designated by the Administrator of OIRA as a significant energy action. For any proposed significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposal be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use. This regulatory action will not have a significant adverse effect on the supply, distribution, or use of energy and is therefore not a significant energy action. Accordingly, DOE has not prepared a Statement of Energy Effects.

M. Congressional Review Act

As required by 5 U.S.C. 801, DOE will report to Congress on the promulgation of this rule. The report will state that it has been determined that the rule is a ''major rule'' as defined by 5 U.S.C. 804(2). As this IFR amends regulations concerning loan guarantees, it is exempt from the notice-and-comment and effective date delay requirements in the Administrative Procedure Act. *See* 5 U.S.C. 553(a)(2). As such, and in accordance with 5 U.S.C. 808(2), this IFR will be effective upon publication.

V. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this interim final rule; request for comments.

List of Subjects in 10 CFR Part 609

Administrative practice and procedure, Energy, Loan programs, Reporting and recordkeeping requirements.

Signing Authority

This document of the Department of Energy was signed on October 16, 2025, by Chris Wright, Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on October 24, 2025.

Treena V. Garrett,

Federal Register Liaison Officer, U.S. Department of Energy.

For the reasons stated in the preamble, DOE amends part 609 of chapter II of title 10 of the Code of Federal Regulations as set forth below:

PART 609—LOAN GUARANTEES FOR CLEAN ENERGY PROJECTS

■ 1. The authority citation for part 609 continues to read as follows:

Authority: 42 U.S.C. 7254, 16511–16517.

■ 2. Amend § 609.2 by:
■ a. Adding in alphabetical order a definition for ''Energy Dominance Financing Project'';
■ b. Revising the definition of ''Energy Infrastructure''; and
■ c. Removing the definition of ''Energy Infrastructure Reinvestment Project''.

The revision and addition read as follows:

§ 609.2 Definitions.

* * * * *

Energy Dominance Financing Project has the meaning set forth in § 609.3.

Energy Infrastructure means a facility, and associated equipment, used for enabling the identification, leasing, development, production, processing, transportation, transmission, refining, and generation needed for energy and critical minerals.

* * * * *

■ 3. Amend § 609.3 by:
■ a. Removing the words ''Energy Infrastructure Reinvestment'' and adding in their place the words ''Energy Dominance Financing'' in paragraph (a)(1)(iv) and paragraph (e) introductory text; and
■ b. Revising paragraph (e)(2).

The revision reads as follows:

§ 609.3 Title XVII eligible projects.

* * * * *

(e) * * *

(2) Either:

(i) Retools, repowers, repurposes, or replaces Energy Infrastructure that has ceased operations;

(ii) Enables operating Energy Infrastructure to increase capacity or output; or

(iii) Supports or enables the provision of known or forecastable electric supply at time intervals necessary to maintain or enhance grid reliability or other system adequacy needs; and

* * * * *

■ 4. Amend § 609.5 by revising paragraph (b)(7) to read as follows:

§ 609.5 Evaluation of applications.

* * * * *

(b) * * *

(7) With respect to applications for Energy Dominance Financing Projects, where the Applicant is an electric utility, such application fails to include an assurance that Applicant will pass on the financial benefit from the Guarantee to the customers of, or associated communities served by, the electric utility; or

* * * * *

§ 609.8 [Amended]

■ 5. Amend § 609.8(b)(2)(ii) by removing the words ''Energy Infrastructure Reinvestment'' and adding in their place the words ''Energy Dominance Financing''.

§ 609.10 [Amended]

■ 6. Amend § 609.10(b)(12) by removing the words ''Energy Infrastructure Reinvestment'' and adding in their place the words ''Energy Dominance Financing''.

[FR Doc. 2025–19675 Filed 10–27–25; 8:45 am]

BILLING CODE 6450–01–P

CONSUMER FINANCIAL PROTECTION BUREAU

12 CFR Part 1022

Fair Credit Reporting Act; Preemption of State Laws

AGENCY: Consumer Financial Protection Bureau.

ACTION: Interpretive rule.

SUMMARY: The Consumer Financial Protection Bureau (Bureau) is issuing this interpretive rule to clarify that the Fair Credit Reporting Act (FCRA) generally preempts State laws that touch on broad areas of credit reporting, consistent with Congress's intent to create national standards for the credit reporting system. This interpretive rule replaces a July 2022 interpretive rule that the Bureau withdrew in May 2025.

DATES: This interpretive rule is applicable on October 28, 2025.

FOR FURTHER INFORMATION CONTACT: Dave Gettler, Paralegal Specialist, Office of Regulations, at 202–435–7700. If you require this document in an alternative electronic format, please contact *CFPB_Accessibility@cfpb.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The Fair Credit Reporting Act (FCRA)—which was enacted in 1970 and has been amended several times since—sets forth certain requirements ''concerning the creation and use of consumer reports.'' [1] The FCRA has always preempted State law, but the scope of that preemption has changed

[1] *Spokeo, Inc.* v. *Robins,* 578 U.S. 330, 335 (2016).

over time. Since its inception, the FCRA has preempted State laws ''to the extent that those laws are inconsistent with any provision of'' the FCRA.[2] But in 1996, Congress emphasized that FCRA standards were national by adding a provision that further preempted any State regulation related to specifically enumerated subjects already regulated by the FCRA.[3] This was ''a strong preemption provision'' that was meant to ''to avoid a patchwork system of conflicting regulations.'' [4] This newly added subject matter preemption provision was originally designed to expire in 2004. But in 2003, Congress made it permanent,[5] looking to preserve the FCRA's ''national standards'' in order to promote economic growth.

The main preemption provision of the FCRA, 15 U.S.C. 1681t(b)(1), uses carefully crafted language to preempt several areas of State law that it intended to be governed solely by Federal law. The lead paragraph states that ''[n]o requirement or prohibition may be imposed under the laws of any State . . . with respect to any subject matter regulated under'' each of the eleven subparagraphs. Each subparagraph then includes a provision of the FCRA followed by the phrase ''relating to'' and then a description of the subject matter of that provision.

In full, section 1681t(b)(1) says that ''[n]o requirement or prohibition may be imposed under the laws of any State with respect to any subject matter regulated under'' certain sections or subsections of the FCRA:

(a) Subsection (c) or (e) of section 1681b, relating to the prescreening of consumer reports;

(b) Section 1681i, relating to the time by which a consumer reporting agency must take any action, including the provision of notification to a consumer or other person, in any procedure related to the disputed accuracy of information in a consumer's file, [with an exception for laws in effect on September 30, 1996];

(c) Subsections (a) and (b) of section 1681m, relating to the duties of a person who takes any adverse action with respect to a consumer;

(d) Section 1681m(d), relating to the duties of persons who use a consumer report of a consumer in connection with any credit or insurance transaction that is not initiated by the consumer and that consists of a firm offer of credit or insurance;

(e) Section 1681c, relating to information contained in consumer reports, [with an exception for laws in effect on September 30, 1996];

(f) Section 1681s–2, relating to the responsibilities of persons who furnish information to consumer reporting agencies [with exceptions for certain enumerated State laws];

(g) Section 1681g(e), relating to information available to victims under section 1681g(e);

(h) Section 1681s–3, relating to the exchange and use of information to make a solicitation for marketing purposes;

(i) Section 1681m(h), relating to the duties of users of consumer reports to provide notice with respect to terms in certain credit transactions;

(j) Subsections (i) and (j) of section 1681c–1 relating to security freezes; or

(k) Subsection (k) of section 1681c–1, relating to credit monitoring for active duty military consumers, as defined in that subsection.

On July 11, 2022, the Bureau published an interpretive rule purporting to analyze section 1681t(b)(1), finding that it has ''a narrow sweep,'' which allows for substantial State regulation of consumer reports and consumer reporting agencies.[6] The 2022 interpretive rule declared that ''section 1681t(b)(1) does not preempt all State laws relating to the content or information contained in consumer reports.'' [7] According to the interpretive rule, ''[t]he 'with respect to' phrase necessarily reaches a subset of laws narrower than those that merely relate to information contained in consumer reports.'' [8] The interpretive rule thus concluded that unless a State law specifically concerned a requirement or obligation addressed in the enumerated FCRA provision, it was not preempted.

For example, section 1681t(b)(1)(E) preempts State laws ''with respect to any subject matter regulated under'' section 1681c ''relating to information contained in consumer reports.'' Section 1681c states requirements on four topics relating to information contained in consumer reports: obsolescence, certain information about medical information furnishers, certain information about veterans' medical debt, and certain information that must be included in a consumer report. The interpretive rule reasoned that section 1681t(b)(1)(E) does not preempt State laws about subject matter regarding the content of or information on consumer reports beyond these topics. Applying this logic, the interpretive rule specifically identified a number of areas in which States could regulate consistent with the interpretive rule's view of the FCRA, including medical debt, rental information, and arrest records.[9]

The 2022 rule also examined 15 U.S.C. 1681t(b)(5), another preemption clause in the FCRA, and concluded that it too has a narrow scope.

On May 12, 2025, the Bureau withdrew a substantial number of guidance documents, including the 2022 interpretive rule.[10] Consistent with the May notice, the Bureau is now confirming the withdrawal of the 2022 interpretive rule. The Bureau is also clarifying that the FCRA generally preempts State laws that touch on broad areas of credit reporting, consistent with Congress's intent to create national standards for the credit reporting system.

II. Withdrawal of 2022 Interpretive Rule

When the Bureau withdrew its guidance documents in May 2025, the Bureau explained that it is ''committed to issuing guidance only where that guidance is necessary and would reduce compliance burdens rather than increase them.'' [11] The Bureau has reviewed the 2022 interpretive rule that interprets sections 1681t(b)(1) and 1681t(b)(5) of the FCRA, and the Bureau now confirms the withdrawal of that rule.

The 2022 rule is neither necessary nor does it reduce compliance burdens. The Supreme Court has recently reaffirmed that courts are the ultimate arbiters of statutory meaning,[12] and in particular ''agencies have no special authority to pronounce on pre-emption absent delegation by Congress.'' [13] It was unnecessary for the Bureau in 2022 to opine on the scope of preemption under the FCRA. The FCRA does not compel—or even authorize—the Bureau to provide its legally binding views on preemption. That stands in contrast to other statutes administered by the Bureau, which do delegate such authority to the Bureau.[14] Nor did the 2022 rule ease compliance burdens. To

[2] Public Law 91–508 sec. 601, 84 Stat. 1136 (later codified at 15 U.S.C. 1681t(a)).

[3] Public Law 104–208 sec. 2419, 110 Stat. 3009.

[4] *Ross* v. *FDIC,* 625 F.3d 808, 813 (4th Cir. 2010) (quotation marks and citation omitted).

[5] Public Law 108–159 sec. 711, 117 Stat. 2011.

[6] *The Fair Credit Reporting Act's Limited Preemption of State Laws,* 87 FR 41042 (July 11, 2022).

[7] *Id.* at 41044.

[8] *Id.* (internal quotation marks and citation omitted).

[9] *Id.* at 41044–41046.

[10] *Interpretive Rules, Policy Statements, and Advisory Opinions; Withdrawal,* 90 FR 20084 (May 12, 2025).

[11] *Id.* at 20085.

[12] *See Loper Bright Enters.* v. *Raimondo,* 603 U.S. 369, 412–13 (2024).

[13] *Wyeth* v. *Levine,* 555 U.S. 555, 577 (2009).

[14] 15 U.S.C. 1610(a) (allowing the Bureau to make preemption determinations under the Truth in Lending Act that carry the force of law).

the contrary (and as explained below), the 2022 rule sowed confusion into the credit reporting system by creating a patchwork quilt of federal and state laws competing to govern the marketplace.

Therefore, having completed its review, the Bureau has determined that the 2022 rule does not meet its current standards for the issuance of guidance. Additionally, consistent with its May 2025 guidance withdrawal notice, the Bureau does not believe that reliance interests compel the retention or reissuance of the 2022 rule. Parties understand that guidance, including the 2022 rule, is non-binding. Parties interested in the application of FCRA preemption to particular State laws can litigate such questions in court. The 2022 rule was not binding on the public or courts, and the withdrawal of the 2022 rule will have no effect on the legal status of any State law.

For these reasons, the Bureau is exercising its discretion to confirm the withdrawal of the 2022 interpretive rule on preemption under the FCRA.

III. The 2022 Rule's Interpretation of Section 1681t(b)(1) Was Flawed

As noted above, agencies do not have special expertise in interpreting preemption clauses, and the 2022 rule should not have done so with respect to the scope of preemption under the FCRA. In addition to withdrawing the 2022 rule, the Bureau now clarifies that its prior interpretation was manifestly wrong. The 2022 interpretive rule contradicted the plain text of section 1681t(b)(1), ignored the legislative history of the preemption clause, and reflected a misguided policy choice that would undermine the credit reporting system and credit markets.

A. Section 1681t(b)(1) Has a Broad Sweep

The plain text of a preemption clause will ''necessarily contain[ ] the best evidence of Congress' preemptive intent.'' [15] The 2022 interpretive rule failed to properly interpret the plain text of section 1681t(b)(1) and erroneously concluded that it had a narrow sweep. The plain text leads to the opposite conclusion: Congress's use of broad and categorical language shows that it intended the clause to apply expansively.

As noted above, the relevant statutory text says that ''[n]o requirement or prohibition'' may be imposed by a State ''with respect to any subject matter regulated under'' a specified provision of the FCRA, which provision is then followed by the phrase ''relating to'' and then a description of the subject matter of that provision. For example, section 1681t(b)(1)(E) says that States can impose ''[n]o requirement or prohibition . . . with respect to any subject matter regulated under . . . section 1681c, relating to information contained in consumer reports.''

In crafting section 1681t(b)(1), Congress chose a series of broad and expansive phrases. To begin with, the phrase ''[n]o requirement or prohibition'' in the context of preemption ''sweeps broadly'' and applies to all State laws, whether enacted by a legislature or decreed by a common-law court.[16] Next, a phrase like ''with respect to'' also ''has a broadening effect, ensuring that the scope of a provision covers not only its subject but also matters relating to that subject.'' [17] The word ''any,'' when ''[r]ead naturally,'' also has ''an expansive meaning, that is, one or some indiscriminately of whatever kind.'' [18] A ''subject matter'' is generally defined as an ''issue presented for consideration'' or ''the thing in dispute.'' [19] Finally, ''the phrase 'relate to' in a preemption clause express[es] a broad pre-emptive purpose,'' and is typically used by Congress ''to reach any subject that has a connection with, or reference to, the topics the statute enumerates.'' [20]

Read together, these ''deliberately expansive'' [21] terms can mean only one thing: Congress meant to occupy the field of consumer reporting and displace State laws within that field. By preempting laws respecting the ''subject matter'' of some of FCRA's broadest provisions—and then defining that subject matter in broad terms through the ''relating to'' clause—Congress plainly meant to sweep away most State regulation in the area.

For example, section 1681t(b)(1)(E) says that States can impose ''[n]o requirement or prohibition . . . with respect to any subject matter regulated under . . . 1681c,'' that is ''relating to information contained in consumer reports.'' So section 1681t(b)(1)(E) first identifies that laws touching on the subject matter of 1681c are preempted. It proceeds to say that these are laws ''relating to information contained in consumer reports,'' and the fact that this phrase is the verbatim title of 1681c is a clear indication that Congress is clarifying the subject matter of 1681c. And that subject matter is broad—it covers the inclusion of information in consumer reports. All State laws on that subject are preempted.

As another example, section 1681t(b)(1)(F) preempts any State law ''with respect to any subject matter regulated under section 1681s–2 of this title, relating to the responsibilities of persons who furnish information to consumer reporting agencies.'' This provision identifies that laws touching on the subject matter of 1681s–2 are preempted. It proceeds to say that these are laws ''relating to the responsibilities of persons who furnish information to consumer reporting agencies,'' and again that phrase is the verbatim title of 1681s–2. Thus, any State law that concerns the responsibilities of furnishers is preempted.

Notably, Congress knew how to craft narrower preemption clauses in the FCRA. For example, in a separate clause, the FCRA preempts any State law ''with respect to the frequency of any disclosure under section 1681j(a) [the free annual credit report].'' [22] Had Congress meant for section 1681t(b)(1) to have a similarly narrow sweep, Congress would have chosen that kind of narrow, targeted language. But it purposefully chose a broader approach with section 1681t(b)(1), and the scope of preemption under section 1681t(b)(1) must accordingly be interpreted expansively.

B. The 2022 Interpretive Rule's Reading of Section 1681t(b)(1) Was Flawed

The 2022 interpretive rule musters no justification for reading section 1681t(b)(1) in a limited manner. It claimed that if Congress had meant to occupy the field so broadly, it would have used more categorical language. However, as explained above, it would be hard to imagine language more categorical than section 1681t(b)(1).

[15] *Chamber of Commerce of U.S.* v. *Whiting,* 563 U.S. 582, 594 (2011) (internal quotation marks and citation omitted). When a statute contains an express preemption clause—like section 1681t(b)(1)—there is no need to invoke a presumption against preemption. *Puerto Rico* v. *Franklin California Tax-free Tr.,* 579 U.S. 115, 125 (2016).

[16] *Cipollone* v. *Liggett Grp., Inc.,* 505 U.S. 504, 521 (1992) (plurality op.).

[17] *Lamar, Archer & Cofrin, LLP* v. *Appling,* 138 S. Ct. 1752, 1760 (2018) (interpreting ''respecting''); *see also United States* v. *Tohono O'Odham Nation,* 563 U.S. 307, 312 (2011) (''in respect to'').

[18] *United States* v. *Gonzales,* 520 U.S. 1, 5 (1997) (quoting Webster's Third New International Dictionary 97 (1976)).

[19] *Subject matter,* Black's Law Dictionary (12th ed. 2024).

[20] *Coventry Health Care of Missouri, Inc.* v. *Nevils,* 581 U.S. 87, 96 (2017) (internal quotation marks and citations omitted).

[21] *Pilot Life Ins. Co.* v. *Dedeaux,* 481 U.S. 41, 46 (1987).

[22] 15 U.S.C. 1681t(b)(4).

Instead of giving proper effect to the broad language of section 1681t(b)(1), the 2022 interpretive rule wrongly concluded that the ''with respect to'' phrase has a limited effect. According to that rule, ''the phrase 'with respect to any subject matter regulated under' is an important limiting factor'' on the scope of preemption'' and ''reaches a subset of laws narrower than those that merely relate to information contained in consumer reports. It narrows the universe of preemption only to those laws that concern the subject matter regulated under the enumerated FCRA sections.'' [23] Thus, according to the 2022 rule, ''if a State law does not 'concern' the subject matters regulated under the FCRA sections specified in section 1681t(b)(1), it is not preempted by that clause.'' [24]

The case on which the interpretive rule principally relied, *Dan's City Used Cars, Inc.* v. *Pelkey,*[25] does not support the rule's conclusion that the ''with respect to'' clause must be construed narrowly. In *Dan's City,* the Supreme Court considered the preemption clause in the Federal Aviation Administration Authorization Act (FAAAA), which prohibits enforcement of State laws ''related to a price, route, or service of any motor carrier . . . with respect to the transportation of property.'' [26] The Court compared the FAAAA's preemption clause with that of the Airline Deregulation Act of 1978 (ADA), which displaces any State law ''related to a price, route, or service of an air carrier.'' [27] In comparing the FAAAA's preemption clause to the ADA's, the Court noted that the ''with respect to'' phrase ''massively limits the scope of preemption ordered by the FAAAA.'' It was ''not sufficient that a state law relates to the 'price, route, or service' of a motor carrier in any capacity; the law must also concern a motor carrier's 'transportation of property.' '' [28]

Contrary to the interpretive rule, *Dan's City* merely ''offered the straightforward observation that the addition of the second requirement in the FAAAA preemption provision 'massively limits the scope of preemption' of that provision *in comparison to the ADA's preemption provision*—not because 'with respect to' carries some inherent limiting meaning but because the FAAAA reduced the scope of preemption vis-à-vis the ADA *by doubling* the boxes a law must check before it is preempted.'' [29] Nothing in *Dan's City* requires that the ''with respect to'' phrase be given an artificially narrow meaning.

The 2022 interpretive rule's reading of section 1681t(b)(1) also contradicts the canon against surplusage, which provides that ''every word and every provision is to be given effect [and that n]one should needlessly be given an interpretation that causes it to duplicate another provision or to have no consequence.'' [30] Rather than giving full effect to every part of section 1681t(b)(1), the 2022 rule effectively reads ''the relating to'' clause out of the statute. If—as the 2022 rule says—the scope of preemption under section 1681t(b)(1) is bounded by the requirements or obligations in the specific section enumerated in the ''with respect to'' clause, then the ''relating to'' cause has no work to do. It is entirely descriptive and redundant. By contrast, under a proper reading of the provision, the ''with respect to'' and ''relating to'' clauses complement each other: the ''with respect to'' clause identifies the FCRA provision whose subject matter is preempted and the ''relating to'' clause defines the scope of that subject matter.

Many courts evaluating the scope of FCRA preemption have not read section 1681t(b)(1) as narrowly as the 2022 interpretive rule. Instead, they have properly interpreted FCRA's preemption clause to broadly preempt the general subject matter that is identified by the clause. For instance, in *Premium Mortgage Corp.* v. *Equifax, Inc.,*[31] the plaintiff mortgage lender brought State-law claims against several consumer reporting companies for selling pre-screened reports containing trigger leads to other mortgage lenders. The claims included misappropriation of trade secrets, fraud, unfair competition, tortious interference with contract, breach of contract, and unjust enrichment. The court concluded that these claims were preempted because they ''relate[ ] to the prescreening of consumer reports.'' [32] The court did not ask whether the claims addressed requirements or obligations in section 1681b(c) or (e). Likewise, in *Ross* v. *FDIC,*[33] the Tenth Circuit determined that the plaintiff's State law claims against a bank for furnishing inaccurate information to a credit bureau were preempted by section 1681t(b)(1)(F) because they ''concern[the] reporting of inaccurate credit information to CRAs.'' Again, the court did not perform a granular review of section 1681s–2.[34]

In these cases, the fact that a State law touched upon the same subject matter as the one addressed by the FCRA preemption clause was enough for the court to make a preemption determination; there was no need to specifically interrogate which actions or ideas were discussed in the FCRA provision itself. These holdings cannot be squared with the logic of the 2022 rule.[35]

C. The Legislative History of Section 1681t(b) Also Confirms Its Broad Sweep

Legislative history ''need not be consulted when, as here, the statutory text is unambiguous.'' [36] But even the legislative history of section 1681t(b) confirms that Congress intended to broadly displace State laws on consumer reporting.

As noted above, when the FCRA was enacted in 1970, it preempted only conflicting State laws. Congress expanded FCRA preemption when it first enacted section 1681t(b) in 1996, reaching a wide swath of State laws that were more protective than the FCRA. However, in those 1996 amendments, Congress clarified that this broader provision would not apply to any State law that ''(A) is enacted after January 1, 2004; (B) states explicitly that the provision is intended to supplement [the FCRA]; and (C) gives greater protection to consumers than is

[23] 87 FR at 41044 (citations and quotation marks omitted).

[24] *Id.*

[25] 569 U.S. 251 (2013).

[26] 49 U.S.C. 14501(c)(1).

[27] 49 U.S.C. 41713(b)(1).

[28] *Dan's City,* 569 U.S. at 261.

[29] *Aargon Agency, Inc.* v. *O'Laughlin,* 70 F.4th 1224, 1248 (9th Cir. 2023) (VanDyke, J. dissenting).

[30] *Nielsen* v. *Preap,* 586 U.S. 392, 414 (2019).

[31] 583 F.3d 103 (2d Cir. 2009) (per curiam).

[32] *Id.* at 106.

[33] 625 F.3d at 813.

[34] *See also Scott* v. *First Southern National Bank,* 936 F.3d 509, 522 (6th Cir. 2019) (State law claims were preempted because they ''concern [the] reporting of consumer credit information to consumer reporting agencies''); *Okocha* v. *HSBC Bank USA, N.A.,* 700 F. Supp. 2d 369, 375 (S.D.N.Y. 2010). (''at a minimum and pursuant to the plain language of the statute, Section 1681t preempts state law with respect to Furnisher conduct governed by Section 1681s–2''); *Loomis* v. *U.S. Bank Home Mortg.,* 912 F. Supp. 2d 848, 854 (D. Ariz. 2012) (a State law was preempted because the State law at issue and 1681s–2 ''both address the responsibilities of a provider of credit information to credit reporting agencies.''); *Phillips* v. *Fort Fam. Invs. & Pro. Debt Mediation, Inc.,* 2025 WL 57483, at *3 (M.D. Fla. Jan. 9, 2025) (State law claims preempted because they ''relate to duties of FFI and PDM as furnishers of information'').

[35] Other courts have reached the same conclusion as the 2022 interpretive rule about the scope of section 1681t(b)(1). *See Aargon Agency,* 70 F.4th at 1235; *Consumer Data Indus. Ass'n* v. *Frey,* 26 F.4th 1, 7 (1st Cir. 2022); *Galper* v. *JP Morgan Chase Bank, N.A.,* 802 F.3d 437, 446 (2d Cir. 2015). But those decisions are flawed for the same reasons as the 2022 interpretive rule, incorrectly relying on *Dan's City* for the proposition that the ''with respect to'' clause limits the scope of preemption. For the reasons discussed above, the ''with respect to'' clause does no such thing.

[36] *United States* v. *Woods,* 571 U.S. 31, 46 n.5 (2013).

provided under [the FCRA].'' [37] In 2003, however, Congress made permanent section 1681t(b), deleted the sunset-provision applying to laws giving ''greater protection to consumers,'' and added a new preemption clause.[38] In short, since 1970 Congress has continually expanded FCRA preemption.

The congressional debates that led to the 1996 and 2003 laws also reflect this pattern of expanding FCRA preemption. When section 1681t(b) was first added to the FCRA in 1996, Members of Congress made clear that the preemption clause was intended to usher in a national credit reporting system. As noted by Senator Richard Bryan (one of the sponsors of the Senate version of the 1996 amendments), ''When representatives of the business community approached us about the need for uniformity in this area, they stressed the need to preempt multiple States' laws while a new Federal law demonstrated its effectiveness.'' [39] As Representative Castle explained, to meet that need the 1996 amendments to the FCRA ''recognize[d] that the credit industry is now a complex, nationwide business'' and established ''a uniform, national standard for credit reporting.'' [40] The broad preemption under section 1681t(b) would ''allow businesses to comply with one law on credit reports rather than a myriad of State laws,'' thereby ''benefit[ting] consumers and businesses.'' [41] In other words, the preemption clause was specifically intended to avoid ''a patchwork of State laws.'' [42]

But Congress also implemented a sunset-provision for the preemption clause in case a national credit reporting system did not ultimately result in the expected benefits. The probationary period ''should provide adequate time to demonstrate whether these Federal standards are sufficient'' [43] and ''test the viability of a uniform national standard.'' [44] But ''[if] after 8 years the Federal law is not adequately protecting consumers,'' Congress ''expect[ed] States to step in once again and do the job.'' [45]

In 2003, Congress decided to make permanent section 1681t(b) in order to ''enhance the national credit reporting system.'' [46] As Representative Kanjorski noted, the 1996 amendments had ''created a nationwide consumer credit system that works increasingly well,'' by ''expand[ing] access to credit, lower[ing] the price of credit, and accelerat[ing] decisions to grant credit.'' [47] The key to this nationwide credit system was ''the establishment of the uniform system that preempts States from enacting miscellaneous and potentially conflicting requirements regarding credit reporting.'' [48] The '''miracle of instant credit' created by our national credit reporting system has given American consumers a level of access to financial services and products that is unrivaled anywhere in the world,'' said Representative Oxley, adding that ''[t]he protection and growth of these services, as provided for in this legislation, are critical to the success of our economy.'' [49] Senator Shelby, one of the sponsors of the 2003 bill, argued that the legislation was ''creating permanent national standards'' for the ''national credit reporting system,'' which he also noted was important to ''our financial markets and economy as a whole.'' [50]

Thus, as the conference report for the 2003 law noted, the amendments would ''ensure the operational efficiency of our national credit system by creating a number of preemptive national standards.'' [51] Congress recognized the ''significant concern . . . that [these national standards] preclude states from adopting more robust consumer protections'' but nonetheless concluded that ''[n]ational credit markets are necessary to meet business and consumer demands and are very important to the efficient operation of the United States economy.'' [52]

In summary, the legislative history of both the 1996 and 2003 amendments corroborates the plain text of section 1681t(b)(1). Congress clearly intended for that preemption clause to have a broad sweep.

D. The 2022 Interpretive Rule Undermines the Functioning of the Consumer-Reporting Market

Although it is clear that Congress' intention in enacting section 1681t(b) was to ''enhance'' the national credit reporting system through national standards, the 2022 interpretive rule risked fracturing that system by allowing each State to create its own standards.

In enacting the FCRA, Congress recognized that ''[t]he banking system is dependent upon fair and accurate credit reporting'' and that ''[c]onsumer reporting agencies have assumed a vital role in assembling and evaluating consumer credit and other information on consumers.'' [53] The FCRA's purpose was thus ''to require that consumer reporting agencies adopt reasonable procedures for meeting the needs of commerce for consumer credit, personnel, insurance, and other information in a manner which is fair and equitable to the consumer, with regard to the confidentiality, accuracy, relevancy, and proper utilization of such information.'' [54]

Between the passage of the FCRA and the preemption amendments, the American economy became more nationalized, supported in large part by the development of a lending and credit-reporting system that crossed State borders. As the conference report to the 2003 amendments noted, ''we live in a mobile society in which 40 million Americans move annually. The FCRA permits consumers to transport their credit with them wherever they go.'' [55] Congress wanted to promote ''national credit markets,'' and a national credit-reporting system was of ''seminal importance . . . for economic development.'' [56] As Congress recognized, ''these uniform national standards . . . operate in a very fundamental way to expand the opportunity for consumers to get access to credit and a broad range of financial services. What they really do is allow you to take your reputation with you as you travel around the country.'' [57]

This purpose—and its accompanying benefits to the economy—risked being sacrificed by the 2022 interpretive rule's reading of the FCRA's preemption clause, with harmful consequences to consumers. Under the interpretive rule's view of the FCRA, there can be 50-plus State regulatory regimes governing credit reporting in addition to the national standards established by Federal law. Having to comply with those disparate regimes would impose substantial compliance costs on consumer reporting agencies, users of credit reports, and furnishers of credit report information, turning what is currently a cohesive national market into dozens of regional markets. It

[37] Public Law 104–208 sec. 2419(2), 110 Stat. 3009.

[38] Public Law 108–159 sec. 711, 117 Stat. 2011.

[39] 140 Cong. Rec. S. 8942 (Sen. Bryan May 2, 1994).

[40] 140 Cong. Rec. 25871 (Sept. 27, 1994).

[41] *Id.*

[42] 140 Cong. Rec. 25867 (Sept. 27, 1994) (Rep. Thomas).

[43] 140 S. 8942 (Sen. Bryan May 2, 1994).

[44] 140 Cong. Rec. 25866 (Rep. Kennedy).

[45] *Id.*

[46] H.R. Rep. 108–396 (conference report).

[47] 149 Cong. Rec. 21742 (Sept. 10, 2003).

[48] *Id.*

[49] 149 Cong. Rec. 30771 (Nov. 21, 2003).

[50] 149 Cong. Rec. 26890 (Nov. 4, 2003).

[51] H.R. Rep. 108–396.

[52] S. Rep. 108–166.

[53] 15 U.S.C. 1681(a)(1), (3).

[54] 15 U.S.C. 1681(b).

[55] H.R. Rep. 108–396.

[56] S. Rep. 108–166.

[57] *Id.* (quoting witness testimony of John Snow).

would lead to ''a patchwork system of conflicting regulations,'' which the preemption clause was meant to ''avoid.'' [58] The content of a consumer's credit report could vary depending on the State in which they resided. Thus, instead of the unified national credit market that we have today, lending and underwriting decisions would have to be based in part on where a borrower lives, since the information available to a creditor making a lending decision could be better or worse depending on the borrower's State. The utility of credit reports would be undermined because lenders would no longer be able to accurately compare consumers across the country. Thus, instead of being able to ''transport their credit with them wherever they go,'' consumers could be stuck with the credit options where they live. As a result, the cost of credit would be likely to increase under the 2022 rule's interpretation. For instance, if some State laws were to limit the types of adverse information that could be included in a credit report, lenders may not be able to accurately identify the riskiest borrowers, which in turn could lead to a cross-subsidy by good credit risk borrowers for worse credit risk borrowers. Or for example, if regulation of credit reports is fragmented by State, lenders may charge more for credit in the States where regulation diverges from the national standard in order to account for the reduced accuracy of credit reports in those States.

E. At a Minimum, the 2022 Interpretive Rule Wrongly Concluded That States Can Regulate the Presence of Certain Categories of Information on a Consumer Report

Even if the 2022 interpretive rule were correct that the phrase ''with respect to any subject matter regulated under . . . section 1681c'' in section 1681t(b)(1)(E) means the granular topics addressed by section 1681c (and not the general subject matter of ''information contained in consumer reports''), the interpretive rule was still wrong to conclude that States can validly regulate the presence of certain categories of information—such as medical debt or arrest records—on a consumer report.

Section 1681c provides guidelines for how long information can remain on a credit report, including a general seven-year limitation for any ''adverse item of information.'' [59] The interpretive rule reasoned that ''although *how long* the specific types of information listed in section 1681c may continue to appear on a consumer report is a subject matter regulated under section 1681c, what or when items generally may be *initially* included on a consumer report is not a subject matter regulated under section 1681c.'' [60] Thus, under the interpretive rule, ''State laws relating to what or when items generally may be initially included on a consumer report—or what or when certain types of information may initially be included on a consumer report—would generally not be preempted by section 1681t(b)(1)(E).'' [61] According to the rule, States could thus forbid consumer reporting agencies from reporting entire categories of information, such as medical debt, arrest records, rental arrears, or convictions.[62]

That reasoning is flawed, even on the 2022's interpretive rule's own terms. The presence of information on a credit report is clearly a subject matter regulated under section 1681c. To be sure, section 1681c mainly addresses this subject matter through obsolescence periods, and the 2022 rule recognizes that section 1681t(b)(1)(E) prohibits States from changing the seven-year obsolescence period for negative information on a credit report. But how long information can remain on a credit report and whether the information can be included in the credit report in the first place are two points on the same continuum, and the 2022's artificial distinction between them is arbitrary. To take an extreme example, if a State established a one-day obsolescence period for medical debt information (*i.e.,* such information can remain on a report only for a day), such a law would be preempted under the 2022 rule. But if a State were to prohibit medical debt from appearing on a report in the first place, such a law would not be preempted under the prior rule. It would make no sense to forbid the former but allow the latter.

IV. Regulatory Matters

This is an interpretive rule issued under the Bureau's authority to interpret the FCRA, including under section 1022(b)(1) of the Consumer Financial Protection Act of 2010, which authorizes guidance as may be necessary or appropriate to enable the Bureau to administer and carry out the purposes and objectives of Federal consumer financial laws, such as the FCRA.[63]

As guidance, this interpretive rule does not have the force or effect of law. It has no legally binding effect, including on persons or entities outside the Federal government.

The Office of Information and Regulatory Affairs within the Office of Management and Budget (OMB) has determined that this action is not a ''significant regulatory action'' under Executive Order 12866, as amended.

Pursuant to the Congressional Review Act,[64] the Bureau will submit a report containing this interpretive rule and other required information to the United States Senate, the United States House of Representatives, and the Comptroller General of the United States prior to the interpretive rule taking effect. OMB has designated this interpretive rule as not a ''major rule'' as defined by 5 U.S.C. 804(2).

The Bureau has determined that this interpretive rule does not contain any new or substantively revised information collection requirements that would require approval by OMB under the Paperwork Reduction Act.[65]

Russell Vought,

Acting Director, Consumer Financial Protection Bureau.

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[58] *Ross* v. *FDIC,* 625 F.3d at 813.

[59] 15 U.S.C. 1681c(a).

[60] 87 FR at 41044.

[61] *Id.*

[62] *Id.* at 41044–41046.

[63] 12 U.S.C. 5512(b)(1).

[64] 5 U.S.C. 801 *et seq.*

[65] 44 U.S.C. 3501 *et seq.*

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 250312–0037; RTID 0648–XF196]

Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 620 in the Gulf of Alaska

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for pollock in Statistical Area 620 in the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the annual 2025 total allowable catch of pollock in Statistical Area 620 in the GOA.

DATES: Effective 1200 hours, Alaska local time (A.l.t.), October 25, 2025, through 2400 hours, A.l.t., December 31, 2025.

FOR FURTHER INFORMATION CONTACT: Abby Jahn, 907–586–7228.