SUMMARY: The Federal Crop Insurance Corporation (FCIC) hereby adopts, as a final rule, an interim rule which was published in the **Federal Register** on Friday, August 15, 1986 (51 FR 29205). The interim rule amended the Peach, Apple, Grape, Forage Production, Pea, Wheat, Barley, Grain Sorghum, Cotton, Potato (all states except Florida and certain California counties), Flax, Rice, Peanut, Oat, Sunflower, Rye, Sugar Beet (all states except Arizona and California), Soybean, Corn, Dry Bean, Tobacco Quota Plan, Tobacco Guaranteed Plan, Canning and Freezing Sweet Corn, Canning and Processing Tomato, Almond, Walnut, Popcorn, ELS Cotton, Prune and Canning and Processing Peach Crop Insurance Regulations (7 CFR Parts 403, 405, 411, 415, 416, 418, 419, 420, 421, 422, 423, 424, 425, 427, 428, 429, 430, 431, 432, 433, 435, 436, 437, 438, 439, 446, 447, 448, 450 and 451 respectively), effective for the 1987 and succeeding crop years, and the Arizona California Citrus, Texas Citrus, Sugarcane, Potato (the remaining California counties and Florida), and Sugar Beet (Arizona and California only) Crop Insurance Regulations (7 CFR Parts 409, 413, 417, 422, and 430 respectively), effective for the 1988 and succeeding crop years by removing the effect of the provision which cancels the policy for failure to furnish production records. The intended effect of this rule is to provide for an alternative insurance offer in lieu of cancellation for failure to furnish production records to determine guarantee. The authority for the promulgation of this rule is contained in the Federal Crop Insurance Act, as amended.

EFFECTIVE DATE: December 18, 1986.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, DC, 20250, telephone (202) 447-3325.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established by Departmental Regulation 1512-1. This action does not constitute a review as to the need, currency, clarity, and effectiveness of these regulations under those procedures. The sunset review date established for these regulations remains unchanged and has been previously published for each regulation.

E. Ray Fosse, Manager, FCIC, (1) has determined that this action is not a major rule as defined by Executive Order 12291 because it will not result in: (a) an annual effect on the economy of $100 million or more; (b) major increases in costs or prices for consumers, individual industries, Federal, State, or local governments, or a geographical region; or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets; and (2) certifies that this action will not increase the federal paperwork burden for individuals, small businesses, and other persons.

This action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Flexibility Analysis was prepared.

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

This program is not subject to the provisions of Executive Order 12372 which requires intergovernmental 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.

This action is not expected to have any significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

On Friday, August 15, 1986, FCIC published an interim rule, effective upon publication in the **Federal Register** at 51 FR 29205, amending the Peach, Apple, Grape, Forage Production, Pea, Wheat, Barley, Grain Sorghum, Cotton, Potato (all states except Florida and certain California counties), Flax, Rice, Peanut, Oat, Sunflower, Rye, Sugar Beet (all states except Arizona and California), Soybean, Corn, Dry Bean, Tobacco Quota Plan, Tobacco Guaranteed Plan, Canning and Freezing Sweet Corn, Canning and Processing Tomato, Almond, Walnut, Popcorn, ELS Cotton, Prune and Canning and Processing Peach Crop Insurance Regulations (7 CFR Parts 403, 405, 411, 415, 416, 418, 419, 420, 421, 422, 423, 424, 425, 427, 428, 429, 430, 431, 432, 433, 435, 436, 437, 438, 439, 446, 447, 448, 450 and 451 respectively), effective for the 1987 and succeeding crop years, and the Arizona-California Citrus, Texas Citrus, Sugarcane, Potato (the remaining California counties and Florida), and Sugar Beet (Arizona and California only) Crop Insurance Regulations (7 CFR Parts 409, 413, 417, 422, and 430 respectively), effective for the 1988 and succeeding crop years by removing the effect of the provision which cancels the policy for failure to furnish production records and providing for an alternative insurance offer in lieu of cancellation for failure to furnish production records to determine guarantee.

Written comments on the interim rule were solicited by FCIC for 60 days after publication of the rule in the **Federal Register**, and the rule was scheduled for review so that any amendments made necessary by public comment could be published in the **Federal Register** as soon as possible. No comments were received. Therefore, the interim rule is hereby adopted as final.

List of Subjects in 7 CFR Parts 403, 405, 409, 411, 413, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 427, 428, 429, 430, 431, 432, 433, 435, 436, 437, 438, 439, 446, 447, 448, 450 and 451

Crop insurance—Peach, Apple, Arizona-California citrus, Grape, Texas citrus, Forage production, Pea, Sugarcane, Wheat, Barley, Grain sorghum, Cotton, Potato, Flax, Rice, Peanut, Oat, Sunflower, Rye, Sugar beet, Soybean, Corn, Dry bean, Tobacco quota plan, Tobacco guaranteed plan, Canning and freezing sweet corn, Canning and processing tomato, Almond, Walnut, Popcorn, ELS cotton, Prune and canning and processing peach respectively

Final Rule

Accordingly, the Interim Rule published in the **Federal Register** on Friday, August 15, 1986, at 51 FR 29205, is hereby adopted as final.

Authority: Secs. 506, 516, Pub. L. 75-430, 52 Stat. 73, 77, as amended (7 U.S.C. 1506, 1516).

Done in Washington, DC, on October 29, 1986.

Edward Hews,

Acting Manager, Federal Crop Insurance Corporation.

[FR Doc. 86-28318 Filed 12-17-86; 8:45 am]

BILLING CODE 3410-08-M

FEDERAL RESERVE SYSTEM

12 CFR Part 226

[Regulation Z; Docket No. R-0577]

Truth in Lending; Right of Rescission

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board is publishing a final rule revising Regulation Z, its regulation implementing the Truth in Lending Act. The rule modifies the existing provision that exempts original creditors from providing the right of rescission in certain refinancings secured by the consumer's principal dwelling. The regulation provides that

the right of rescission will not apply if the original creditor finances nonfinance charges such as attorney's fees, title examination fees, and insurance premiums.

The Board has decided not to amend Regulation Z to exclude certain transactions by a creditor other than the original creditor from the right of rescission. An earlier proposal would have excluded from the right of rescission extensions of credit that replace a transaction secured by the consumer's principal dwelling where (1) no new advances of money are made to the consumer, (2) the annual percentage rate on the new obligation is not subject to increase after consummation and is the same as or lower than the annual percentage rate on the obligation being replaced, and (3) the new transaction does not have a balloon payment feature.

In light of significant concerns expressed by a number of persons commenting on the proposal, including significant consumer opposition to any expansion of the rescission exemptions, dissatisfaction with the limited nature of the proposed exemption, the complexity associated with a rule that might accommodate all interests, and the statutory concerns accompanying any attempt to accommodate those interests, the Board has decided not to create a new rescission exemption for nonoriginal creditors.

EFFECTIVE DATE: December 6, 1986, but reliance optional until October 1, 1987.

FOR FURTHER INFORMATION CONTACT: Adrienne Hurt or Leonard Chanin, Staff Attorneys, (202) 452-3867 or (202) 452-3667, Division of Consumer and Community Affairs, or for the hearing impaired *only,* Telecommunications Device for the Deaf (TDD) Earnestine Hill or Dorothea Thompson, at (202) 452-3544, Board of Governors of the Federal Reserve System, Washington, DC 20551.

SUPPLEMENTARY INFORMATION:

(1) Background

Section 125 of the Truth in Lending Act (TILA) provides that consumers have the right to rescind certain credit transactions in which a security interest is taken in the consumer's principal dwelling. The right of rescission was established to provide consumers an opportunity to reexamine their credit contracts and cost disclosures in order to reconsider their decision to place an important asset—the home—at risk by offering it as security for the credit extension. The rescission period runs for three business days ending on midnight of the third business day following consummation, delivery of material Truth in Lending disclosures, or delivery to the consumer of the notice of the right to rescind, whichever occurs last. Under § 226.23 of Regulation Z, which implements the act's rescission provision, a creditor is prohibited from performing services or disbursing funds, other than in escrow, during the rescission period. A consumer may waive the right to rescind where the consumer has a bona fide personal financial emergency.

Currently, both the act and Regulation Z provide that refinancings [1] by the same creditor of credit already secured by the consumer's principal dwelling are exempt from the right of rescission where no "new money" is advanced to the consumer. The regulation treats as new money the difference between the new "amount financed" and the unpaid principal balance plus any earned unpaid finance charges on the obligation being refinanced. Under this rule, nonfinance charges, such as attorney's fees, title examination fees and insurance premiums, if financed by the creditor, are added to the old debt to arrive at the new amount financed. The provisions in existing § 226.23 (f)(2) provide that the transaction is rescindable to the extent of these charges.

In light of the substantial increase in consumer applications to refinance residential mortgage loans, the Board received a number of inquiries and complaints about the applicability of the rescission rules to refinancings. As a result of consumer and creditor concerns, the Board published for public comment on August 6, 1986 (51 FR 28245) a proposal to create a new exemption from the right of rescission for transactions involving the nonoriginal creditor, and to revise the definition of new money for purposes of the current exemption for original creditors. The Board received approximately 165 comments on the proposed amendments. The Board has decided not to create a new exemption for nonoriginal creditors, but has decided to revise its definition of new money for purposes of the existing exemption from the rescission right for original creditors.

(2) Proposal To Exempt "Refinancings" by the Nonoriginal Creditor

Section 125(e) of the TILA exempts from rescission only refinancings by the original creditor where no new advances of money are made. The proposed amendment to Regulation Z would have expanded the class of transactions exempt from the rescission provisions to include certain types of refinancings by creditors other than the original creditor. The expansion of the rescission exemption to exempt certain additional types of refinancings was based on the idea that it would benefit both consumers (in allowing for immediate access to credit) and creditors (in relieving some compliance costs) and, if limited, would be consistent with congressional intent in creating the right of rescission. In an effort to ensure that transactions remain subject to the right of rescission where the consumer arguably needs the right, and in view of the existing statutory exemption applicable to the original creditor only, the proposal would have limited the types of refinancings offered by a new creditor that could be exempt from the right of rescission. Under the proposal, a refinancing by a new creditor would have qualified for the exemption only if:

(1) No new advances of money were obtained by the consumer,

(2) The annual percentage rate (APR) on the new transaction was not subject to increase after consummation and was the same as or lower than the APR on the obligation being refinanced, and

(3) The new transaction did not have a balloon payment feature.

After careful consideration of the comment letters and further evaluation of the proposal, the Board has decided not to amend Regulation Z to create a new exemption from the right of rescission for refinancings by a new creditor. The Board's decision is based on several considerations. First, there was a strong belief among persons opposed to expanding the rescission exemptions—particularly those representing the consumer interest—that the Board's proposed amendment would eliminate an important consumer right. These commenters felt that the purpose of the right of rescission—to allow consumers time to reconsider the risks in encumbering their homes for an extension of credit—is crucial, particularly at a time when so many consumers are refinancing loans. The opponents believed that the proposal, even with its limitations aimed at exempting only loans that would pose no greater risk than the original loans, was not sufficient to ensure that consumers will have the right of rescission in all transactions when it would be desirable. In addition to the concerns about the loss of a substantive

[1] Although the term "refinancing" in § 226.23 of Regulation Z refers only to new transactions by the same creditor that had made the original extension of credit, the term in this discussion is used in a generic sense to refer to a transaction by any creditor that satisfies and replaces an existing obligation.

consumer protection, those opposing the proposed amendment often cited their belief that the Board would be exceeding its rulemaking authority under the TILA if it were to exempt transactions by a creditor other than the original creditor because the current statute expressly exempts only refinancings by the same creditor.

While most commenters generally favored expansion of the category of refinancings that would be exempt from the rescission provisions, many commenters did not favor the Board's specific proposal. A number of creditors, for example, urged the Board to adopt similar exemption rules for original and nonoriginal creditors by deleting the various qualifications from the proposed amendment. They argued that where a consumer refinances a loan, regardless of who the creditor is, the right to rescind is an unnecessary protection because there is adequate time between application and closing for reconsideration of a credit decision. They also claimed there is little support for the idea that a consumer undertakes less risk when refinancing a loan with the same creditor, or that the consumer needs the additional rescission protections only when dealing with a different creditor.

While the Congress' rationale for restricting the exception to the original creditor may be unclear, the statute unambiguously exempts refinancings only with the original creditor. It is the Board's view that adopting a broad exemption that would treat new creditors the same as original creditors would be inconsistent with the statutory intent of the rescission provisions. Any exemption would have to be tailored to ensure that the rescission provisions apply to transactions where the right of rescission is arguably a needed protection.

With regard to the exemption as proposed, many commenters urged that various modifications be made in the proposal to exempt additional transactions that they believed would impose no increased risk to consumers. For instance several commenters suggested that:

—The refinancing of a variable rate loan with no caps to a variable rate loan with caps should be exempt from the right of rescission.

—The refinancing of a fixed rate loan to a variable rate loan with a rate cap that is equal to or less than the APR (or interest rate) on the existing loan should be exempt from the right of rescission.

—Only where a balloon payment feature is added or where a balloon payment on the refinancing is higher than the balloon payment on an existing loan should the transaction remain subject to the right of rescission.

The Board believes that modifying the proposal to expand the rescission exemption to include more transactions in which additional risk is not an apparent concern would likely result in a very technical and complex rule.

Several commenters, in response to the Board's solicitation for comment as to whether additional limitations should be contained in the proposal, felt that additional conditions should be imposed before a transaction is exempt from the right of rescission. Most of those addressing the question stated that refinancings with a demand feature should be subject to the right of rescission on the ground that a demand loan is just as risky, if not more so, than a loan with a balloon payment feature. Others stated that scheduled payments on the refinancing should be lower than scheduled payments on the existing loan before the right of rescission is eliminated. Other commenters suggested additional conditions. The Board believes that drafting a rule accommodating these concerns would create a very technical regulation, and would significantly limit the number of transactions that would be covered by the amendment.

In light of the strong opposition to any expansion of the rescission exemptions from a number of commenters, the desire of many commenters to have the rescission exemption expanded beyond that which was proposed by the Board, the complexity associated with a rule to accommodate all interests, and the statutory constraints, the Board has decided *not* to adopt the proposed amendment to create a new rescission exemption regarding refinancings by a creditor other than the original creditor.

(3) New Money Proposal

In addition to proposing to amend Regulation Z to exempt certain refinancings by a nonoriginal creditor, the Board proposed to redefine what constitutes a new advance of money obtained by a consumer for purposes of the existing exemption for refinancings. The Board has decided to adopt the proposed amendment to Regulation Z that would redefine a new advance of money. Section 226.23(f)(2) currently provides that a consumer shall receive the right of rescission in a refinancing by the original creditor if the consumer receives "new money." Under this rule, new money has been treated as the difference between the new amount financed and the outstanding balance plus any earned unpaid finance charges. Because of this definition, the right of rescission often would be triggered if the consumer merely finances costs that are not finance charges, such as attorney's fees, title examination fees, and insurance premiums, even where a consumer does not get additional money for other purposes. The Board proposed for comment a revision to this rule to provide that if the new money results solely from a decision by the consumer to finance nonfinance charges such as attorney's fees, title examination fees, and insurance premiums, these costs would not trigger the right of rescission. (Under the existing rule, points and other finance charges, even if financed by the creditor, would not trigger the right of rescission since they are not part of the "amount financed.")

Over two-thirds of the commenters supported the Board's proposal to revise the definition of new money. The majority of commenters stated that most consumers ask to finance these costs when refinancing their mortgage, thus triggering the right of rescission in a large number of refinancings. While commenters varied in the estimates of these costs, it appears that these costs are generally below $1,000 or 3% or less of the principal loan amount. Most commenters stated that these costs were not significant enough to justify the consumer receiving the right of rescission solely for these charges.

Several commenters opposed to revising the definition of new money stated that costs such as attorney's fees, title examination fees, and insurance premiums can be significant, and that consumers need an opportunity to reconsider a transaction when these costs are financed by a creditor. A few commenters felt the Board should not take any action that may reduce consumer protections in the rescission area.

After careful consideration of all comments received and further examination of the proposal, the Board has decided to adopt the new money proposal. The Board believes that consumers do not need the right of rescission when refinancing with an original creditor if the only reason for receiving the right is due to a decision to finance nonfinance charge closing costs. Such amounts do not appear to be significant, in light of the principal loan amount being refinanced, and thus do not put the consumer's principal dwelling at any significantly greater risk.

The Board also believes that the requirement in § 226.4(c)(7) that common closing costs must be bona fide and reasonable to be excluded from the

finance charge should allay concerns expressed by some commenters that creditors may use this revision to add unreasonable charges to the new transaction. Furthermore, it should be noted that if the consumer rescinds a transaction involving new money, § 226.23(d) provides that the consumer is not liable to pay any amount, including the cost of the refinancing.

Minor editorial revisions have been made to the proposal so that the provision will be phrased in terms of what transactions are subject to the right of rescission rather than what transactions are covered by the exemption. These revisions were made to more clearly state the rule that, where a transaction involves new money, only the new money is rescindable.

In addition to its final rule, the Board is also publishing for public comment in this issue of the **Federal Register** a proposal to amend the official staff commentary to address issues that may arise as a result of the new rule.

(4) Regulatory Impact

The revision to the rescission provision in Regulation Z would reduce the number of transactions for which creditors would need to provide consumers with a notice of their rescission rights and an opportunity to rescind. Therefore, it appears that creditors, including small entities, would not incur any additional costs as a result of the proposed changes.

List of Subjects in 12 CFR Part 226

Advertising, Banks, Banking, Consumer protection, Credit, Federal Reserve System, Finance, Penalties, Truth in lending.

PART 226—[AMENDED]

Pursuant to authority granted in section 105(a) of the Truth in Lending Act, 15 U.S.C. 1604(a), the Board is amending Regulation Z (12 CFR Part 226) as follows:

1. The authority citation for Part 226 continues to read as follows:

Authority: Sec. 105, Truth in Lending Act, as amended by sec. 605, Pub. L. 96-221, 945 Stat. 170 (15 U.S.C. 1604 *et seq.*).

2. 12 CFR Part 226 is amended by revising § 226.23(f)(2) to read as follows:

§ 226.23 Right of rescission.

* * * * *

(f) *Exempt transactions.* * * *

(2) A refinancing or consolidation by the same creditor of an extension of credit already secured by the consumer's principal dwelling. The right of rescission shall apply, however, to the extent the new amount financed exceeds the unpaid principal balance, any earned unpaid finance charge on the existing debt, and amounts attributed solely to the costs of the refinancing or consolidation.

* * * * *

By order of the Board of Governors of the Federal Reserve System, December 11, 1986.

William W. Wiles,

Secretary of the Board.

[FR Doc. 86-28315 Filed 12-17-86; 8:45 am]

BILLING CODE 6210-01-M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 123

Disaster Loans

AGENCY: Small Business Administration.

ACTION: Final rule.

SUMMARY: Section 18006 of the Omnibus Budget Reconciliation Act of 1985 (Pub. L. 99-272) amended the Small Business Act (15 U.S.C. 631 *et seq.*) to terminate the authority of the Small Business Administration (SBA) to make disaster assistance loans to agricultural enterprises or to any entity in response to currency fluctuations or federal action. This rule eliminates those portions of the current regulations which implemented the deleted authority. This rule also makes technical corrections by deleting dated material.

EFFECTIVE DATE: December 18, 1986.

ADDRESS: Comments should be sent to: Bernard Kulik, Deputy Associate Administrator for Disaster Assistance, Small Business Administration, 1441 L Street NW., Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Bernard Kulik, Deputy Associate Administrator for Disaster Assistance, (202) 653-6879.

SUPPLEMENTARY INFORMATION:

Federal Action and Currency Fluctuation Loans

Section 18006 of the Budget Reconciliation Act of 1985 amended section 7(b) of the Small Business Act (Act) by striking out paragraphs (3) and (4). Paragraph (3) had allowed SBA to give disaster assistance to small business concerns affected by government regulation or other action. Paragraph (4) allowed such assistance to small business concerns affected by currency fluctuations.

SBA implemented sections 7(b) (3) and (4) in 13 CFR Part 123, Subparts D and E, respectively. The statutory authority for those programs has been withdrawn. Therefore, those subparts are removed. Servicing fees affecting the above programs are permitted by § 123.6 of this part. This rule deletes the language affecting these programs.

Interest Rates

The Omnibus Budget Reconciliation Act of 1983 (Pub. L. 98-270, 98 Stat. 135, section 301) created new formulae for setting the rate of interest on disaster loans. It also required a reduction in the rate of interest on loans made in response to disasters commencing on or after October 1, 1982, which had outstanding balances after April 18, 1984.

SBA implemented these changes as they applied to Home Loans in 13 CFR 123.25(c), as they applied to Business Loans in 13 CFR 123.26(b), and as they applied to Economic Injury Loans in 13 CFR 123.41(d).

All loans are now made at the lower rates. All loans which were subject to reduced interest rates have been adjusted. Therefore, the old rates and terms implementing the adjustments are no longer needed and are deleted from §§ 123.25(c), 123.26(b), and 123.41(d).

Civil Rights Requirements

On October 11, 1985, SBA promulgated 13 CFR Part 117 to effectuate the provisions of the Age Discrimination Act of 1975, as amended. Section 123.15 of Title 13, CFR, anticipated that action and referred to its future publication. Now that section 117 has been published in final form, the contingency language is no longer required and is deleted by this rule.

Agricultural Loans

Section 18006 of the Budget Reconciliation Act of 1985 withdrew SBA's authority to make disaster assistance loans to agricultural enterprises. 13 CFR 123.41(b)(4) addressed eligibility of agricultural enterprises for economic injury loans. Since agricultural enterprises are no longer eligible, this paragraph is deleted.

El Nino

SBA was authorized by Pub. L. 98-473 to make disaster loans to small business concerns affected by El Nino-related ocean conditions occurring in 1982 and 1983. This authority was implemented in 13 CFR 123.42. This authority has expired and all applications for assistance arising out of that authority have been processed. Therefore, this section is deleted.

Executive Order 12291

These regulations are not a major rule because they will not have an annual economic effect of $100 million. In fiscal year 1986 disaster loans to agricultural