781, 1400 Independence Avenue, SW., Washington, DC 20250-0781. E-mail: [tammy.daniels@wdc.usda.gov](mailto:tammy.daniels@wdc.usda.gov). Telephone: (202) 720-0021. This number is not toll-free. Hearing or speech-impaired persons may access that number by calling the Federal Information Relay Service toll-free at (800) 877-8339.

## SUPPLEMENTARY INFORMATION:

### Classification

This rule has been determined not to be significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget (OMB).

### Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. If this rule is adopted: (1) Unless otherwise specifically provided, all State and local laws and regulations that are in conflict with this rule will be preempted; (2) no retroactive effect will be given to this rule except as specifically prescribed in the rule; and (3) the appeal procedures of the National Appeals Division (7 CFR part 11) must be exhausted before bringing suit.

### Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104-4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and Tribal governments and the private sector. Under section 202 of the UMRA, the Agency generally must prepare a written statement, including a cost-benefit analysis, for final rules with "Federal mandates" that may result in expenditures to State, local, or Tribal governments, in the aggregate, or to the private sector, of \$100 million or more in any one year. When such a statement is needed for a rule, section 205 of the UMRA generally requires the Agency to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, more cost-effective or least burdensome alternative that achieves the objectives of the rule. This rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local, and Tribal governments or the private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

### Executive Order 13132

The policies contained in this rule do not have any substantial direct effect on States, on the relationship between the National government and States, or on the distribution of power and responsibilities among the various levels of government. Nor does this rule

impose substantial direct compliance costs on State and local governments. Therefore, consultation with the States is not required.

### Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR part 1940, § 1940.310(e)(3). Rural Development has determined that this action does not constitute a major Federal action significantly affecting the quality of the human environment, and in accordance with the National Environmental Policy Act (NEPA) of 1969, 42 U.S.C. 4321 *et seq.*, an Environmental Impact Statement is not required. Loan applications will be reviewed individually to determine compliance with NEPA.

### Regulatory Flexibility Act

This rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act (5 U.S.C. 601-612). The undersigned has determined and certified by signature of this document that this rule will not have a significant economic impact on a substantial number of small entities. This rule will affect both small and large entities in the same manner. This rule has no significant changes in information collection or regulatory requirements that would have a negative impact on either small or large entities in an economic way.

### Programs Affected

This program is listed in the Catalog of Federal Domestic Assistance under Number 10.438.

### Intergovernmental Consultation

For the reasons set forth in the Final Rule related Notice to 7 CFR part 3015, Subpart V, this program is subject to Executive Order 12372 which requires intergovernmental consultation with State and local officials. The Agency has conducted intergovernmental consultation in the manner delineated in RD Instruction 1940-J (available in any Rural Development office).

### Paperwork Reduction Act of 1995

The information collection requirements contained in this regulation have been approved by OMB under the provisions of 44 U.S.C. chapter 35 and have been assigned OMB control number 0575-0174 in accordance with the Paperwork

Reduction Act of 1995. No person is required to respond to a collection of information unless it displays a valid OMB control number.

### E-Government Act Compliance

Rural Development is committed to complying with the E-Government Act to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services and for other purposes.

### Background Information

The Guaranteed Rural Rental Housing Program (GRRHP) currently offers two forms of guarantees: (1) A guarantee for permanent loans and (2) a guarantee which provides a limited duration guarantee for advances during the construction period with the limited duration provision being automatically removed if certain conditions are met. Under this final rule, the Agency creates, for loans meeting certain criteria and subject to the availability of funds, an option for a single, continuous guarantee during the construction phase for construction advances and the permanent financing phase of the project. This third option was created in response to input from GRRHP stakeholders who believe that this option will allow the program to serve more borrowers thus making affordable housing available for more low to moderate income families. This final rule also includes technical corrections and clarifications and removes the anachronistic requirement that lenders certify that their computer systems comply with year 2000 technology. The proposed rule can be found at 75 FR 4707–4710. Additionally, this final rule removes the definition for “combination construction and permanent loan” and added definitions for “construction and permanent loan,” “construction contingency reserve,” “lease-up period,” “lease-up reserve,” “loan-to-cost ratio,” and “operating and maintenance reserve.”

### Comments Received on the Proposed Rule

On January 29, 2010, RHS (an agency within the Rural Development mission area) proposed an additional form of guarantee under the Guaranteed Rural Rental Housing Program regulation. The Agency received comments from five entities in response to the proposed rule. Comments were supportive of the new guarantee option offered in the proposed rule. One commenter stated that they supported the additional form of guarantee and applauded RHS’ work

in this area. The commenter believed the continuous guarantee will reduce the complexity of the program, making housing affordable for more low to moderate income families. Another commenter also stated that the continuous guarantee is a good idea and that it would provide a financing vehicle for additional multifamily housing construction. The Agency appreciates the support received from commenters in regard to the new continuous guarantee option. Specific comments were also received in three particular areas: Construction contingency reserve, the guarantee requirements, and the processing requirements. These comments are summarized below.

### Construction Contingency Reserve

Two comments were received regarding the construction contingency reserve. The first comment was related to the definition provided in the proposed rule which read: “This reserve will be held by the lender and will only be disbursed for Agency and lender approved change order requests.” The commenter’s concern was that, as written, the language could be interpreted to mean that change order requests need only be approved by the Agency or the lender. The commenter recommended the language be rewritten to provide that the funds will only be disbursed for change order[s] requests that are approved by both the Agency and the lender. In response to this comment, the Agency has revised the definition to read: “A cash reserve of at least two percent of the construction contract, inclusive of the contractor’s fee and all hard and soft costs, which must be set up and fully funded by the closing of the construction loan. This reserve will be held by the lender, and funds will only be disbursed for change order requests approved by the Agency and the lender.”

The second comment on construction contingency reserve stated that it would be useful to clarify the timing of the release of unused reserve funds as there are inconsistent interpretations among various State agencies. The commenter recommended releasing these funds at the same time that the 90/90 reserve funds are released. In response to this comment the Agency has revised the definition to clarify when the unused reserve funds will be released.

### Guarantee Requirements

The Agency received three comments regarding the guarantee requirements. One commenter recommended removal of the following language in § 3565.52(c)(3) which the commenter

viewed as unnecessary: “Only projects that have low loan-to-cost ratio, as specified by the Agency in a Notice published periodically in the **Federal Register**, are eligible for this type of guarantee.” The Agency believes this language serves the purpose of advising readers up front that specific eligibility criteria in relation to what constitutes low loan-to-cost ration is subject to change and appropriate notification will take place periodically in the **Federal Register**. Accordingly, this language was unchanged.

The second commenter asked what is intended by the term “low loan-to-cost ratio” in § 3565.52(c)(3). The commenter further stated that this [achieving a low loan-to-cost ratio] should not be a problem for Low Income Housing Tax Credit properties but could be for other properties, and that RHS should not arbitrarily limit the availability of the new guarantee. In response to this comment, the Agency reserves the right in the regulation to periodically publish a threshold in the **Federal Register** to define the ratio that will be considered “low”. The definition for “loan-to-cost ratio” was unchanged.

The third commenter stated that it is not clear in the proposed rule how the required lease-up reserve (in § 3565.52(c)(3)) will be calculated and expressed a concern that adding on a “substantial” lease-up reserve that must be funded up front (in § 3565.52(e)(3)) is burdensome on the project and would make the program much less useful. Specific administrative guidance on calculating the lease-up reserve will be announced through a Notice in the **Federal Register**. Supplemental guidance will be included in HB–1–3565, the Guaranteed Rural Rental Housing Program Origination and Servicing Handbook (available in any Rural Development office), and will not be published in the rule. In response to the commenter’s second concern, the Agency has revised the final rule to require that the lease-up reserve be funded 30 days before first Certificate of Occupancy is anticipated (rather than up front).

### Processing Requirements

In terms of processing requirements, the Agency received three comments. The first commenter asked that the word “independent” be removed from § 3565.303(c)(3). Section 3565.303(c)(3) which states that inspections must be done by an “independent” inspector. The commenter stated the requirement is that the inspector must be “qualified.” The Agency agrees that the inspector must be qualified to perform inspections but in order to avoid potential conflicts

of interest; the inspector must also be independent and cannot be affiliated with the borrower or lender. This language remains in the rule.

The second comment on this subject was to remove in § 3565.303(d)(4) the requirement regarding an as-built appraisal. The commenter recommended making this required under certain circumstances in order to reduce the number of exemptions that would need to be processed. In response, the Agency revised the final rule to clarify that the as-built appraisal is required only for Options 1 and 2, but not for Option 3 (the continuous guarantee).

The final comment the Agency received on this subject was to change the requirement in § 3565.303(d)(4)(iii) that the Agency's guaranteed loan balance not exceed 50% (in order to qualify for an exception to the as-built appraisal). The commenter recommended that this figure be revised to be 90%. The commenter's point was that if a construction loan can be done at 90% and then rolled into a permanent loan, there is no difference in risk, and loans with less leveraging can be more easily moved into the secondary market. As noted above, the as-built appraisal is required only for Options 1 and 2, but not for Option 3 (the continuous guarantee) so this provision does not apply.

In addition, a conforming change has been added as section 3565.303(f). Though the continuous guarantee will be seamless from the construction phase to the permanent financing phase, the loan must still be in compliance with 7 CFR part 3565. Section 3565.303(f) simply clarifies the specific requirements.

#### List of Subjects in 7 CFR Part 3565

Bankruptcy, Banks, Banking, Civil rights, Conflict of interests, Credit, Environmental impact statements, Fair housing, Government procurement, Guaranteed loans, Hearing and appeal procedures, Housing standards, Lobbying, Low and moderate income housing, Manufactured homes, Mortgages, Real property acquisition, Surety bonding.

Accordingly, chapter XXXV, title 7, Code of Federal Regulations is amended as follows:

#### PART 3565—GUARANTEED RURAL RENTAL HOUSING PROGRAM

■ 1. The authority citation for part 3565 continues to read as follows:

**Authority:** 5 U.S.C. 301; 7 U.S.C. 1989; 42 U.S.C. 1480.

#### Subpart A—General Provisions

■ 2. Section 3565.3 is amended by removing the definition for “combination construction and permanent loan” and by adding alphabetically definitions for “construction and permanent loan,” “construction contingency reserve,” “lease-up period,” “lease-up reserve,” “loan-to-cost ratio,” and “operating and maintenance reserve” to read as follows:

##### § 3565.3 Definitions.

\* \* \* \* \*

*Construction and permanent loan.* A loan which provides advances during the construction period and remains in place as a permanent loan at the completion of construction.

*Construction contingency reserve.* A cash reserve of at least two percent of the construction contract, inclusive of the contractor's fee and all hard and soft costs that must be set up and fully funded by the closing of the construction loan. This reserve will be held by the lender, and funds will only be disbursed for change order requests approved by the Agency and the lender. Unused funds from the construction contingency reserve will be held in the operating and maintenance reserve and cannot be released to the borrower until the project reaches an occupancy of 90% for 90 consecutive days. In addition the reserve accounts established in the conditional commitment must be fully funded prior to the release of the construction contingency reserve. These requirements remain in effect regardless of whether the lender has established a lease-up reserve in lieu of the occupancy requirement.

\* \* \* \* \*

*Lease-up period.* The period of time that begins when the first unit in the project receives a certificate of occupancy until the time that occupancy of 90% of the units for a minimum of 90 consecutive days is achieved.

*Lease-up reserve.* A cash deposit which is available to a property to help pay operating costs and debt service at the initiation of operations while units are being leased to their initial occupants.

\* \* \* \* \*

*Loan-to-cost ratio.* The amount of the loan divided by the total cost to develop the project.

\* \* \* \* \*

*Operating and maintenance reserve.* A cash reserve required of all projects of at least two percent of the loan amount

held by the lender that is used for the up-keep of the project.

\* \* \* \* \*

#### Subpart B—Guarantee Requirements

■ 3. Section 3565.51 is revised to read as follows:

##### § 3565.51 Eligible loans and advances.

Upon approval of an application from an eligible or approved lender, the Agency will commit to providing a guarantee for a permanent loan or a construction and permanent loan, subject to the availability of funds.

■ 4. Section 3565.52 is amended by revising paragraph (c) and adding new paragraphs (d) and (e) to read as follows:

##### § 3565.52 Conditions of guarantee.

\* \* \* \* \*

(c) *Types of guarantees.* The Agency may provide a lesser guarantee based upon its evaluation of the credit quality of the loan. Penalties incurred as a result of default are not covered by the guarantee. The Agency liability under any guarantee will decrease or increase, in proportion to any increase or decrease in the amount of the unpaid portion of the loan, up to the maximum amount specified in the Loan Note Guarantee. The Agency will not guarantee construction loans only. The Agency offers the following types of guarantees:

(1) *Option One.* The Agency may guarantee permanent loans subject to the conditions specified in § 3565.303(d). The maximum guarantee for a permanent loan will be 90 percent [unless the Agency establishes a different percent and announces this different percent through a Notice in the **Federal Register**] of the unpaid principal and interest up to default and accrued interest 90 calendar days from the date the liquidation plan is approved by the Agency, as defined in § 3565.452.

(2) *Option Two.* The Agency may provide a guarantee which will cover construction loan advances (advances) during construction. The maximum guarantee of construction advances related to a construction and permanent loan will not at any time exceed the lesser of 90 percent [or the percent established by the Agency and announced through a Notice in the **Federal Register**] of the amount of principal and accrued interest up to default for amounts which exceed the original advance if for eligible uses of loan proceeds or 90 percent of the original principal amount and accrued interest up to default of the loan. The Agency's guarantee will cover losses to

the extent aforementioned once all sureties/insurances and/or performance and payment bonds have fully performed their contractual obligations. A construction contingency reserve is required. This guarantee will be enforceable during the construction period but will cease to be enforceable once construction is completed unless and until the requirements for the continuation of the guarantee contained in the Conditional Commitment and this part are completed and approved by the Agency by the date stated in the Conditional Commitment and any Agency approved extension(s). The Agency will provide written confirmation to the lender when all of the requirements for continuation of the guarantee to cover the permanent loan have been satisfied. Any losses sustained while the guarantee is unenforceable (after the end of the construction period and, if applicable, before the continuation of the guarantee) are not covered by the guarantee. For purposes of this guarantee, the construction period will end on the earlier of:

(i) Twenty-four months from the closing of the construction loan, if the certificates of occupancy for all units in the project have not been issued by then, or

(ii) The date of the issuance of the last certificate of occupancy, if the certificates of occupancy for all units in the project are issued on or before 24 months from the closing of the construction loan.

(3) *Option Three.* The Agency may provide a single, continuous guarantee for construction and permanent loans. Only projects that have low loan-to-cost ratios, which will be defined by the Agency in a Notice published periodically in the **Federal Register**, are eligible for this type of guarantee. A construction contingency reserve is required. The Agency may require that a lease-up reserve, in an amount established by the Agency and announced through a Notice in the **Federal Register**, be set-aside prior to closing the construction loan. This lease-up reserve is an additional amount, over and above the required initial operating and maintenance contribution. The maximum guarantee of construction advances will not at any time exceed the lesser of 90 percent [or the percent established by the Agency and announced through a Notice in the **Federal Register**] of the amount of principal and interest up to default advanced for eligible uses of loan proceeds or 90 percent of the original principal amount and interest up to default.

(d) *Maximum loss payment.* The maximum loss payment to a lender or holder is as follows:

(1) To any holder, 100 percent of any loss sustained by the holder on the guaranteed portion of the loan and on interest due on such portion.

(2) To the lender, the lesser of:

(i) Any loss sustained by the lender on the guaranteed portion, including principal and up to 90 days of accrued interest as evidenced by the notes or assumption agreements and secured advances for protection and preservation of collateral made with the Agency's authorization; or

(ii) The guaranteed principal advanced to or assumed by the borrower and any interest and accrued interest up to 90 days due thereon.

(e) *Funding of reserves.* For each Option under paragraph (c) of this section, the lender must require an operating and maintenance reserve and provide the Agency adequate evidence of the funding of all required reserves.

(1) For Option 1 under paragraph (c) of this section, the funding schedule for the lease-up reserve and the operating and maintenance reserve must be included in the Agency-approved construction budget and be fully funded before the issuance of the permanent guarantee.

(2) For Option 2 under paragraph (c) of this section, the funding schedule for the lease-up reserve and the operating and maintenance reserve must be included in the Agency-approved construction budget and be fully funded before the issuance of the permanent guarantee.

(3) For Option 3 under paragraph (c) of this section, the operating and maintenance reserve must be fully funded before the issuance of the guarantee. The lease-up reserve must be funded 30 days before the first Certificate of Occupancy is anticipated.

### Subpart C—Lender Requirements

#### § 3565.103 [Amended]

■ 5. Section 3565.103 is amended by removing paragraph (d)(9).

#### § 3565.106 [Amended]

■ 6. Section 3565.106 is amended by removing the word "combination."

### Subpart G—Processing Requirements

■ 7. Section 3565.303 is amended by revising paragraphs (c) and (d) and adding paragraph (f) to read as follows:

#### § 3565.303 Issuance of loan guarantee.

\* \* \* \* \*

(c) *Guarantee during construction.* When requesting a guarantee on

construction loan advances under § 3565.52(c)(2) and (c)(3), Options 2 and 3, the Agency will only issue a guarantee to an approved lender that the Agency determines is eligible under § 3565.106 of this part.

(1) This guarantee will be subject to the limits contained in subpart B of this part and in the loan closing documentation.

(2) In all cases, the lender must obtain one of the following protections:

(i) Surety bonding or performance and payment bonding acceptable to the Agency;

(ii) An irrevocable letter of credit acceptable to the Agency; or

(iii) A pledge to the lender of collateral that is acceptable to the Agency.

(3) The lender must verify amounts expended prior to each payment for completed work and certify that an independent inspector has inspected the property and found it to be in conformance with Agency standards. The lender must provide verification that all subcontractors have been paid and no liens have been filed against the property.

(d) *Permanent loan guarantee.* The guarantee of a permanent loan provided under § 3565.52(c)(1) or (c)(2) will be issued once the following items have been submitted to and approved by the Agency:

(1) Certification from the lender stating that the lender or its qualified representative inspected the property and found that the construction meets the Government's requirements for the standards and conditions for housing and facilities in 7 CFR part 1924, subpart A and the standards for site development in 7 CFR part 1924, subpart C, or its successor regulations;

(2) Cash flow certification—the lender certifies, in writing, the project's cash flow assumptions are still valid and depict compliance with the section 538 program's debt service coverage ratio requirement of at least 1.15, based on the lender's analysis of current market conditions and comparable properties in the project's market area;

(3) Documentation that either:

(i) The project has attained a minimum level of acceptable occupancy of 90% for 90 continuous days within the 120-day period immediately preceding the issuance of the permanent guarantee, or

(ii) Additional funds, supplementing the funds required under § 3565.303(d), have been added to the lease-up reserve in an amount the Agency determines is necessary to cover projected shortfalls.

(4) A new appraisal based upon completion of construction. Upon a

lender's written request, the Agency may exempt a project from this requirement if requested by the lender and the project meets the following criteria:

(i) *Original appraisal*—the original appraisal that meets the Agency's appraisal requirements with a valuation date no older than 36 months;

(ii) *Valuation*—the appraisal's lowest valuation, regardless of valuation approach and rent restrictions considered, is greater than the section 538 guaranteed loan amount; and

(iii) *Guaranteed loan balance*—the Agency's guaranteed loan's principal balance does not exceed 50 percent [unless a different percent has been announced in a Notice published in the **Federal Register**] of the project's total development costs.

(5) A certificate of substantial completion;

(6) A certificate of occupancy or similar evidence of local approval;

(7) A final inspection conducted by a qualified Agency representative;

(8) A final cost certification in a form acceptable to the Agency;

(9) A submission to the Agency of the complete closing docket;

(10) A certification by the lender that the project has reached an acceptable minimum level occupancy;

(11) An executed regulatory agreement;

(12) The Lender certifies that it has approved the borrower's management plan and assures that the borrower is in compliance with Agency standards regarding property management contained in subparts E and F of this part;

(13) Necessary information to complete an updated necessary assistance review by the Agency under § 3565.204(c); and

(14) Compliance with all conditions contained in the conditional commitment for guarantee.

\* \* \* \* \*

(f) *Continuous Guarantee Compliance*. The continuous guarantee will remain in effect once construction is completed. In order to remain in compliance with 7 CFR part 3565, the following items must be submitted to and approved by the Agency. These items will be submitted to the Agency by the date stated in the Conditional Commitment and any Agency approved extension(s).

(1) Certification from the lender stating that the lender or its qualified representative inspected the property and found that the construction meets the Government's requirements for the standards and conditions for housing

and facilities in 7 CFR part 1924, subpart A and the standards for site development in 7 CFR part 1924, subpart C, or its successor regulations;

(2) Cash flow certification—the lender certifies in writing the project's cash flow assumptions are still valid and depict compliance with the section 538 program's debt service coverage ratio requirement of at least 1.15, based on the lender's analysis of current market conditions and comparable properties in the project's market area;

(3) Documentation that either:

(i) The project has attained a minimum level of acceptable occupancy of 90% for 90 continuous days within the 120-day period immediately preceding the issuance of the permanent guarantee; or

(ii) Additional funds, supplementing the funds required under § 3565.303(d), have been added to the lease-up reserve in an amount the Agency determines is necessary to cover projected shortfalls.

(4) An appraisal of the property;

(5) A certificate of substantial completion;

(6) A certificate of occupancy or similar evidence of local approval;

(7) A final inspection conducted by a qualified Agency representative;

(8) A final cost certification in a form acceptable to the Agency;

(9) A submission to the Agency of the complete closing docket;

(10) A certification by the lender that the project has reached an acceptable minimum level occupancy;

(11) An executed regulatory agreement;

(12) The Lender certifies that it has approved the borrower's management plan and assures that the borrower is in compliance with Agency standards regarding property management contained in subparts E and F of this part;

(13) Necessary information to complete an updated necessary assistance review by the Agency under § 3565.204(c); and

(14) Compliance with all conditions contained in the conditional commitment for guarantee.

## Subpart J—Assignment, Conveyance, and Claims

### § 3565.457 [Amended]

■ 8. Section 3565.457 (c)(1) is amended in the first sentence by removing the word "collectibility" and adding "collectability" in its place.

Dated: December 3, 2010.

**Tammye Treviño,**

*Administrator, Rural Housing Service.*

[FR Doc. 2010-33042 Filed 12-30-10; 8:45 am]

**BILLING CODE 3410-XV-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 1

[Docket No. FAA-2010-0812; Amendment No. 1-66]

RIN 2120-AJ81

### Feathering Propeller Systems for Light-Sport Aircraft Powered Gliders

**AGENCY:** Federal Aviation Administration (FAA), DOT.

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

**SUMMARY:** This final rule with request for comments amends the definition of light-sport aircraft by removing "auto" from the term "autofeathering" as it applies to powered gliders. This amendment will allow both manual and autofeathering propeller operation for powered gliders that qualify as light-sport aircraft.

**DATES:** This rule becomes effective on March 4, 2011. Submit comments on or before February 2, 2011.

**ADDRESSES:** You may send comments identified by Docket Number FAA-2010-0812 using any of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov> and follow the instructions for sending your comments electronically.

- *Mail:* Send comments to the Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12-140, Washington, DC 20590-0001.

- *Fax:* Fax comments to the Docket Management Facility at 202-493-2251.

- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For more information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

*Privacy:* We will post all comments we receive, without change, to <http://www.regulations.gov>, including any personal information you provide. Using the search function of our docket Web site, anyone can find and read the comments received into any of our dockets, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477-78) or you may visit <http://DocketsInfo.dot.gov>.