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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.

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SMALL BUSINESS ADMINISTRATION

13 CFR Part 120

RIN 3245-AF91

American Recovery and Reinvestment Act: 504 Loan Program Debt Refinancing

AGENCY: U.S. Small Business Administration.

ACTION: Interim final rule with request for comments.

SUMMARY: This interim final rule implements section 504 of the American Recovery and Reinvestment Act of 2009 (Recovery Act), which authorizes projects approved for financing under Title V of the Small Business Investment Act to include a limited amount of debt refinancing if the project involves the expansion of a small business concern and meets certain other conditions. This interim final rule makes the existing 504 Loan Program rules consistent with section 504 of the Recovery Act.

DATES: *Effective Date:* This rule is effective June 23, 2009.

Comment Date: Comments must be received on or before July 23, 2009.

ADDRESSES: You may submit comments, identified by RIN 3245-AF91 by any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.
 - *Mail:* Andrew B. McConnell Jr., Small Business Administration, Office of Financial Assistance, 409 Third Street, SW., 8th Floor, Washington, DC 20416.
 - *Hand Delivery/Courier:* Andrew B. McConnell Jr., Small Business Administration, Office of Financial Assistance, 409 Third Street, SW., 8th Floor, Washington, DC 20416.
- SBA will post all comments on <http://www.regulations.gov>.

If you wish to submit confidential business information (CBI) as defined in the User Notice at <http://www.regulations.gov>, please submit the information to Kelly Wilcox, Office of Performance Management, 409 Third Street, SW., 6th Floor, Washington, DC 20416, or send an e-mail to Andrew B. McConnell, Jr. at recoveryact504debtrefi@sba.gov. Highlight the information that you consider to be CBI and explain why you believe SBA should hold this information as confidential. SBA will review the information and make the final determination whether it will publish the information.

FOR FURTHER INFORMATION CONTACT: Andrew B. McConnell, Jr. at recoveryact504debtrefi@sba.gov or 202-205-7238.

SUPPLEMENTARY INFORMATION:

I. Background Information

The American Recovery and Reinvestment Act of 2009, Public Law 111-5, 123 Stat. 115 was enacted on February 17, 2009, to among other things, promote economic recovery by preserving and creating jobs, and assisting those most impacted by the severe economic conditions facing the nation. The U.S. Small Business Administration is one of several agencies that are intended to play a role in achieving these goals. The SBA received funding and authority through the Recovery Act to modify existing loan programs or establish new loan programs to help re-invigorate small business lending.

One of the provisions included in the Recovery Act provided new, permanent authority for refinancing community development loans under the 504 program. As amended by the Recovery Act, section 502(7)(A) of the Small Business Investment Act of 1958 (SBIA) allows financing approved for a 504 loan to include a limited amount of qualified debt refinancing, and section 502(7)(B) of the SBIA provides that the limited amount of qualified refinancing may not exceed 50 percent of the project cost of the expansion of a small business concern. As the 504 program is intended to assist the small business concern in expanding its business, this interim final rule broadly defines the phrase "project involves expansion of a small business concern" to include any project that involves the acquisition,

construction or improvement of land, building or equipment for use by the small business concern. Section 502(7)(B) also sets forth certain conditions that a project must meet in order to be eligible for debt refinancing, and these conditions are included in this interim final rule with some additional definitions.

In addition, to protect the integrity of the 504 program and to minimize the risk to SBA of this new refinancing authority, SBA is amending the regulations to provide that certain loans cannot be approved under the authority delegated to Certified Development Companies (CDCs) under the Premier Certified Lenders Program (PCLP), if the applications include: (1) Waiving the requirement set forth in new section 120.882(e)(2) that the collateral securing refinanced debt must also secure the 504 loan; (2) approving a good cause exception to the general requirement set forth in the new section 120.882(e)(5) that there be at least a 10 percent reduction in the installment amount attributable to the debt being refinanced; and (3) refinancing loans held by the same CDC, the Third Party Lender financing the new project, or affiliates of either.

The debt refinancing authorized by the Recovery Act is available for loan applications received by SBA on or after the effective date of this rulemaking. Applications received or loans approved prior to that date may be modified to include debt refinancing provided that the related debenture has not been funded.

II. Section-by-Section Analysis

Section 120.882. SBA adds new paragraphs (e) and (f) to 120.882 to implement the new authority for refinancing existing eligible debt under the 504 loan program. These new provisions set forth the terms and conditions under which refinancing will be permitted in the 504 program, and define the phrase "project involves expansion of a small business concern" to include any project that involves the acquisition, construction or improvement of land, building or equipment for use by the small business concern.

Section 120.884. SBA amends § 120.884(a) to provide an exception to the general prohibition against using proceeds of the 504 loan for debt refinancing. In addition, current

paragraphs (b) and (c) will be redesignated as (c) and (d), respectively, and a new paragraph (b) will be added to provide that a CDC may not use 504 loan proceeds to pay any creditor in a position to sustain a loss causing a shift to SBA of all or part of a potential loss from an existing debt.

III. Justification for Publication as Interim Final Rule

In general, before issuing a final rule, SBA publishes the rule for public comment in accordance with the Administrative Procedure Act (APA), 5 U.S.C. 553. The APA provides an exception from the general rule where the agency finds good cause to omit public participation. 5 U.S.C. 553(c)(3)(B). The good cause requirement is satisfied when prior public participation can be shown to be impracticable, unnecessary, or contrary to the public interest. Under such circumstances, an agency may publish an interim final rule without soliciting public comment.

In enacting the good cause exception to standard rulemaking procedures, Congress recognized that emergency situations arise where an agency must issue a rule without public participation. The current turmoil in the financial markets is having a negative impact on the availability of financing for small businesses. SBA finds that good cause exists to publish this rule as an interim final rule in light of the urgent need to help small businesses sustain and survive during this economic downturn. This new refinancing authority will offer a significant opportunity for expanding businesses, allowing them to restructure existing debt into new 504 guaranteed loans that will expand their businesses and create jobs. It also has the potential to quickly free up critical capital for small business owners across the country, allowing them to continue to expand and stimulate the economy. This rule also amends the existing rules to make them consistent with section 504 of the Recovery Act, which was enacted and took effect on February 17, 2009. Advance solicitation of comments for this rulemaking would be unnecessary, impracticable, contrary to the public interest, and would harm those small businesses that need immediate access to capital.

Although this rule is being published as an interim final rule, comments are solicited from interested members of the public. These comments must be submitted on or before July 23, 2009. The SBA will consider these comments and the need for making any

amendments as a result of these comments.

IV. Justification for Immediate Effective Date

The APA requires that “publication or service of a substantive rule shall be made not less than 30 days before its effective date, except * * * as otherwise provided by the agency for good cause found and published with the rule.” 5 U.S.C. 553(d)(3). The purpose of this provision is to provide interested and affected members of the public sufficient time to adjust their behavior before the rule takes effect. As this rule is implementing new authority and is expanding the 504 program’s current requirements, there is no need for the public to adjust its behavior before the rule takes effect. SBA therefore finds that there is good cause for making this rule effective immediately instead of observing the 30-day period between publication and effective date.

Compliance With Executive Orders 12866, 12988, 13175 and 13132, the Paperwork Reduction Act (44 U.S.C., Ch. 35), and the Regulatory Flexibility Act (5 U.S.C. 601–612).

Executive Order 12866

The Office of Management and Budget (OMB) has determined that this rule constitutes a significant regulatory action for purposes of Executive Order 12866.

Executive Order 12988

This action meets applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden. The action does not have preemptive effect, and has retroactive effect only to the extent that the new debt refinancing authority will be made available to loan applications received, or loans approved, prior to the effective date of this rulemaking provided that the related debenture has not been funded.

Executive Order 13132

This rule does not have federalism implications as defined in Executive Order 13132. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in the Executive Order. As such it does not warrant the preparation of a Federalism Assessment.

Paperwork Reduction Act

The SBA has determined that this rule imposes additional reporting and recordkeeping requirements under the Paperwork Reduction Act, 44 U.S.C. Chapter 35. In order to make debt refinancing available as quickly as possible to assist those most impacted by the severe economic conditions facing the Nation, the agency has submitted three amended information collections to Office of Management and Budget (OMB) for review and approval under the emergency processing procedures in 5 CFR 1320.13. Respondents will be required to collect and provide to SBA certain information to support an application for debt refinancing under the section 504 loan program. This information is necessary to determine whether the application satisfies the conditions set forth in the Recovery Act and the implementing regulations and policies. The respondents also will be required to note on a closing document the amount approved for refinancing under the new regulations. The title, description and number of respondents, estimated annual cost and hour burdens imposed on the respondents, as a result of this collection of information, are outlined below.

I. Title: Application for Section 504 Loan (SBA Form 1244).

OMB Control Number: 3245–0071.
Description and Estimated Number of Respondents: This information collection will be submitted by the small businesses seeking to obtain financing, including the debt refinancing loans available as a result of the Recovery Act. SBA estimates a total of 9,100 small businesses will use this information collection.

Estimated Number of Responses: SBA estimates one application per small business concern; therefore this estimated total is also 9,100.

Estimated Time per Response: For applications submitted through the Abridged Standard Method, the current estimate is 2.08 hours per response; and for non-Abridged Standard method, 2.25 hours. As a result of the additional underwriting burden for the debt refinancing option SBA estimates these burdens to increase to 2.25 and 2.45 hours respectively.

Total Estimated Hour Burden: 21,210.

II. Title: Eligibility Information Required for PCLP Submission (SBA Form 2234C).

OMB Control Number: 3245–0346.
Description and Estimated Number of Respondents: Lenders in the Certified Development Company (CDC) Program (also referred to as the 504 Loan

Program). There are currently 27 of these lenders.

Estimated Number of Responses: 1700.

Estimated Time per Response: The current estimated burden is 40 minutes per response. As a result of the Recovery Act, the Agency estimates this burden to increase to 55 minutes.

Total Estimated Annual Hour Burden: 1275 hours.

III. *Title:* Servicing Agent Agreement (SBA Form 1506).

OMB Control Number: 3245-0193.

Description and Estimated Number of Respondents: This information is provided by the borrower, and Certified Development Company. Based on historical use of this form, SBA estimates 8,779 respondents annually.

Estimated Number of Responses: 8,403.

Estimated Time per Response: 1 hour based on current burden response rate; only de minimis increase is expected as a result of the Recovery Act changes, since they require little or no additional effort from lenders.

Total Estimated Annual Hour Burden: 8,403.

SBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of SBA's functions, including whether the information will have a practical utility; (2) the accuracy of SBA's estimate of the burden of the proposed collections of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Please send comments by the closing date for comment for this interim final rule to SBA Desk Officer, Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th Street, NW., Washington, DC 20503 and to Andrew B. McConnell Jr., Small Business Administration, Office of Financial Assistance, 409 Third Street, SW., 8th Floor, Washington, DC 20416. If SBA receives approval for its emergency approval request, it will be followed by a request for clearance under normal procedures in accordance with 5 CFR 1320.10. Any comments received will be addressed at that time.

Regulatory Flexibility Act

Because this rule is an interim final rule, there is no requirement for SBA to prepare a Regulatory Flexibility Act (RFA) analysis. The RFA requires

administrative agencies to consider the effect of their actions on small entities, small non-profit businesses, and small local governments. Pursuant to the RFA, when an agency issues a rule, the agency must prepare analysis that describes whether the impact of the rule will have a significant economic impact on a substantial number of small entities. However, the RFA requires such analysis only where notice and comment rulemaking is required.

List of Subjects in 13 CFR Part 120

Loan programs—business, Small businesses.

■ For the reasons stated in the preamble, SBA amends 13 CFR part 120 as follows:

PART 120—BUSINESS LOANS

■ 1. The authority for 13 CFR part 120 is revised to read as follows:

Authority: 15 U.S.C. 634(b) (6), (b) (7), (b) (14), (h), and note, 636(a), (h) and (m), 650, 687(f), 696(3), and 697(a) and (e); Public Law 111-5, 123 Stat. 115.

■ 2. Amend § 120.882 by adding new paragraphs (e) and (f) to read as follows:

§ 120.882 Eligible Project costs for 504 loans.

* * * * *

(e) If the project involves expansion of a small business concern, any amount of existing indebtedness that does not exceed 50 percent of the project cost of the expansion may be refinanced and added to the expansion cost if:

(1) The proceeds of the indebtedness were used to acquire land, including a building situated thereon, to construct a building thereon, or to purchase equipment. The assets acquired must be eligible for financing under the 504 loan program;

(2) The existing indebtedness is collateralized by fixed assets. The 504 eligible fixed assets collateralizing any debt to be refinanced or relating to the portion of debt being refinanced in the case of a partial refinance must also collateralize the 504 Loan unless SBA approves a waiver due to extraordinary circumstances. PCLP CDCs may not use their delegated authority to approve a loan requiring this waiver;

(3) The existing indebtedness was incurred for the benefit of the small business concern for which any new Project costs are incurred. Existing 7(a) and 504 loans may be refinanced under this section in accordance with SBA policies or procedures;

(4) The financing will be used only for refinancing existing indebtedness or costs relating to the project financed;

(5) The financing will provide a substantial benefit to the borrower when prepayment penalties, financing fees, and other financing costs are accounted for. For purposes of this paragraph, "substantial benefit" means that the portion of the new installment amount attributable to the debt being refinanced must be at least 10 percent less than the existing installment amount(s). Prepayment penalties, financing fees, and other financing costs must also be added to the amount being refinanced in calculating the percentage reduction in the new installment payment. Exceptions to the 10% reduction requirement may be approved by the D/FA or designee for good cause. PCLP CDCs may not use their delegated authority to approve a loan requiring this exception;

(6) The borrower has been current on all payments due on the existing debt for not less than 1 year preceding the date of refinancing. For purposes of this section, "date of refinancing" refers to the date the 504 loan is approved by SBA. Any unremedied delinquency after approval must be reported to SBA as an adverse change;

(7) The financing under section 504 will provide better terms or rate of interest than the existing indebtedness on the date of refinancing. For purposes of this paragraph, "better terms or rate of interest" may include longer maturity (but always commensurate with the assets' useful life), a lower interest rate committed on the Third Party Lender Loan or projected on the 504 loan, improved collateral conditions, or less restrictive loan covenants.

(8) The authority to approve the refinancing of same institution debt must be approved by SBA and is not delegated to the PCLP CDCs. For the purposes of this paragraph, "same institution debt" means any debt of the CDC or the Third Party Lender financing the new project, or of affiliates of either.

(f) For the purposes of paragraph (e), the phrase "project involves expansion of a small business concern" includes any project that involves the acquisition, construction or improvement of land, building or equipment for use by the small business concern.

■ 3. Amend § 120.884 as follows:

■ a. Revise paragraph (a);

■ b. Redesignate paragraphs (b) through (d) as (c) through (e) respectively; and

■ c. Add new paragraph (b).

§ 120.884 Ineligible costs for 504 loans.

* * * * *

(a) Debt refinancing (other than interim financing), except as provided in § 120.882(e).

(b) A CDC may not use 504 loan proceeds to pay any creditor in a position to sustain a loss causing a shift to SBA of all or part of a potential loss from an existing debt.

* * * * *

Dated: June 19, 2009.

Karen G. Mills,

Administrator.

[FR Doc. E9-14886 Filed 6-22-09; 8:45 am]

BILLING CODE 8025-01-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 33

[Docket No. NE129; Special Conditions No. 33-007-SCI]

Special Conditions: General Electric Company GENx-2B Model Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions; correction.

SUMMARY: This document makes a correction to final special conditions, NE129, 33-007-SC, applicable to General Electric Company (GE) GENx-2B67 and GENx-2B69 model turbofan engines that was published in the **Federal Register** on April 24, 2009 (74 FR 18624). Two typographical errors occurred under the Background section and one typographical error under The Special Conditions section. This document corrects these errors. In all other respects, the original document remains the same.

DATES: The effective date of these special conditions is June 23, 2009.

SUPPLEMENTARY INFORMATION:

Background

A final special conditions applicable to the General Electric Company (GE) was published in the **Federal Register** on April 24, 2009 (74 FR 18624). The following corrections are needed:

On page 18625, in the left column in the Background, first paragraph, 7th line, the model "GENx-B54" should be changed to "GENx-1B54".

On page 18625, in the left column in the Background, 4th paragraph, 2nd line, the model "GE90-11SB" should be changed to "GE90-115B". On page 18626, center column in The Special Conditions, paragraph (e), 10th line, the term "10 per" should be changed to "10⁻⁹ per".

Issued in Burlington, Massachusetts, on June 12, 2009.

Peter A. White,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. E9-14618 Filed 6-22-09; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF TRANSPORTATION

14 CFR Part 97

[Docket No. 30673; Amdt. No. 3327]

Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) and associated Takeoff Minimums and Obstacle Departure Procedures for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, adding new obstacles, or changing air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: This rule is effective June 23, 2009. The compliance date for each SIAP, associated Takeoff Minimums, and ODP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of June 23, 2009.

ADDRESSES: Availability of matter incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which the affected airport is located;

3. The National Flight Procedures Office, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 or

4. The National Archives and Records Administration (NARA). For

information on the availability of this material at NARA, call 202-741-6030, or go to: http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.

Availability—All SIAPs are available online free of charge. Visit nfdc.faa.gov to register. Additionally, individual SIAP and Takeoff Minimums and ODP copies may be obtained from:

1. FAA Public Inquiry Center (APA-200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

FOR FURTHER INFORMATION CONTACT:

Harry J. Hodges, Flight Procedure Standards Branch (AFS-420) Flight Technologies and Programs Division, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 (*Mail Address:* P.O. Box 25082, Oklahoma City, OK 73125) *telephone:* (405) 954-4164.

SUPPLEMENTARY INFORMATION: This rule amends Title 14, Code of Federal Regulations, Part 97 (14 CFR part 97) by amending the referenced SIAPs. The complete regulatory description of each SIAP is listed on the appropriate FAA Form 8260, as modified by the National Flight Data Center (FDC)/Permanent Notice to Airmen (P-NOTAM), and is incorporated by reference in the amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of Title 14 of the Code of Federal Regulations.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. This amendment provides the affected CFR sections and specifies the types of SIAP and the corresponding effective dates. This amendment also identifies the airport and its location, the procedure and the amendment number.

The Rule

This amendment to 14 CFR part 97 is effective upon publication of each separate SIAP as amended in the transmittal. For safety and timeliness of change considerations, this amendment