

Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

FEDERAL RESERVE SYSTEM

12 CFR Part 226

(Reg. Z; Doc. No. R-0539)

Truth in Lending; Intent To Make Determination of Effect on State Laws; Arizona

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice of intent to make preemption determinations.

SUMMARY: The Board is publishing for comment a proposed determination as to whether certain provisions in the law of Arizona are inconsistent with the Truth in Lending Act or Regulation Z and therefore preempted. A determination that the provisions are preempted, which would trigger the prohibition against giving such preempted disclosures, would have an effective date of October 1, 1986, although creditors would have the option of complying from the date of the Board's determination.

This notice also includes a discussion of the procedures that the Board follows upon receipt of a request for a determination and a statement of the principles used in making preemption determinations.

DATE: Comments must be received on or before May 6, 1985.

ADDRESS: Comments should be mailed to William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, or delivered to Room B-2223, 20th and Constitution Avenue, NW., Washington, D.C., between 8:45 a.m. and 5:15 p.m. Comments may be inspected in Room B-1122 between 8:45 a.m. and 5:15 p.m.

FOR FURTHER INFORMATION CONTACT: Margaret Stewart, Senior Attorney, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, at (202) 452-2412.

SUPPLEMENTARY INFORMATION:

(1) General

The Board has received a request for a determination as to whether certain provisions of Arizona law are inconsistent with the Truth in Lending Act and Regulation Z, and therefore, preempted. Section 111(a)(1) of the Truth in Lending Act authorizes the Board to determine whether any inconsistency exists between Chapters 1, 2, and 3 of the Federal act or regulation and any state law relating to the disclosure of information in connection with consumer credit transactions. These proposed preemption determinations are issued under authority delegated to the Director of the Division of Consumer and Community Affairs, as set forth in the Board's Rules Regarding Delegation of Authority (12 CFR 265.2(h)(2)).

The procedures for requesting a determination and the general procedures followed in making a determination are contained in Appendix A to 12 CFR Part 226. In addition, in order to obtain information and comment from interested parties as early as possible in the course of making determinations, the Board (1) forwards copies of requests for determinations to the attorneys general of the states involved and to the Federal Reserve Banks in whose districts the states are located, and (2) sends copies of the proposed determinations and final determinations directly to the requesting party, the State attorney general, and the Federal Reserve Bank.

(2) Principles Followed in Preemption Analysis

In determining whether a state law is inconsistent with the Federal provisions, § 226.28(a)(1) of Regulation Z, which implements section 111 of the act, provides that State requirements are inconsistent with the Federal provisions if the State law requires a creditor to make disclosures or take actions that contradict the Federal law. A State law is contradictory, and therefore preempted, if it significantly impedes the operation of the Federal law or interferes with the purposes of the Federal statute. Two examples of contradictory State laws are included in § 226.28(a)(1). They are (1) a law that requires the use of the same term for a different amount or a different meaning than the Federal law, or (2) a law that requires the use of a different term than

the Federal term to describe the same item.

In previous preemption determinations (48 FR 4454, February 1, 1983) the Board developed the following principles that were applied in making the current proposed determinations:

- For purposes of making preemption determinations, State law is deemed to require the use of specific terminology in the State disclosures if the statute uses certain terminology in the disclosure provision.

- A State disclosure does not "describe the same item," under § 226.28(a)(1), if it is not the functional equivalent of a Federal disclosure.

- Preemption occurs only in those transactions in which an actual inconsistency exists between the State law and the Federal law.

- A State law is not inconsistent merely because it requires more information than Federal law or requires disclosure in transactions where Federal law requires none.

In general, preemption determinations will be limited to those provisions of State law identified in the request for a determination. At the Board's discretion, however, other State provisions that may be affected by the Federal law will also be addressed.

(3) Effect of Preemption Determination

If the Board determines that a state-required disclosure is inconsistent with the Federal law, the State law is preempted to the extent of the inconsistency. Creditors in that State may not make disclosures using the inconsistent term or form, even on a separate document from the Federal disclosures. Preemption determinations have an effective date of the October 1 that follows the determination by at least 6 months, as required by section 105(d) of the act. Since a final determination is not expected before April 1, 1985, the proposed determination, if adopted, will have an effective date of October 1, 1986, although creditors could begin complying with the determination before that time.

A determination on provisions in the law of one state will have no effect on the validity of similar provisions in other states.

(4) Discussion of Specific Request and Proposed Determination

The Board has been asked to examine section 6-621A.2 of Arizona's Small Loans Act as amended April 24, 1984. The requesting party believes that several requirements imposed by this provision in Arizona's law are inconsistent with section 128 of the federal act and §§ 226.18 and 226.27 of Regulation Z.

The pertinent provisions of the state statute (which became effective January 1, 1985) are as follows:

6-621. Requirements for loan transactions**A. Every licensee shall**

2. Give to the borrower, or if there are two borrowers, to one of them, a statement written in both English and Spanish which shall read as follows:

I understand that the documents I have signed in this transaction obligate me to pay to _____ (Name of Lender) the total sum of \$_____. And that I am required to make a total of _____ payments of \$_____ each and _____ payments of \$_____ to be paid _____ (Weekly or Monthly) over the life of the loan. I further understand that, in the event that I fail to make the payments according to the terms contained in these documents, I may lose the property which I have given as security for this loan which is the following:

(Description of Property Given as Security)

Borrower

Borrower

The requesting party has asked for a determination as to whether the Spanish language requirement imposed by this section contradicts § 226.27 of Regulation Z, which provides that all of the disclosures required by the regulation be made in the English language (except in the Commonwealth of Puerto Rico). Since the State requires that the prescribed notice be given in both Spanish and English, the Board proposes to determine that the State's Spanish language requirement does not contradict and is not preempted by the Federal law because under the regulation Spanish translations are permissible as additional information. (See Regulation Z Official Staff Commentary § 226.27-2.)

The requesting party also argues that two terms required to be used in the prescribed notice are preempted by the Federal act and regulation. The term "Total Sum of \$_____" corresponds to § 226.18(h) of Regulation Z, which requires disclosure of the total dollar amount owed, using the term "total of payments." Because the state law

requires the use of a different term than Federal law to describe the same item, the Board proposes to determine that the State disclosure is preempted.

The second term that the requesting party believes is preempted is the term "Total of _____ payments," because it allegedly requires the use of the federally prescribed term "total of payments" to represent a different meaning from the Federal law. The Board believes that the State term is not the same as the federally required "total of payments" disclosure because it requires the number of payments to be substituted for the blank shown in the phrase, clearly distinguishing it from the federal term, both in language and meaning. For instance, an example of the state disclosure would be "Total of 60 Payments" while the Federal term would appear as "total of payments = \$10,000." Because the State law does not in this instance prescribe a Federal term, the Board proposes to determine that the State disclosure does not contradict Federal law and is therefore not preempted.

(5) Comment requested

Interested persons are invited to submit comments regarding the proposed determinations. After the close of the comment period and analysis of the comments received, notice of final action on the proposals will be published in the Federal Register.

List of Subjects in 12 CFR Part 226

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

Board of Governors of the Federal Reserve System, February 27, 1985.

William W. Wiles,
Secretary of the Board.

[FR Doc. 85-5214 Filed 3-4-85; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Part 71**

[Airspace Docket No. 84-ANM-27]

Proposed Amendment to VOR Federal Airways, Aspen, CO

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend segments of VOR Federal Airways V-108, V-134, V-361 and V-421. This action is proposed due to the commissioning of the Red Table, CO,

very high frequency omni-directional radio range and distance measuring equipment (VOR/DME).

DATES: Comments must be received on or before April 19, 1985.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA, Northwest Mountain Region, Attention: Manager, Air Traffic Division, Docket No. 84-ANM-27, Federal Aviation Administration, 17900 Pacific Highway South, C-68966, Seattle, WA 98168.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, D.C.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:

Burton Chandler, Airspace and Air Traffic Rules Branch (ATO-230), Airspace-Rules and Aeronautical Information Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8783.

SUPPLEMENTARY INFORMATION:**Comments Invited**

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing to FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 84-ANM-27." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket