Response #	Summary of Comment	Response	Comment #s	Bates Label / Transcript CCPA_RM1_15 DAY
ARTICLE 1. GENERAL PROVISIONS				
§ 7001. Definitions				
- **Comments generally about § 7001**				
1.	Comment proposes definition of Blockchain technology and Blockchain transaction.	No change has been made because the comment is not related to any modification to the text for the 15-day comment period.	W114-1	0065-0068
2.	Comment proposes to change the term "Collected" to "processed." The current definition of "Collected" under the CPRA statute is more limited in scope, the broader term of "processed" would capture all potential data handling circumstances.	No change has been made in response to this comment. Commenter's proposed change is unnecessary and would not be more effective in carrying out the purpose and intent of the CCPA. CCPA's definitions make clear that service providers and contractors necessarily "collect" personal information. A "service provider" is, inter alia, "a person that processes personal information on behalf of a business and that receives from or on behalf of the business consumer's personal information for a business purpose pursuant to a written contract…" (Civ. Code, § 1798.140(ag)); a "contractor" is, inter alia, "a person to whom the business makes available a consumer's personal information for a business purpose pursuant to a written contract with the business..." (Civ. Code, § 1798.140(j)(1); and "collect" includes "obtaining, receiving, and accessing…by any means" (Civ. Code § 1798.140(f)). The regulations' use of "Collected pursuant to its written contract with the business" is consistent with the above definitions. They make clear how service providers' and contractors' obligations apply to personal information (i.e., to clarify which personal information their obligations pertain to).	W116-16	0084
3.	Comment proposes revising the definition of "sell, selling, sale, sold." Regulations here should specifically allow the following scenarios relating to the selling or sharing of personal information supplied to a financial institution regardless of whether that information	No change has been made in response to this comment. Civil Code § 1798.140(ad) sets forth the definition for "sell," "selling," and "sale." The Agency cannot implement regulations that alter or amend a statute or enlarge or impair its scope.	W153-5	0422-0424

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	was provided for a personal, family, or household loan, or a business loan.			
4.	Comment suggests that there needs to be clarification that certain information that is necessary for a financial transaction should not fall under the definition of the term "personal information" as set forth in the proposed regulations. Comment proposes a new definition of personal information.	No change has been made in response to this comment. Civil Code § 1798.140(v) sets forth the definition for "personal information." The Agency cannot implement regulations that alter or amend a statute or enlarge or impair its scope.	W153-6	0424
5.	Comment suggests that the term "dark pattern" needs more clarity if companies are to be held to a compliance standard.	No change has been made in response to this comment. Civil Code § 1798.140*(l)* sets forth the definition of "dark pattern." Moreover, § 7004 provides substantial guidance, including examples, regarding what may be considered a dark pattern. The comment does not provide sufficient specificity to the Agency to make any modifications to the text.	W154-9	0431
6.	Comment suggests the Agency clarify both the threshold criteria and the phrase "doing business in California" within the definition of "business."	No change has been made because the comment is not related to any modification to the text for the 15-day comment period.	W108-7 W108-8	0030-0031 0031
- **§ 7001(i)**				
7.	The Agency should clarify that "disproportionate efforts" beyond the 12-month window are "those additional efforts which require time and expense on the part of the business, but do not, in the reasonable discretion of the business, meaningfully add to the consumer's understanding of the business's historical practices."	No change has been made in response to this comment. The comment's proposed change is not more effective in carrying out the purpose and intent of the CCPA. As stated in the ISOR, the definition is necessary to operationalize the exceptions the CCPA provides to complying with certain CCPA requests when it requires "disproportionate effort." *See* ISOR, p. 4; *see also* Civ. Code §§ 1798.105(c)(1), (c)(3), 1798.130(a)(2)(B), 1798.185(a)(8)(A), (a)(9). It clarifies when a business, service provider, or contractor can use this exception, and also prevents them from abusing this exception by claiming that everything requires "disproportionate effort" on their part. As explained in the FSOR, the Agency has modified	W107-5	0022

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		the subsection to explain that "disproportionate effort" is when the time and/or resources expended to respond to the request significantly outweighs the reasonably foreseeable impact to the consumer by not responding to the request. *See* FSOR, pp. 2-3. The Agency has determined that the comment's proposed modification is not more effective in carrying out the purpose and intent of the CCPA because it gives businesses more discretion and does not appropriately balance businesses' ability to deny a request if compliance is impossible or would require disproportionate effort with the danger of businesses abusing this exception by claiming that everything requires "disproportionate effort." *See* ISOR, p. 4.		
8.	Comment suggests that the definition of "disproportionate effort" be modified to acknowledge that consumers may have the ability, such as through third party tools, to process data that is not in a readily accessible format. Comment recommends modifying the last sentence of the definition in the following manner: "A business, service provider, contractor, or third party that has failed to put in place adequate processes and procedures to receive and process comply with ~~consumer~~ requests of consumers or their agents in accordance with the CCPA and these regulations cannot claim that responding to a ~~consumer's~~ request by a consumer or their agent requires disproportionate effort."	No change has been made in response to this comment. The Agency has not addressed this issue at this time. The Agency has prioritized the drafting of regulations that operationalize and assist in the immediate implementation of the law. Further analysis is required to determine whether a regulation on this issue is necessary.	W109-1	0034-0035

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9.	Comment suggests that there is a disproportionate effort in retrieving data on archived drives and that it may introduce unacceptable levels of risk that outweigh the reasonably foreseeable harm to consumers from not responding. Comment suggests adding "the technical limitations" or "the technical risks" as a factor to consider when determining if the time and resources businesses would need to leverage in order to respond outweighs the "reasonably foreseeable material impact" to the consumer by not responding.	No change has been made in direct response to this comment. The Agency has not addressed this issue at this time. The Agency has prioritized the drafting of regulations that operationalize and assist in the immediate implementation of the law. Further analysis is required to determine whether a regulation on this issue is necessary.	W142-2	0330
10.	Comment expresses concerns that the changes to the definition of "disproportionate effort" will make it easier for businesses to refuse to fulfill valid consumer requests to know and correct information, and to refuse to pass those requests on to third parties with which they have shared information. The updated definition shifts the balance of power even more in favor of businesses by allowing businesses to decline to comply with requests based on their evaluation of the "reasonably foreseeable impact to the consumer by not responding." It also remains unclear what the consumer's	No change has been made in response to this comment. As stated in the ISOR, defining "disproportionate effort" is necessary to operationalize the exception to complying with certain CCPA requests when it requires "disproportionate effort." *See* ISOR, p. 4; *see also* Civ. Code §§ 1798.105(c)(1), 1798.105(c)(3), 1798.130(a)(2)(B), 1798.185(a)(8)(A), 1798.185(a)(9). The modifications further clarify for businesses, service providers, contractors, and third parties the factors to consider when making and explaining this determination, as required under §§ 7022(b)(3), 7023(f), and 7024(h). FSOR, p. 34. The modifications benefit both consumers and businesses. The newly added factors and examples are beneficial to consumers by ensuring that businesses, service providers, contractors, and third parties do not abuse the exception by claiming that everything, including setting up basic processes for receiving and responding to requests, requires "disproportionate effort." *Id.* at 35. They are "beneficial to businesses, particularly small businesses that lack privacy resources, by providing	W145-2	0348-0349

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	appeal rights will be when a business informs a consumer that their request will not be fulfilled because the effort to the business is disproportionate to the benefit they will receive.	them guidance on how to comply with the law." *Id.* With regard to the consumer's appeal rights when a business informs a consumer that their request will not be fulfilled because the effort to the business is disproportionate to the benefit they will receive, the Agency has not addressed this issue at this time. The Agency has prioritized the drafting of regulations that operationalize and assist in the immediate implementation of the law. Further analysis is required to determine whether a regulation on this issue is necessary. However, the Agency notes if a consumer believes a business has violated the CCPA, they may file a consumer complaint with the Office of the Attorney General at https://www.oag.ca.gov/contact/consumer-complaint-against-business-or-company. Beginning July 1, 2023, the Agency is tasked with enforcing the CCPA through administrative enforcement actions. As set forth in § 7033(a), consumers may file sworn complaints with the Enforcement Division via the electronic complaint system available on the Agency's website at https://cppa.ca.gov/ or submitted in person or by mail to the headquarters office of the Agency.		
11.	Comment suggests that since the failure to "put in place adequate processes and procedures" negates the ability to assert that a request involves disproportionate effort, more guidance be provided as to specific "processes and procedures" that would be considered "adequate."	No change has been made in direct response to this comment. The "adequate processes and procedures" requirement clarifies that a business cannot claim disproportionate effort simply because they do not have the necessary processes and procedures for responding to consumer requests. The Agency has determined that this regulation balances businesses' ability to deny a request if compliance is impossible or would require disproportionate effort with the danger of businesses abusing this exception by simply stating it is impossible or involves disproportionate effort. *See* ISOR, p. 4. No further clarification is necessary at this time.	W157-1	0450-0451
- **§ 7001(p)**				
12.	Comment seeks clarification on definition of "nonbusiness." The example and	No change has been made in response to this comment. The regulation is reasonably clear. The sentence to which the comment objects	W130-8	0228

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	reasoning given in the definition of a "nonbusiness" in regard to "non-profit" is inconsistent with the statute.	provides examples of entities that may be nonbusinesses, but the first sentence is clear that "'Nonbusiness' means a person or entity that does not meet the definition of a 'business' as defined in Civil Code section 1798.140, subdivision (d)." The Agency has determined that no further clarification is needed at this time. Whether a particular person or entity is a "nonbusiness" would require a fact-specific analysis. To the extent that the commenter seeks additional clarity, the commenter should consult with an attorney who is aware of all pertinent facts and relevant compliance concerns.		
- **§ 7001(u)**				
13.	Comment requests more clarification in either § 7001(r), now § 7001(u), or § 7025(b) to confirm that a "do not track" signal is not sufficient to be considered a request to opt-out of data selling and sharing.	No change has been made in response to this comment. The regulation is reasonably clear. An opt-out preference signal must communicate the consumer choice to opt-out of the sale and sharing of personal information and must comply with the requirements set forth in § 7025(b). Whether a specific signal complies with these requirements is a fact-specific determination. *See also* FSOR, App. A, Response # 33. No further clarification is needed at this time.	W133-2	0254
- **§ 7001(ff)**				
14.	Comment recommends adding to the definition of "right to know" the rights already provided in Civil Code § 1798.110(a)(3). These include the business purposes for which consumer data is used by the business, such as what algorithms are being used and how they are being used with users' personal information.	No change has been made because the comment is not related to any modification to the text for the 15-day comment period.	W109-2	0035

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- **§ 7001(kk)**				
15.	Comment appreciates the proposed modification to the term "unstructured."	The Agency appreciates this comment of support. No change has been made in response to this comment. The comment concurred with the proposed modification, so no further response is required.	W157-2	0451
16.	Comment suggests that the term "unstructured data" needs more clarity.	No change has been made in response to this comment. Section 7001(kk) provides a definition for "unstructured." The regulation is reasonably clear. The comment does not provide sufficient specificity to the Agency to make any modifications to the text	W154-9	0431
§ 7002. Restrictions on the Collection and Use of Personal Information				
- **Comments generally about § 7002**				
17.	Comments support removal of "average consumer" standard. One comment notes that the term "average consumer" still appears in § 7027(a) and 7027(m)(1).	The Agency appreciates this comment of support. No change has been made in response to these comments. The comments concurred with the proposed modifications, so no further response is required. The Agency's reasons for the modifications are set forth in the FSOR. *See* FSOR, pp. 3-6. Lastly, the use of the term "average consumer" in § 7027(a) and 7027(m)(1) aligns with the statutory requirements in Civ. Code § 1798.121.	W116-2 W134-1 W157-3	0081 0263 0451
18.	Comments support modifications to § 7002, such as efforts to clarify the reasonable expectations that businesses should consider when they determine whether to process the consumer's personal information without consent. Comments also express support for deletion of data minimization illustrative examples because they were overly narrow and would threaten innovation.	The Agency appreciates this comment of support. No change has been made in response to this comment. The comment concurred with the proposed modifications, so no further response is required. The Agency's reasons for the modifications are set forth in the FSOR. *See* FSOR, pp. 3-11. The Agency does not agree with the comment's reasons for supporting the modifications.	W112-2 W152-17	0047 0411-0412
19.	Comments state that the Agency's revisions to § 7002 importantly acknowledge issues such as the role of	The Agency appreciates this comment of support. No change has been made in response to this comment. The comment concurred with the proposed modifications, so no further response is required. The	W137-1 W156-1	0291 0440-0441

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	privacy disclosures, as well as consumer's relationship with a business, and/or measures the business has taken to minimize the risk of consumer harm. Comment also supports modifications' alignment with longstanding privacy principles and laws in other jurisdictions and use of reasonable consumer expectations.	Agency's reasons for the modifications are set forth in the FSOR. *See* FSOR, pp. 3-11.		
20.	Comment states that there should be a clear exception for certain information that an employer is required to collect and report to a government or other institutions such as banks and insurance companies. If the law broadly states that employers will be prohibited from collecting personal information on their employees, comment questions how employers can comply with other obligations without being in violation of CCPA. Comment states that government agencies such as Employment Development Department (EDD) and Homeland Security require employers to collect and/or report social security numbers, other identification information on EDD tax forms and the Form I-9. In addition, banks and insurance companies require reporting of certain employee personal information.	No change has been made in response to this comment. Under Civil Code § 1798.145(a)(1), the obligations imposed on businesses by CCPA shall not restrict a business's ability to comply with federal, state, or local laws or comply with a court order or subpoena to provide information, among other exemptions. Whether this exemption applies to an employer's collection of employees' personal information and reporting of that information to a government or other institution appears to raise specific legal questions that would require a fact-specific determination. The commenter should consult with an attorney who is aware of all pertinent facts and relevant compliance concerns. An exception within § 7002 is unnecessary, because businesses whose collection and use do not satisfy § 7002(b) and (c)'s requirements may still obtain consumers' consent under § 7002(e) to render their processing compatible.	W111-1	0044

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21.	Comments argue that § 7002's requirements exceed the Agency's authority, and deviate from CCPA's statutory requirements, which permit collecting, using, retaining, and/or sharing personal information so long as the business gives a notice at collection; and are undefined by law, ambiguous, requires extensive analysis even for primary collection purposes, and subject to a broad range of potential interpretations and highly subjective determinations. Comments request that the test be struck from § 7002, or that the Agency remove this section and revisit in future rulemaking. Alternatively, comments suggest the use a disclosure-based standard. The CCPA also provides clear standards for permissible data processing tied to consumer notice. The statute's highly specific disclosure requirements ensure businesses act in furtherance of the purpose of helping consumers become more informed counterparties in the data economy and promote competition. The Agency should permit businesses to process personal data in line with specified processing purposes disclosed to consumers, and only require	No change has not been made in response to this comment. The CCPA provides the Agency with the authority to adopt regulations to further the purposes of the CCPA, which include: providing consumers with the ability to control their personal information; placing consumers on a more equal footing with businesses when negotiating with businesses to protect their rights and how businesses use their personal information; limiting businesses' collection of personal information to specific, explicit, and legitimate disclosed purposes; and prohibiting collection, use, or disclosure of consumers' personal information for reasons incompatible with those purposes. *See* Civ. Code §§ 1798.185(a)(10), (a)(22), (b). As explained in the FSOR, § 7002 explains how a business must comply with each statutory requirement within Civil Code § 1798.100(c) and furthers the intent and purposes of CCPA. *See* FSOR, pp. 3-11. Moreover, the comment proposes an interpretation of the CCPA that is inconsistent with the language, structure, and intent of the CCPA. A notice-only requirement does not comply with the statutory requirements of Civil Code § 1798.100(c), which requires a disclosed purpose to be "compatible with the context in which it was collected, and not further processed in a manner that is incompatible with those purposes." There is no notice-at-collection exception to this requirement. For processing that does not meet the requirements of § 7002(a), consent (which must be a "freely given, specific, informed, and unambiguous indication of the consumer's wishes") is the appropriate mechanism to render that processing compatible, because consent ensures that consumers reasonably expect and agree to the processing. Although a new notice at collection is required under Civil Code § 1798.100(a), it is insufficient by itself to comply with Civil Code § 1798.100(c)'s statutory requirements for collection and processing. To comply with Civil Code § 1798.100(c)'s requirements, businesses must comply with § 7002. The use of a notice-based standard also is not more	W116-3 W116-4 W116-5 W122-1 W122-2 W122-3 W122-14 W124-4 W124-6 W125-2 W128-6 W128-8 W134-6 W136-1 W139-1 W147-3	0081, 0090 0081, 0090 0081-0082, 0090-0092 0140 0140-0141 0141 0151 0168-0169 0169-0170 0179-0180 0211-0212 0212 0267-0268 0286-0287 0306-0308 0373-0374

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	compatibility with that notice or consideration of factors for undisclosed purposes. This approach is consistent with other privacy frameworks, and the CCPA's disclosure and opt-out structure. Turning CCPA into an opt-in law would not further the intent and purposes of the statute.	effective in furthering the intent and purposes of CCPA. As detailed further in the FSOR, notices are insufficient tools by themselves to provide consumers with an understanding of and control over the purposes of collection and processing of their personal information. *See* FSOR, pp. 9-10. Lastly, § 7002's factors provide reasonably clear guidance to businesses on how to comply with its requirements. These factors are also informed by academic scholarship on how consumers understand and expect data collection and processing. *See* FSOR, pp. 3-11. In addition, the factors in § 7002(b), (c), and (d) are not ambiguous. Businesses can reasonably assess each of these factors, such as what personal information they are collecting, how they have made disclosures to consumers, and the minimum personal information necessary to achieve a given purpose. These factors also provide practical examples to guide businesses on the assessment of each factor, while providing flexibility for these factors to be applied to many factual situations and across industries.		
22.	Amend this section to require: (1) social media companies that provide messaging services to delete users' private messages from their servers/systems if all users of that conversation have deleted their accounts with the service (outside of messages in public spaces); (2) if social media services make it hard for active users to access private communication with other users who are no longer with the service (or other circumstances identified by comment), the business must delete the private communication from their	No change has been made in response to this comment. The revised regulation appropriately addresses comment's concerns regarding length of retention for private communications. Section 7002(b) articulates factors in the assessment of whether the purpose for which personal information was collected or processed is consistent with the reasonable expectations of the consumer(s) whose personal information is collected or processed. This assessment is based, in part, on the relationship between the business and consumer and the type, amount, and nature of the personal information. Section 7002(c) explains how to determine the compatibility of a disclosed purpose with the context in which the personal information was collected. Lastly, regardless of whether a business complies with § 7002(b) or (c), or obtains consent under § 7002(e), the business's retention must comply with the "reasonably necessary and proportionate" requirements under §	W110-1	0039-0041

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	system/servers; and (3) social media services should enable end-to-end encryption by default for at least private communications. These changes would make clear that businesses cannot retain sensitive information on their systems/servers if all users of that private conversation are not with that service, and they need to delete information that cannot be anonymized or de-identified.	7002(d), which is based in part on the existence of additional safeguards for personal information to address possible negative impacts on consumers considered by the business. These requirements ensure that businesses are only retaining personal information, including sensitive personal information, in compliance with Civil Code § 1798.100(c)'s requirements for retention. In addition, businesses must also comply with the CCPA's deletion requirements under Civil Code § 1798.105 and these regulations. With respect to comment's encryption recommendation, the CCPA addresses this point. Businesses must comply with the reasonable security requirements for personal information under Civil Code § 1798.100(e). How all these requirements apply specifically to the scenarios raised by the comment is a fact- and context-specific determination. The regulations provide general guidance for CCPA compliance. Further analysis is required to determination whether additional regulations on these issues are necessary.		
23.	The regulation is unclear about whether a business can use information collected during a transaction for subsequent direct marketing or subsequent targeted advertising, even if it is disclosed in a privacy statement. The regulation departs from the CCPA by turning it into an opt-in regime for secondary marketing use, and by deviating from the CCPA's opt-out regime for targeted marketing.	No change has been made in response to this comment. The regulation is reasonably clear. A business's use of personal information collected during a transaction for subsequent direct marketing or subsequent targeted advertising must comply with § 7002, which implements Civil Code § 1798.100(c). Section 7002(b) articulates factors in the assessment of whether the purpose for which personal information was collected or processed is consistent with the reasonable expectations of the consumer(s) whose personal information is collected or processed. Section 7002(c) explains how to determine the compatibility of a disclosed purpose with the context in which the personal information was collected. Lastly, regardless of whether a business complies with § 7002(b) or (c), or obtains consent under § 7002(e), the business's retention must comply with the "reasonably necessary and proportionate" requirements under § 7002(d). Whether a business's use	W120-11	0122-0123

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		of personal information for direct marketing or targeted advertising complies with these requirements is a fact-specific determination. Lastly, the requirements in § 7002 do not depart from the CCPA's requirements but rather explain how to comply with Civil Code § 1798.100(c). Similarly, § 7002 does not deviate from CCPA's opt-out requirements for sharing. Rather, § 7002 works together with CCPA's out-out requirements. *See* FSOR, App. A, Response # 53.		
24.	Section 7002 requires businesses to presuppose consumer preferences, which result in diminished choice and autonomy. The modified regulations also would stifle innovation by subjecting product and service innovation to consent, which is not workable.	No change has been made in response to this comment. Consumers' choice and autonomy require that their personal information is collected and processed for purposes consistent with their reasonable expectations. The factors within § 7002 enable determination of whether the purpose is consistent with reasonable expectations of the consumer. These are not subjective determinations but are based on clear factors that must be assessed together in an objective manner (i.e., from the perspective of a reasonable consumer, rather than a particular individual). In addition, the Agency does not believe the modified regulations stifle innovation. When businesses do not comply with § 7002(b) or (c), they may still obtain consumer consent under § 7002(e) to render their processing compatible. The alignment with consumer expectations and consent as needed appropriately balances consumer choice and autonomy with business innovation.	W122-2	0140-141
25.	The proposed rules suggest an opt-in framework for processing that does not adequately satisfy the factor tests, which raises challenges, such as the consent fatigue and anti-competition concerns associated with GDPR.	No change has been made in response to this comment. The comment fails to provide sufficient specificity about its consent fatigue concerns. The article cited by the comment on this issue also does not support the proposition that § 7002's requirements will lead to consent fatigue. Rather, the article identifies the need for processes for obtaining consent to avoid consent fatigue. This issue is adequately addressed by § 7004, which prohibits mechanisms that are frustrating to consumers that are presented with consent options, such as confusing language. Similarly, the comment fails to provide sufficient specificity about its	W122-1	0140

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		anti-competition concerns, and the material cited by the comment does not discuss this issue. Regardless, Agency does not believe that the proposed regulations raise anti-competition concerns, as they apply equally to any business subject to CCPA that seeks to collect, use, share, and/or retain consumers' personal information.		
26.	Proposed rules provide examples of the reasonable expectations standard without referencing any basis for those conclusions, such as consumer testing or research, or observations of actual consumer behavior. This leads to highly subjective determinations by businesses.	No change has been made in response to this comment. The proposed rules are consistent with consumers' understandings and expectations of how their personal information will be used for data collection and processing and informed by scholarship on these issues. *See* FSOR, pp. 3-6. The examples are also necessary to address comments received by businesses seeking guidance on how to determine the expectations of a consumer. Lastly, the reasonable expectations analysis is an objective assessment. It does not require an assessment of whether a particular consumer actually expected the collection or processing, but whether a reasonable consumer whose personal information is being collected or processed would expect that collection or processing.	W122-2	0140
27.	The Agency should create interoperability with other frameworks, such as GDPR's compatibility guidelines, to ease businesses' compliance with the global patchwork of privacy laws, and should include positive examples that illustrate a reasonable path to compliance.	No change has been made in response to this comment. Section 7002 is reasonably clear and includes practical examples to provide businesses with guidance on how to comply with the requirements within Civil Code § 1798.100(c). The requirements and examples are meant to apply to a wide-range of factual situations and across industries. The Agency has made every effort to utilize existing privacy frameworks in the regulations where appropriate. However, the CCPA has different requirements, definitions, and scope from GDPR. Section 7002 is consistent with and necessary to carry out the purpose and intent of the CCPA, including to ensure that consumers "control the use of their personal information" and that businesses should only collect consumer's personal information for "specific, explicit, and legitimate disclosed purposes" and not for reasons incompatible with those purposes.	W124-7	0170

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28.	Proposed modifications to § 7002 create overly prescriptive requirements that conflict with CPRA intent. The regulations should provide guidance on how the requirements for this section should be understood by businesses and consumers and incorporate reasonable and proportionate standards to craft principles that balance innovation and consumer privacy. However, the proposed regulations neglect these considerations by proposing a complicated and subjective multi-factor balancing test that would apply to all collect, use, retention, and/or sharing of personal information. The open-ended nature of these requirements would place businesses in a state of uncertainty regarding whether they comply and could leave consumers with a lack of clarity regarding expectations for how their personal information will be collected, used, retained, or shared. Comment recommends deletion of multi-factor balancing test.	No change has been made in response to this comment. Section 7002 does not conflict with CCPA's intent. Section 7002 articulates how businesses must comply with each of the requirements within Civil Code §1798.100(c). As explained in the FSOR, § 7002 also furthers the intent and purposes of CCPA, including by providing consumers with the ability to control their personal information and placing consumers on a more equal footing with businesses when negotiating with businesses to protect their rights and how businesses use their personal information. *See* FSOR, pp. 3-11. In addition, § 7002 contain clear requirements, including factors with practical examples, to guide compliance, such as how to assess the purpose for collection or processing and the compatibility of another disclosed purpose with the context in which the personal information was collection. The factors concerning consumer expectations are consistent with how consumers understand and expect data collection and processing. *See id.* Section 7002 also supports innovation by providing that when businesses' collection, use, retention, and/sharing of personal information does not meet the requirements of § 7002(b) or (c), the business may still obtain consumers' consent to render that processing compatible. The Agency also does not believe these requirements are open-ended or place businesses in a state of uncertainty. The use of factor-based assessments and practical examples assists businesses with compliance, as these factors are meant to apply to a wide range of factual situations and across industries. Lastly, deletion of the multi-factor test would not be more effective in furthering the intent and purpose of CCPA. Without the proposed rules, businesses will be left in uncertainty about how to comply with each of the requirements within Civil Code § 1798.100(c). Insufficient compliance would harm consumers, as businesses' collection, use, retention, and/or sharing of their personal information may not comply with the processing requirements of CCPA.	W132-1	0240

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29.	Comment disagrees with use of multi-factor "reasonable" consumer expectations test in § 7002. Comment agrees that consumer expectations should be relevant in how organizations use data but suggests that a multi-factor consumer-expectations test is more properly part of a compatibility framework governing new uses of previously-collected data. Instead, notices to consumers at collection should generally determine how organizations can use the data they collect from consumers, because they meaningfully shape consumers' expectations about how the organization collecting their data will use it. Notices let consumers know what to expect from a company, and from those notices, consumers can make decisions about whether they want to interact with the company. This is the approach taken by GDPR's Art. 13 and Art. 6 and Colorado's draft privacy regulations under Rule 6.08(A) and (C), which place a multi-factor test involving consumer expectations squarely within a post-collection compatibility analysis for new data uses. The Agency's rulemaking would thus align with these privacy regimes. Without notices as an anchor	No change has been made in response to this comment. Comment's proposed alternative is not more effective in furthering the intent and purposes of CCPA. Comment agrees that consumer expectations should be relevant in how organizations use data but argues that notices meaningfully shape consumers' expectations about how the organization collecting their data will use it. Comment offers no support for this argument, which runs counter to academic scholarship on this issue indicating that notices by themselves are insufficient in shaping consumer expectations. *See*, e.g., Strahilevitz & Kugler, Is Privacy Policy Language Irrelevant to Consumers?, 45 J. Legal Stud. S69 (2016); *see* also FSOR, App. C, Response # 21. The factors used in § 7002(b) are necessary for businesses to appropriately determine when the purpose for collection or processing is consistent with consumer expectations, as detailed further in the FSOR. *See* FSOR, p. 3. Further, the regulations are reasonably clear, and include practical examples to provide guidance to businesses and avoid regulatory ambiguity. The requirements and examples are also meant to apply to a wide-range of factual situations and across industries. The Agency has made every effort to utilize existing privacy frameworks in the regulations where appropriate. However, the CCPA has different requirements, definitions, and scope from GDPR and the Colorado Privacy Act. Section 7002 is consistent with and necessary to carry out the purpose and intent of the CCPA, including to ensure that consumers "control the use of their personal information" and that businesses should only collect consumer's personal information for "specific, explicit, and legitimate disclosed purposes" and not for reasons incompatible with those purposes.	W134-1 W134-2	0263-0265, 268 0264-0266, 268

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	for generally determining permissible data uses, the proposed regulations create unacceptable regulatory ambiguity for companies.			
30.	Section 7002 contains provisions that CPPA may not have statutory authority to promulgate. Section 7002(a)'s "average consumer" standard may be outside of CPPA's remit, as the statute's use of the phrase in some places and not others suggest that the standard was not to be used for determining reasonably necessary and proportionate for the collection and use of personal information. The average consumer standard does not have a basis in CCPA, and may permit personal information collection, usage, and disclosure beyond what is reasonably necessary and proportionate. Using a reasonably necessary and proportionate standard would convey that the minimum amount of personal information needed to provide a service or product is the target they need to meet, not the more expansive average consumer standard. An average consumer standard can also result in a moving target for businesses, as the standard can change over time.	No change has been made in response to this comment. Portions of this comment appear to be moot, as the proposed modifications have removed the term "average" from § 7002(a), which now restate the statutory requirements under Civil Code § 1798.100(c) and cross-reference § 7002(b) and (c) to guide businesses on compliance. In addition, as detailed in the FSOR, the use of a reasonable expectations-based standard is consistent with the statutory requirements within Civil Code § 1798.100(c) for collection, use, retention, and/or sharing, and furthers the purposes and intent of CCPA, which include providing consumers with meaningful control over their personal information. *See* FSOR, p. 3-6. The factors and practical examples within § 7002(b) provide significant guidance to businesses on how to determine what is consistent with a consumer's reasonable expectations. The Agency has authority to promulgate these rules under Civ. Code § 1798.185(a)-(b). Lastly, as detailed in the FSOR, § 7002(d) clarifies that "reasonably necessary and proportionate" is based in part on the minimum personal information that is necessary to achieve the purpose identified in § 7002(a)(1)-(2) or for which the business obtains consent. *See* FSOR, p. 8-9.	W149-1	0382

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31.	The regulations should ensure the continued functionality and effectiveness of safety and security technology applications. The proposed regulations, specifically incongruity between §§ 7002 and 7027(m), will create ambiguities and could impede the functionality and reduce the benefits to businesses and consumers of security systems and hamper investigations. Clarification is needed between sections 7002 and 7027(m) concerning the use of information for security purposes, because the proposed modifications to § 7002 appear to require that businesses either obtain consent or comply with § 7002(b) and (c), without additional contextual considerations. These restrictions appear incongruous with the exceptions in § 7027(m), which recognize the importance of certain security-related processing activities. Comment proposes modifying § 7002 to add clarification that personal information collected and used for security and investigative purposes in § 7027(m)(3)-(4) would be considered consistent with the reasonable expectations of the consumer(s) whose personal information is collected or processed.	No change has been made in response to this comment. Section 7002 is not incongruous with § 7027(m). Section 7002 clarifies each of the requirements under Civil Code § 1798.100(c) for a business's collection, use, retention, and/or sharing of personal information. Section 7027(m) addresses when businesses are not required to post a notice of right to limit or provide a method for submitting a request to limit. These requirements do not conflict. A business must comply with § 7002's requirements before collecting, using, retaining, and/or sharing the consumer's personal information. Assuming that the business has complied with § 7002 and the business is using or disclosing sensitive personal information, § 7027(m) addresses whether the business has an exception to the notice and request requirements for the right to limit under CCPA. In addition, comment's proposed modification is not more effective in furthering the intent and purpose of CCPA. Whether a business may use personal information for security purposes is effectively addressed by § 7002. The business's use must comply with either § 7002(b) or § 7002(c), or the business must obtain consent under § 7002(e). Regardless of whether the business's use complies with § 7002(b), (c), or (e), it must also comply with § 7002(d)'s requirements. The requirements address relevant considerations, such as the relationship between the consumer and the business and the type, amount, and nature of the personal information, which are consistent with how consumers use and expect data collection and processing. *See* FSOR, pp. 3-8. Comment's proposed clarification would undermine consumer control over their personal information, such as by allowing businesses to indefinitely retain their personal information for security and investigative purposes regardless of how long consumers reasonably expect their personal information to be retained for such purposes.	W143-1	0336-0337

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32.	Section 7002 creates regulatory ambiguity by applying a standard that gives the Agency too much discretion and subjectivity to ignore privacy disclosures and substitute its own judgment about the reasonable expectations of the consumer and compatibility, which was not contemplated by voters or the APA. The standard must be tied to disclosures made to the consumer and/or compatibility with prior disclosures, which is what CCPA contemplates. The current factors mandate extensive analysis even for primary collection purposes and give unequal weight to factors other than the business's disclosures to the consumer. They also make compliance difficult to achieve, particularly for small- and medium-sized businesses, and for companies making good-faith efforts to build proactive compliance. If the reasonable expectations test is retained in the regulations, comment recommends notices and disclosures to consumers should be the determining factor for consumers' expectations.	No change has been made in response to these comments. The regulations provide reasonably clear requirements for businesses to follow to comply with Civ. Code § 1798.100(c). As explained in the FSOR, the reasonable expectations analysis is an objective test, and each of the factors are necessary to determine consumers' reasonable expectations. Each of the factors in § 7002(b) also provide practical examples to clarify how businesses can assess each factor. In addition, the concern about the Agency being provided too much discretion and substituting its own judgment is unfounded. The Agency must use the same requirements in Civil Code § 1798.100(c) and § 7002 to assess business's compliance, which provide appropriate parameters for the Agency's discretion. Lastly, the proposed disclosure-based standard is not more effective in furthering the intent and purposes of CCPA. A disclosure-based approach would undermine consumers' control over their personal information and would place them on unequal footing with businesses when negotiating with businesses over the use their personal information. As detailed in the FSOR, notices are insufficient tools by themselves to provide consumers with an understanding of and control over the purposes of collection and processing of their personal information. *See* FSOR, p. 3-6; *see also* FSOR, App. A, Response # 21. Consumer expectations are guided by context, which the factors in § 7002(b) operationalize into objective factors for businesses to determine whether the purpose for collection or processing is consistent with the reasonable expectations of the consumer.	W116-4 W122-2 W124-4 W125-2 W134-5 W136-1 W139-1 W152-17	0081, 0090 0140-0141 0168-0169 0179-0180 0266-0267 0286-0287 0306-0308 0411-0412
33.	The examples provided in § 7002(b) do not translate to the collection of personal information where there is a physical	No change has been made in response to this comment. Section 7002 is reasonably clear about whether a business can use personal information for a security purpose and when the personal information can be	W143-1	0336-0337

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	context, where data is often collected for security purposes from other sources or indirect observation. There is ambiguity as to whether a business can use data for a security purpose where such data is commonly collected originally for a non-security purpose, from a source other than the consumer, or from general observations of the consumer. In addition, obtaining consent for each person subject to security monitoring or investigations is not only impracticable, but also runs counter to the purpose of the use of the technology. At the same time, § 7027(m)'s exceptions provide flexibility by including information used to resist malicious, deceptive, fraudulent, or illegal actions or ensure the physical safety of natural persons. The Agency should clarify when processing of sensitive personal information that may not be limited by request also satisfies the requirements under § 7002(b) to provide consistency and avoid unnecessary confusion.	collected in a physical context or from other sources. A business's collection or use must comply with § 7002(b) or § 7002(c), which focuses on the strength of the link between the reasonable expectations of the consumer at the time of collection and the other disclosed purpose. If neither § 7002(b) nor § 7002(c) applies, the business must obtain consent under § 7002(e). Whether a business complies with § 7002(b), (c), or (e), the business must comply with § 7002(d)'s requirements to ensure that its use is reasonably necessary and proportionate. In addition, no clarification is necessary at this time about how § 7002(b) and § 7027(m) work together, as the regulations are reasonably clear. Section 7002 clarifies each of the requirements under Civ. Code, § 1798.100(c) for a business's collection, use, retention, and/or sharing of personal information. Section 7027(m) addresses when businesses are not required to post a notice of right to limit or provide a method for submitting a request to limit. A business must comply with § 7002's requirements before collecting, using, retaining, and/or sharing the consumer's personal information. Assuming that the business has complied with § 7002 and the business is using or disclosing sensitive personal information, § 7027(m) addresses whether the business has an exception to the notice and request requirements for the right to limit under CCPA. Lastly, whether the business needs to obtain consent from a person subject to security monitoring or investigations likely requires a fact-specific determination. The commenter should consult with an attorney who is aware of all pertinent facts and relevant compliance concerns. Regardless, consent is the appropriate mechanism to render processing that does not satisfy § 7002(b) or (c)'s requirements compatible under Civil Code, § 1798.100(c).		
- **§ 7002(a)**				
34.	Comment recommends deleting the language in § 7002(a)(1) that cross-	No change has been made in response to this comment. Section 7002(a) clearly sets out the framework by which one is to understand this	W121-2	0126-0127

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	references the requirements in § 7002(b) because it is unnecessary. If the Agency adopts the comment's proposed modifications to § 7002(b), it would be clear to businesses that the purposes for processing should consider the reasonable expectations of the consumer based on relevant factors apparent in the context of the interaction with the consumer. In addition, because § 7002(b) already instructs businesses to consider the factors, the language in § 7002(a)(1) is redundant.	statutory provision, which makes it easier for consumers and businesses to understand. The cross-reference in § 7002(a) to the requirements in § 7002(b) is necessary to clarify how § 7002(a)(1) and § 7002(b) work together. Comment's proposed deletion of this cross-reference may create confusion for businesses about how the different subsections of § 7002 are to be read together.		
- **§ 7002(b)**				
35.	Section 7002(b) leaves ambiguous whether the reasonable expectations of the consumer relate only to the transfer or sale of collected or processed data to third parties or the collection, processing, and use of consumer data by the business for its own purposes in ways that may be hidden from the consumer/user of the business. Section 7002(b)'s definition of reasonable expectations should include consumers' reasonable expectations around a business's own use of collected data.	No change has been made in response to this comment. The regulation is reasonably clear based on the plain meaning of the words. As stated further in § 7002(b), the purpose for which the consumer's personal information was "collected" or "processed" must be consistent with the reasonable expectations of the consumer(s) whose personal information is collected or processed. CCPA defines "collect" as "buying, renting, gathering, obtaining, receiving, or accessing any personal information pertaining to a consumer by any means. This includes receiving information from the consumer, either actively or passively, or by observing the consumer's behavior." Civ. Code § 1798.140(f). "Processing" is defined as "any operation or set of operations that are performed on personal information or on sets of personal information, whether or not by automated means." *Id.* § 1798.140(y). The plain meaning of these definitions address what types of purposes must be consistent with the reasonable expectations of the consumer(s) whose personal information is collected or processed. Accordingly, if a business	W109-3	0036

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		is "using" collected personal information, this use is subject to § 7002(b)'s reasonable expectations requirement when it involves any operation or set of operations that are performed on personal information or sets of personal information. The Agency has determined that no further clarification is needed at this time.		
36.	Consumers should have the opportunity to become aware of the algorithms that businesses apply to their personal information and have the ability to access their personal data via open APIs. Section 7002(b) should be modified in a future rulemaking to specifically address the issue of consumer's reasonable expectations to be able to understand the use of algorithms powered by their own personal information.	No change has been made in response to this comment. The comment requests the Agency consider modifications in a future rulemaking, and not the proposed regulations in the current rulemaking. The Agency has not addressed algorithms at this time. The Agency has prioritized the drafting of regulations that operationalize and assist in the immediate implementation of the law. With respect to access to personal information generally, CCPA already provides consumers with the right to know that includes, among other things, knowing the business or commercial purpose for collecting, selling, or sharing personal information and disclosure (upon request) of specific pieces of personal information that a business has collected about the consumer. Civ. Code § 1798.110(a)(5).	W109-3	0036
37.	A multi-factor consumer expectations-test for post-collection new uses of data is a better fit within CPRA's rulemaking grant. CPRA suggests that consumer-expectations rulemaking should focus on new "business purposes … for which businesses … may use consumers' personal information," or on "other notified purposes" beyond the purposes described a collection.	No change has been made in response to this comment. The CCPA provides the Agency with the authority to adopt regulations to further the purposes of the CCPA, which include: providing consumers with the ability to control their personal information; placing consumers on a more equal footing with businesses when negotiating with businesses to protect their rights and how businesses use their personal information; limiting businesses' collection of personal information to specific, explicit, and legitimate disclosed purposes; and prohibiting collection, use, or disclosure of consumers' personal information for reasons incompatible with those purposes. (*See* Civ. Code, §§ 1798.185(a)(10), (a)(22), (b).) As explained in the FSOR, § 7002 explains how a business must comply with each statutory requirement within § 1798.100(c), and furthers the intent and purposes of CCPA. *See* FSOR, pp. 3-11. The	W134-4	0266

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		proposed alternative is not more effective in furthering the intent and purposes of CCPA. Limiting the consumer expectations-assessment to post-collection uses would diminish consumer control over their personal information because the requirements in § 7002(b) would be left unaddressed at the time of collection. Even at the time of collection, the purpose for collection or processing should be consistent with the reasonable expectations of the consumer to ensure consumers have control over their personal information.		
38.	A consumer expectations standard leads to value judgments that will disfavor innovation and lead to inconsistent enforcement. The factor tests are subjective and almost impossible to apply to complex technical processing. It also threatens to prohibit even otherwise legally permissible processing, such as creating new services or improving existing services. The open-ended nature of these requirements places businesses in a constant state of uncertainty regarding their compliance. This is also problematic for consumers, as it leaves them with lack of clarity regarding expectations for how their personal information will be collected, used, retained, or shared. It also gives too little weight to disclosures, which inextricably influence a consumer's reasonable expectations.	No change has been made in response to this comment. The reasonable expectations analysis is an objective assessment. It does not require an assessment of whether a particular consumer actually expected the collection or processing, but whether a reasonable consumer whose personal information is being collected or processed would expect that collection or processing. In addition, the Agency does not believe that the regulation would stifle businesses or innovation. Section 7002 supports innovation by providing that when businesses' collection, use, retention, and/sharing of personal information does not meet the requirements of § 7002(b) or (c), the business may still obtain consumers' consent to render that processing compatible. The Agency also does not believe the factors are difficult to apply to technical processing. Each of the factors under § 7002(b) are easily ascertained by a business, such as their relationship with the consumer and the type, nature, and amount of personal information that the business seeks to process. How a business makes disclosures is part of this assessment, but is not the sole factor, which is consistent with academic scholarship on consumer expectations. *See* FSOR, p. 3. Section 7002(b) identifies clear factors that must be assessed together in an objective manner (i.e., from the perspective of a reasonable consumer, rather than a particular individual). Businesses and consumers will not have lack of clarity or uncertainty about consumers' reasonable expectations, as these factors	W139-1	0306-0308

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		make clear what consumers' reasonable expectations are based upon. The Agency will use these same factors in assessing a business's compliance, which prevents inconsistent enforcement. Lastly, the comment's interpretation of the regulation is inconsistent with the regulation's language. Section 7002(b) does not prohibit processing. Section 7002(b) articulates factors in the assessment of whether the purpose for which personal information was collected or processed is consistent with the reasonable expectations of the consumer(s) whose personal information is collected or processed. If a business seeks to use personal information to create new services or improve existing services, it must comply with § 7002(b) or § 7002(c)'s requirements. If neither applies to the business's processing, the business must obtain consent from the consumer under § 7002(e). Regardless of whether the business complies with § 7002(b), (c), or (e), it must comply with the "reasonably necessary and proportionate" requirements under § 7002(d). Section 7002's requirements do not prohibit uses of personal information, but rather articulate how a business must comply with each of the requirements articulated in Civil Code, § 1798.100(c).		
39.	The examples provided in § 7002(b) of the draft regulations require their underlying assumptions to be expressly stated in order not to be misleading. These examples are misleading without the inclusion of certain assumptions critical to their understanding, namely that the other uses they deem unreasonable were either not disclosed to the user or do not meet the requirements of § 7002(c). Without inclusion of these assumptions, the effect	No change has been made in response to this comment. The comment's interpretation of the regulation is inconsistent with the regulation's language. As explained in the FSOR, the examples illustrate how businesses can apply each factor within § 7002(b). *See* FSOR, pp. 3-6. The examples are not based on the assumptions listed by the comment. For example, whether a use is disclosed to the consumer does not by itself satisfy the requirements of § 7002(b). The specificity, explicitness, prominence, and clarity of disclosures is one factor within § 7002(b). The factors within § 7002(b) must be assessed together to determine whether a given purpose is consistent with the reasonable expectations of the consumer. Similarly, whether a use meets the requirements of § 7002(c) is a separate analysis with its own factors. Comment's	W130-1 W130-3	0222-0223 0224

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	of these examples is to improperly imply that the consumer's intent in interacting with or using a business's product or service is the only relevant factor in the formation of their reasonable expectations, regardless of the disclosed purposes of collection, even if the additional use was properly disclosed and meets the requirements in § 7002(c). It is not practical for businesses to fit only those uses that a particular consumer wants to make of it or the parts of its disclosed functionality that a consumer chooses to employ. Comment proposes corresponding edits to § 7002(b).	proposed modifications would create confusion for businesses about how to apply the § 7002(b) factors. In addition, the proposed modifications are not more effective in furthering the intent and purposes of CCPA. A disclosure-based approach would undermine consumers' control over their personal information and would place them on unequal footing with businesses when negotiating with businesses over the use their personal information. As explained in the FSOR, notices are insufficient tools by themselves to provide consumers with an understanding of and control over the purposes of collection and processing of their personal information. *See* FSOR, pp. 3-6. Consumer expectations are guided by context, which the factors in § 7002(b) operationalize into objective factors for businesses to determine whether the purpose for collection or processing is consistent with the reasonable expectations of the consumer.		
40.	With respect to § 7002(b), comment proposes revisions to make clear that the factors are neither exclusive nor exhaustive, so businesses may consider other factors that may be applicable in a particular context, such as (1) the necessity of personal information in providing the products or services to the consumer; (2) whether the consumer submits personal information to the business or whether the personal information is gathered or collected based on the consumer's activity; and (3) the stated or reasonably apparent intent of the consumer when engaging with the	No change has been made in response to this comment. Comment's proposed modification to make § 7002(b)(1) a non-exclusive or non-exhaustive list is not more effective in furthering the intent and purposes of CCPA. Commenters requested clarity about how to determine the reasonable expectations of the consumer. By making the list non-exhaustive, businesses would have less clarity on how to determine the consumer's reasonable expectations and what factors should be considered. In addition, given several comments' inconsistent interpretation of CCPA as only requiring notice to render processing compatible, a non-exhaustive list may lead businesses to misconstrue CCPA's requirements for processing under Civil Code, § 1798.100(c) by focusing on notices rather than important contextual factors, such as their relationships with consumers and the source of the personal information. Lastly, the proposed additional factors are already addressed in § 7002. For example, the necessity of personal information	W121-3	0127

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	business. Comment proposes corresponding modifications.	in providing products or services to the consumer is part of the reasonably necessary and proportionate analysis under § 7002(d), which requires that businesses use the minimum personal information necessary to achieve a given purpose. Similarly, whether the consumer directly submits personal information to the business is part of the analysis under § 7002(b)(3), which addresses the source of the personal information. Lastly, the stated or reasonably apparent intent of the consumer would be part of the analysis of a business's relationship with the consumer under § 7002(b)(1). The Agency has determined that no further clarification is needed at this time.		
41.	Comment recommends that no one factor is determinative or weighted more heavily than another, and that the Agency clarify some of the examples provided in support of the factors so that businesses can understand how the factors should be considered.	No change has been made in response to this comment. The regulation is reasonably clear that the reasonable expectations of the consumer is based on the factors in § 7002(b), which must be considered together. Section 7002(b) also contains practical examples that illustrate how each factor can be applied. The Agency has determined that no further clarification is needed at this time.	W121-3	0127
42.	The removal of illustrative examples in § 7002(b) makes it easier for businesses to mislead and confuse consumers, reduces the clarity of the regulations, and weakens the protections of CCPA. The multi-element tests leave as much in question as a reasonableness standard. For example, relying on the strength of the link in § 7002(c) introduces an additional layer of uncertainty that is compounded by the lack of clear illustrative examples of what could constitute a violation. The removal of the	No change has been made in response to this comment. The Agency disagrees with the comment. Section 7002 is reasonably clear and includes practical examples to provide businesses with guidance on how to comply with the requirements within Civil Code § 1798.100(c). Section 7002 does not weaken consumer protection, but rather reduces confusion about how to determine reasonable expectations, compatibility, and reasonable necessity and proportionality. The different factors and examples provided benefit consumers by making clear to businesses how to determine a consumer's reasonable expectations, what would be compatible with those expectations, and whether the businesses' collection and processing of personal information is reasonably necessary and proportionate, as required by Civil Code § 1798.100(c). This assists businesses in complying with the	W145-3	0349-0350

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	prior examples, such as the flashlight example, creates confusion about § 7002's restrictions on collection and use. These examples provide concrete representations of the regulations as applied, an illustration of the Agency's intent, and in many cases were based on real-world privacy-invasive practices that the regulations are attempting to address. Comment suggests reinstating the illustrative examples that were removed in § 7002(b).	law, which ultimately benefits consumers. Lastly, the removal of the prior examples does not imply that they are uses of personal information that are consistent with consumers' reasonable expectations. Whether a specific use is consistent with the reasonable expectations of the consumer is based on the factors within § 7002(b) and is a fact-specific determination.		
43.	Section 7002(b) prohibits the processing of personal information for multiple products or services, within the industry, by one business, and restricts uses of personal information for a different product or service offered by the business or the business's subsidiary. These restrictions inhibit innovation, place burdensome limitations on the business life cycle, do not have a meaningful benefit to the consumer, and will result in consent fatigue because of restrictions on the use of consumer data for only one specific product or service. Comment suggests various modifications to § 7002(b).	No change has been made in response to this comment. The comment's interpretation of the regulation is inconsistent with the regulation's language. Section 7002(b) does not prohibit processing of personal information for multiple products or services by one business. It also does not state that a business would not be able to use personal information for a different product or service offered by the business or the business's subsidiary. Section 7002(b) articulates factors in the assessment of whether the purpose for which personal information was collected or processed is consistent with the reasonable expectations of the consumer(s) whose personal information is collected or processed. If a business seeks to process personal information for multiple products or services within the same industry or for a different product or service offered by the business or the business's subsidiary, it must comply with § 7002(b) or § 7002(c)'s requirements. If neither applies to the business's processing, the business must obtain consent from the consumer under § 7002(e). Regardless of whether the business complies with § 7002(b), (c), or (e), it must comply with the "reasonably necessary and proportionate" requirements under § 7002(d). Section 7002's	W112-2	0047-0050

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		requirements do not prohibit processing personal information for multiple products or services, within the same industry, by one business, or prohibit data analytics or product development and testing, but rather articulate how a business must comply with each of the requirements articulated in Civil Code § 1798.100(c). Comment also provides no support for the proposed modifications. Comment's proposed modification appears inconsistent with research about how consumers expect data collection and processing to be conducted, based on their relationships with businesses and the method of collection, as explained in the FSOR. *See* FSOR, pp. 3-6. The alternatives proposed in the comment also would not be as effective in carrying out the purpose and intent of the CCPA, which include providing consumers with the ability to control their personal information and placing consumers on a more equal footing with businesses when negotiating with businesses to protect their rights and how businesses use their personal information. When consumers do not reasonably expect the collection or processing of their personal information, they should be able to consent as needed for this collection and processing. In addition, the Agency does not believe that the regulation would stifle businesses or innovation. When businesses do not comply with § 7002(b) or (c), they may still obtain consumer consent under § 7002(e) to render their processing compatible. The alignment with consumer expectations and consent as needed appropriately balances consumer choice and autonomy with business innovation. The regulation also provides practical examples that illustrate how businesses can comply. Lastly, data minimization and purpose limitation are explicit limitations on collection and processing imposed by Civil Code § 1798.100(c), and the purposes of CCPA, which include limiting businesses' collection of personal information to specific, explicit, and legitimate disclosed purposes and prohibiting collection, use, or disclosure of consumers'		

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		personal information for reasons incompatible with those purposes. The Agency cannot impair the scope of CCPA.		
44.	The examples provided in § 7002(b)(2), the relationship between the consumer and the business, are not clearly distinguishable. In both examples the relationship between the business and consumer is that of the provider and acquirer of a product or service (*e.g.*, the unnamed "good or service" in the first example and the "mobile flashlight app" in the second example). Comment recommends revising the subsection to provide examples of differing relationships between a business and a consumer and proposes an alternative example.	No change has been made in response to this comment. The regulation is reasonably clear. The first example illustrates that when the relationship is driven by the consumer's intentional interaction to purchase a good or service from the business's website, the consumer likely expects that the purpose of collecting or processing their personal information is to provide the purchased good or service. The second example further illustrates that when the consumer's pre-existing relationship with a business is to obtain a specific service (e.g., provision of a mobile flashlight), the consumer is unlikely to expect that the business will collect personal information unrelated to the provision of that service, based on this factor. These are practical examples that illustrate how businesses can assess their relationship with the consumer. Lastly, the Agency has prioritized the drafting of regulations that operationalize and assist in the immediate implementation of the law. Further analysis is required to determine whether an additional example addressing a one-time transaction is necessary.	W121-4	0128
45.	Section 7002(b)(1) is overly narrow and could inhibit innovation. The assumption that the primary function of a service should be the exclusive service is narrower than GDPR's data minimization provision, which allows businesses to process personal information in ways that are adequate and relevant to what is necessary concerning to the purposes for which it is processed. Comment suggests clarifying the language and including an example where the use of data to	No change has been made in response to this comment. The comment's interpretation of the regulation is inconsistent with the regulation's language. Section 7002(b)(1) is one factor within § 7002(b). Whether the use of personal information for a specific function of a service, such as improving and building new features, is consistent with the reasonable expectations of the consumer is based on assessing § 7002(b)(1)-(5) together. If a business seeks to use personal information to improve and build new features in a service, it must comply with § 7002(b) or § 7002(c)'s requirements. If neither applies to the business's processing, the business must obtain consent from the consumer under § 7002(e). Regardless of whether the business complies with § 7002(b), (c), or (e), it must comply with the "reasonably necessary and proportionate"	W132-2	0240

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	improve and build new features is not incompatible with the original purpose.	requirements under § 7002(d). The examples provided within § 7002(b)(1) illustrate how businesses can apply this factor and are reasonably clear. The Agency has determined that no further clarification is needed at this time.		
46.	The Agency should amend § 7002(b)(2) to clarify what is meant by the "type" and "nature" of personal information. The examples do not clearly illustrate this. For example, a consumer could reasonably expect that a business's request for a list of contacts be used for the purpose of connecting the consumer with other contacts in their contacts list. Comment suggests clarifying that a consumer may reasonably expect that the business will only collect and use the type of personal information necessary to provide the product, service, or feature requested by the consumer in the specific interaction with the business. Similarly, the Agency may clarify that consumers may reasonably expect Sensitive Personal Information only be used for the primary purpose for which it is collected or a secondary purpose consistent with section 7002(c).	No change has been made in response to this comment. The regulation is reasonably clear. The first example illustrates that the type and amount of personal information (*e.g.*, a single contact within a consumer's contact list) that is being collected or processed affects a consumer's reasonable expectations about the purpose of collection or processing (*e.g.*, to call the specific contact selected). The second example illustrates that the nature of the personal information (*e.g.*, sensitive personal information, such as a fingerprint) also affects a consumer's reasonable expectations about the purpose of collection or processing (*e.g.*, use of the consumer's fingerprint is limited to the purpose of unlocking the device). These are practical examples that illustrate how businesses can assess the type, nature, and amount of personal information that the business seeks to collect or process. Whether a consumer may reasonably expect that the business will only collect and use the type of personal information to provide the product, service, or feature requested by the consumer or that sensitive personal information will only be used for the primary purpose for which it is collected or a secondary purpose requires an assessment of the factors within § 7002(b) together. The Agency has determined that no further clarification is needed at this time.	W121-5	0129
47.	The second example in § 7002(b)(2) is too narrowly drawn and should be revised. The example implies that after a contact list is used to enable a call to a	No change has been made in response to this comment. The comment's interpretation of the regulation is inconsistent with the regulation's language. The example within § 7002(b)(2) illustrates that the type and amount of personal information (*e.g.*, a single contact within a	W130-2 W130-3	0223-0224 0224

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	particular contact, the business would no longer have justification to retain the contact list and would need to collect it again each time the user wishes to place a call, or the business would need to obtain the user's consent to thereafter use the contact list to place a call to any other particular individual on the contact list. This is impractical and likely does not align with the user's reasonable expectations regarding the use of its contact list, which would instead include using it to enable a call to any particular contact on the list at that time and thereafter. Comment proposes corresponding edits to § 7002(b)(2).	consumer's contact list) that is being collected or processed affects a consumer's reasonable expectations about the purpose of collection or processing (*e.g.*, to call the specific contact selected). Whether a business's use of a contact list, such as using it to enable a call to any particular contact on the list at that time and thereafter, is consistent with the reasonable expectations of the consumer is based on assessing § 7002(b)(1)-(5) together. If a business seeks to use a consumer's contact list, it must comply with § 7002(b) or § 7002(c)'s requirements. If neither applies to the business's processing, the business must obtain consent from the consumer under § 7002(e). Regardless of whether the business complies with § 7002(b), (c), or (e), it must comply with the "reasonably necessary and proportionate" requirements under § 7002(d). The Agency has determined that no further clarification is needed at this time.		
48.	Comment expresses support for five-factor test for "reasonable expectations," which improve clarity and give businesses a more tangible measuring stick by which to evaluate whether their collection or use of personal information is compatible. Comment recommends broadening the factor in § 7002(b)(2) to include the use of personal information to improve the service for which the data was collected. Comment argues that consumers reasonably expect businesses to use data to improve the service for which the consumer consented, and that	No change has been made in response to this comment. The example within § 7002(b)(2) illustrates that the nature of the personal information (*e.g.*, sensitive personal information, such as a fingerprint) also affects a consumer's reasonable expectations about the purpose of collection or processing (*e.g.*, use of the consumer's fingerprint is limited to the purpose of unlocking the device). Whether a business's use of personal information to improve the service is consistent with the reasonable expectations of the consumer is based on assessing § 7002(b)(1)-(5) together. If a business seeks to use a consumer's contact list, it must comply with § 7002(b) or § 7002(c)'s requirements. If neither applies to the business's processing, the business must obtain consent from the consumer under § 7002(e). Regardless of whether the business complies with § 7002(b), (c), or (e), it must comply with the "reasonably necessary and proportionate" requirements under	W142-4	0330-0331

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	in the fingerprint example provided in the regulations, a consumer likely also has expectations that the business uses their fingerprint to continually improve the service to keep their device secure.	§ 7002(d). The Agency has determined that no further clarification is needed at this time.		
49.	Section 7002(b)(3) should remove the "unexpected" use limitation language from the consumers' expected use of their personal information by the business. How a business uses a consumer's personal information across its products and services should not be unduly limited where the privacy notice expressly discloses the potential uses and that the use might occur across products or services. The consumer obtains a substantial benefit from sharing across products and services, such as using data from a reading app to personalize book recommendations on the business's online store. If the Agency retains this factor, it should focus on whether the use of different products or services is unexpected or unrelated.	No change has been made in response to this comment. Section 7002(b)(3) articulates one factor in the assessment of whether the purpose for which personal information was collected or processed is consistent with the reasonable expectations of the consumer(s) whose personal information is collected or processed. If a business seeks to use personal information for a different product or service offered by the business or the business's subsidiary, it must comply with either § 7002(b) or § 7002(c)'s requirements. If neither applies to the business's processing, the business must obtain consent from the consumer under § 7002(e). Comment also provides no support for the proposed modification, and it is unclear why a business's method for collecting or processing personal information would lead consumers to reasonably expect that the business use personal information for a different product or service offered by the business or the business's subsidiary, even if it is related product or service. The proposed modification appears inconsistent with research about consumers expectations regarding data collection and processing, which are not solely linked to privacy disclosures but are based on context, as explained in the FSOR. *See* FSOR, pp. 3-6. The alternative proposed in the comments also would not be as effective in carrying out the purpose and intent of the CCPA, which include providing consumers with the ability to control their personal information and placing consumers on a more equal footing with businesses when negotiating with businesses to protect their rights and how businesses use their personal information. When consumers do not reasonably expect the use of their personal	W116-6 W120-3 W132-3 W152-17	0082 0118-0119 0241 0412

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		information for a different product or service offered by the business or the business's subsidiary, even when it is related, consent is the appropriate mechanism to render that processing compatible, because consent ensures that consumers reasonably expect and agree to the use.		
50.	Comment proposes revising §§ 7002(b)(1), (b)(3), and the example in (c)(3) because they conflict with § 7050(a)(3). Comment argues that under § 7050(a)(3), a business can use personal information for internal use to build or improve the quality of services. In line with this regulation, businesses, service providers and contractors should be able to use consumer personal information for the purposes of product development, security compliance and investigations, and a range of other purposes that would be beneficial for multiple products in the product life cycle that support research and development.	No change has been made in response to this comment. The comment's interpretation of the regulation is inconsistent with the regulation's language. Section 7002 and § 7050(a)(3) work together and do not conflict. Section 7002 clarifies each of the requirements under Civil Code § 1798.100(c) for a business's collection, use, retention, and/or sharing of personal information. Section 7050(a)(3) addresses the personal information that a service provider or contractor collects pursuant to a written contract with a business. A business must comply with § 7002's requirements before collecting, using, retaining, and/or sharing the consumer's personal information. Assuming that the business has complied with § 7002 and the business is making personal information available to a service provider, § 7050(a)(3) addresses certain internal use by a service provider or contractor of that personal information pursuant to its written contract with the business. In addition, a business may use personal information for product development, security compliance and investigations, or other purposes when those uses comply with § 7002. These uses are not prohibited but must comply with the requirements in § 7002.	W112-3	0047-0050
51.	Marketing and other non-privacy disclosures should not be a relevant factor in determining a consumer's reasonable expectation about the disclosures in the privacy notice. The purpose of the privacy notice is to provide a one-stop notice for consumers	No change made in response to this comment. Marketing materials and other disclosures about the benefit of a product or service can affect consumers' reasonable expectations about the purpose of collecting or processing their personal information for that product or service. As illustrated in the example provided in § 7002(b)(4), a mobile application that markets itself as a service to find cheap gas close to the consumer may affect the consumer's reasonable expectations about the purpose	W120-4 W132-4 W152-18	0119 0241 0412

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	regarding how their data is used. In contrast, marketing materials highlight the benefits for the product or service and thus are not necessarily relevant to how data is used unless the disclosure makes that connection explicit (as occurs in the first example about the pop-up notice). Comments propose corresponding modifications to § 7002(b)(4).	for collecting and processing their geolocation information. The proposed modifications are not more effective in furthering the purposes and intent of the CCPA. Limiting this factor to disclosures in a privacy notice when consumers may rely on other disclosures outside of the privacy notice under this factor does not align with the other disclosure requirements within CCPA (e.g., notices at collection) and with how consumer expectations are formed with respect to the use of their personal information by businesses. *See* FSOR, pp. 3-6.		
52.	Section 7002(b)(4) suggests that a business may comply with § 7002 by providing all consumers an appropriate disclosure of the use of its security system. It is unclear what level of disclosure would be sufficient. In addition, even if these disclosure requirements were met by a business, it is unclear whether the other factors set forth in § 7002(b) could outweigh the disclosure, which makes it difficult for businesses to determine whether their security systems risk violating CCPA.	No change has been made in response to this comment. The comment's interpretation of the regulation is inconsistent with the regulation's language. The specificity, explicitness, prominence, and clarity of disclosures is one factor within § 7002(b). Disclosures by themselves are insufficient to satisfy § 7002(b). The factors within § 7002(b) must be assessed together to determine whether a given purpose is consistent with the reasonable expectations of the consumer. Whether a security system is compliant with § 7002 likely requires a fact-specific determination. The commenter should consult with an attorney who is aware of all pertinent facts and relevant compliance concerns. Regardless, consent is the appropriate mechanism to render processing that does not satisfy § 7002(b) or (c)'s requirements compatible under Civil Code, § 1798.100(c).	W143-1	0336-0337
53.	Section 7002(b)(5) should be modified to read "delivery business" instead of "delivery service provider" because transportation companies process personal information to deliver the product but also for purposes that the transportation company determines. This	No change has been made in response to this comment. Section 7002(b)(5) provides an illustrative example where the delivery company is acting a service provider. If a delivery company acts as a business, it is subject to CCPA's obligations for businesses, including compliance with § 7002's requirements. Whether a transportation company is acting as a business or a service provider, and whether a disclosure to a transportation company is a "sale" under CCPA, likely requires a fact-	W118-1 W118-2 W118-3	0106-0107 0106-0107 0106-0107

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	is why transportation providers are considered controllers under GDPR and why they should be deemed businesses, not service providers, under CCPA. This type of disclosure to a transportation company also should not be a sale under CCPA because it is performed at the direction of the consumer.	specific determination. The commenter should consult with an attorney who is aware of all pertinent facts and relevant compliance concerns.		
54.	Comments propose deleting or revising § 7002(b)(5) because: (1) it expects consumers to understand the vast number of service providers or other downstream providers that the business works with; (2) this regulation would not be helpful to consumers; (3) the regulation is impractical, unrealistic, and confusing for businesses, which have insufficient guidance for assessing a consumer's reasonable expectations; (4) it may harm small and medium-sized businesses who rely on a network of service providers to help them function; (5) it would reduce the ability of businesses to offer seamless services; and (6) it runs counter to the CPRA, which permit a business to disclose the personal information to service providers, contractors, and third parties if they enter into an appropriate contract. Comments recommend	No change has been made in response to these comments. The comments' interpretation of the regulation is inconsistent with the regulation's language. Section 7002(b)(5) is not based on the consumer's subjective understanding of service providers, contractors, or third parties' involvement in processing their personal information, but is an objective assessment from the perspective of a reasonable consumer. In addition, this is one factor in the assessment of § 7002(b)(1)-(5) to determine the reasonable expectations of the consumer. If a business's use of personal information does not comply with § 7002(b) or § 7002(c), it may obtain consent in accordance with § 7002(e). Lastly, this factor does not conflict with CCPA's contract requirements for service providers, contractors, and third parties. Comment appears to misinterpret how CCPA's processing requirements and contract requirements work together. Simply because a business has a contract with an entity does not mean that the business's use of personal information complies with Civil Code, § 1798.100(c) and § 7002. Rather, if the relevant processing complies with these statutory and regulatory requirements, then the business must also comply with the CCPA's contract requirements for service providers, contractors, and third parties. Lastly, the proposed modifications are not more effective in furthering the purposes and intent of CCPA, which include providing consumers with meaningful control over their personal information. As	W112-4 W116-7 W120-5 W123-3 W124-5 W132-5 W134-3 W137-2 W139-2 W152-19 W156-1	0048-0051 0082, 0092 0120 0157-0158 0169 0241 0264 0292 0307 0413 0440-0441

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	deleting this factor and allowing businesses to share information with all downstream providers included in the privacy policy, modifying the regulation to focus on unexpected and offensive disclosed uses, and/or removing references to service providers and contractors from the factor.	explained in the FSOR, when processing of their personal information is unexpected, which can include processing involving entities that are not apparent to the consumer, consumers lose control over their personal information. The visibility of other parties in the collection or processing of personal information affects consumers' reasonable expectations about the purpose of the collection or processing (for example, consumers may be concerned about uses involving entities with inadequate security safeguards), and helps ensure that consumers understand, expect, and have meaningful options over how businesses process their personal information. By contrast, removing this factor or limiting it to only a subset of processing or parties would undermine consumer control over their personal information, as they may not expect the involvement of these parties in the collection or processing of their personal information, based on this factor.		
- **§7002(c)**				
55.	Section 7002(c) lists additional factors for businesses to consider as to whether another disclosed purpose is compatible with the context in which the personal information was collected. The language of the proposed regulation, however, makes the factors mandatory by stating the businesses "shall" consider the factors. Civil Code § 1798.100(c) requires that the collection, use, retention, and sharing of a consumer's personal information "shall be reasonably necessary and proportionate," but the creation of mandatory and presumably exclusive factors businesses must	No change has been made in response to this comment. Section 7002(c) does not conflict with the text of CCPA and is not beyond the requirements of CCPA. Section 7002(c) is necessary to explain how to conduct the compatibility assessment to determine whether another disclosed purpose is compatible with the context in which the personal information was collected. Without these requirements, businesses and consumers would lack clarity on how to assess compatibility. Whether the collection, use, retention, and/or sharing is reasonably necessary and proportionate is addressed by the requirements in § 7002(d). In addition, as explained in the FSOR, § 7002(c) furthers the purposes and intent of CCPA and supports harmonization with other privacy frameworks. *See* FSOR, pp. 6-8. The proposed alternative is not more effective in furthering the purposes and intent of CCPA. The alternative would create ambiguity for businesses and consumers about how businesses are conducting the compatibility assessment. This ambiguity	W121-6	0130

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	consider goes beyond the requirements of the CCPA and conflicts with the text of the statute. Comment recommends that the Agency revise the proposed regulations to make clear that the factors are neither exclusive nor exhaustive so that businesses may be free to consider other factors which may be applicable." Comment proposes changing "shall" to "may."	would leave consumers with less control over their personal information and in a less informed position to negotiate with businesses over their rights and how businesses use their personal information. Lastly, given several comments' inconsistent interpretation of CCPA as only requiring notice to render processing compatible, a non-exhaustive list may lead businesses to misconstrue CCPA's requirements for processing under Civil Code § 1798.100(c) by focusing on notices rather than compatibility.		
56.	Section 7002(c)'s compatibility analysis is narrower than the statute. The drafted language is ambiguous and it may be the case that the Agency envisions that the later-disclosed but compatible purposes must be a business purpose. Comment argues that a plain reading of CCPA would lead one to believe that later-disclosed purposes are only impermissible when they contradict, undermine, or stand opposed to the initially disclosed purposes.	No change has been made in response to this comment. The comment's interpretation of the CCPA, and its proposed change, is inconsistent with the language, structure, and intent of the CCPA. Civil Code § 1798.100(c) prohibits incompatible processing. There is no notice-at-collection exception to this requirement. Although a new notice at collection is required under Civil Code § 1798.100(a), it is insufficient by itself to comply with Civil Code § 1798.100(c)'s statutory requirements for collection and processing. In addition, a notice-based approach where later-disclosed purposes are only impermissible when they contradict, undermine, or stand opposed to the initially disclosed purposes would undermine consumers' control over their personal information, and would place them on unequal footing with businesses when negotiating with businesses over the use their personal information. As explained in the FSOR, notices are insufficient tools by themselves to provide consumers with an understanding of and control over the purposes of collection and processing of their personal information. *See* FSOR, pp. 3-11. The comment's interpretation of the regulation also is inconsistent with the regulation's language. The compatibility assessment requires identification of "another disclosed purpose" for which the business seeks to further collect or process the consumer's personal information.	W125-2	0179-0180

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		Subsection 7002(c)(2) references the business purpose definition in CCPA, which identifies specific uses of personal information by businesses. If the other disclosed purpose is a business purpose, it may be more likely to satisfy compatibility, though this is ultimately a context-specific determination. This point is illustrated in the first example within § 7002(c)(3): a strong link exists between consumer's expectations that their personal information will be used to provide them with a requested service and the use of that information for the specific business purpose of repairing errors that impair the intended functionality of that requested service. The Agency has determined that no further clarification is necessary at this time.		
57.	Revise § 7002(c)(1) to include proposed example of consumer's expectations about the collection and use of personal information of personal information to optimize and suggest routes in a map app.	No change has been made in response to this comment. The regulation is reasonably clear. Section 7002(c)(1) requires identification of the reasonable expectations of the consumer at the time of collection, based on the factors in § 7002(b). Section 7002(b) contains practical examples that illustrate how each factor can be assessed. The Agency has prioritized the drafting of regulations that operationalize and assist in the immediate implementation of the law. Further analysis is required to determine whether an additional example addressing the use of a map app is necessary.	W127-1	0200
58.	Revise § 7002(c)(2) to simplify the clause and make the meaning clear. The purpose appears to be that the disclosed purpose should be compared with the list of business purposes in Civil Code § 1798.140(e) and that being within scope of those purposes weighs in favor of compatibility. Comment proposes corresponding modified text.	No change has been made in response to this comment. The regulation is reasonably clear. Section 7002(c)(2) requires identification of the other disclosed purpose for which the business seeks to further collect or process the consumer's personal information. Section 7002(c)(2) also references the business purpose definition in CCPA, which identifies specific uses of personal information by businesses. If the other disclosed purpose is a business purpose, it may be more likely to satisfy compatibility, though this is ultimately a context-specific determination. This point is illustrated in the first example within § 7002(c)(3): a strong link exists between consumer's expectations that their personal	W127-1	0199-0201

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		information will be used to provide them with a requested service and the use of that information for the specific business purpose of repairing errors that impair the intended functionality of that requested service. The Agency has determined that no further clarification is necessary at this time.		
59.	Delete § 7002(c)(3) and move the example to (c)(2). It is not clear what the strength of the link between (c)(1) and (c)(2) means. The preamble in (c) already states that the standard is whether the other disclosed purpose is compatible with the context based on the factors in (c)(1) and (c)(2), and (c)(3) is unnecessary. Comment proposes corresponding modified text.	No change has been made in response to this comment. Section 7002(c)(3) is necessary to clarify how to assess compatibility. If there is a strong link between (c)(1) and (c)(2), this weighs in favor of compatibility, as illustrated by the first example in the regulation. By contrast, if there is a weak link between (c)(1) and (c)(2), this weighs against compatibility, as illustrated by the second example in the regulation. Deleting this regulation would not be more effective in furthering the intent and purposes of CCPA, as businesses would lack clarity on how to assess the relationship between (c)(1) and (c)(2) and comply with the statutory requirement that the other disclosed purpose is compatible with the context in which the personal information was collected.	W127-1	0199-0201
- **§ 7002(d)**				
60.	Comment proposes modifications to requirements in § 7002(d)(2)-(3) to limit the requirements to unauthorized disclosure. These requirements are overbroad and would require businesses to gauge all possible negative impacts of processing personal information, for potentially all consumers. This burdensome requirement places an expectation on businesses to gauge all possible harms to a consumer, whether they include a lack of technical	No change has been made in response to this comment. The regulation is reasonably clear and provides practical examples for businesses to consider for compliance. Sections 7002(d)(2)-(3) provide operational mechanisms for businesses to comply with CCPA's "reasonably necessary and proportionate" requirement by identifying possible negative impacts for consumers and implementing adequate safeguards. These requirements also support harmonization with other privacy frameworks in the EU and Colorado, which have or are proposing similar requirements for businesses to consider the possible consequences or impacts for consumers and implementation of adequate safeguards. In addition, the proposed alternative is not more effective in furthering the purposes and intent of CCPA, which include limiting collection of	W112-5	0049, 0051

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	safeguards, or much broader consumer harms that are not based on injury-in-fact. The lack of clarity regarding the "possible negative impacts on consumers" was also noted by CPPA Board Member de la Torre at the recent board meetings in October.	personal information only to the extent it is relevant and limited to what is necessary to the purposes for which it is being collected, used, and shared; prohibiting collection, use, or disclosure of consumers' personal information for reasons incompatible with those purposes; and ensuring that consumers benefit from businesses' use of their personal information. The proposed alternative is not more effective in carrying out the purpose and intent of the CCPA. It would limit § 7002(d)(2)-(3) to unauthorized disclosures, which would leave consumers vulnerable to harms from processing that fall outside of unauthorized collection. *See*, *e.g.*, Null et al., Access Now, Data Minimization: Key to Protecting Privacy and Reducing Harm (May 2021). A business's collection or processing is neither reasonably necessary nor proportionate if it poses unnecessary and unmitigated risks for consumers.		
61.	Section 7002(d) makes the factors mandatory by stating the businesses "shall" consider the factors. Comment recommends that the Agency revise the proposed regulations to make clear that the factors are neither exclusive nor exhaustive so that business may be free to consider other factors which may be applicable. Comment proposes changing "shall" to "may."	No change has been made in response to this comment. Section 7002(d)'s mandatory factors are necessary to clarify when the collection, use, retention, and/or sharing of a consumer's personal information is reasonably necessary and proportionate to achieve a given purpose under Civil Code, § 1798.100(c). The proposed alternative is not more effective in furthering the purposes and intent of CCPA. The alternative would create ambiguity for businesses and consumers about what constitutes "reasonably necessary and proportionate," because it allows businesses to consider other factors that are not articulated in CCPA and that are not disclosed to the public. This ambiguity would leave consumers with less control over their personal information and in a less informed position to negotiate with businesses over their rights and how businesses use their personal information.	W121-7	0130-0131
62.	Revise § 7002(d) to simplify the preamble and make clear that the subparagraphs are factors that businesses should evaluate to determine whether their	No change has been made in response to this comment. The regulation is reasonable clear. Section 7002(d) clarifies how a business's collection, use, retention, and/or sharing of a consumer's personal information for each purpose identified in §§ 7002(a)(1) or (a)(2), or for any purpose for	W127-1	0200-0202

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	purposes are necessary and proportionate. The current factors are difficult to parse and insufficiently clear on how to evaluate the factors. Comment proposes corresponding modified text.	which the business obtains consumer's consent under § 7002(e), must comply with the CCPA's "reasonably necessary and proportionate" requirement. What constitutes "reasonably necessary and proportionate" is based on subsection (d)(1) through (d)(3). The proposed alternative is not more effective in furthering the purposes and intent of CCPA. The alternative would create ambiguity in how § 7002(a), § 7002(e) and § 7002(d) relate to each other, and leave businesses with insufficient guidance to achieve compliance with Civil Code, § 1798.100(c). Insufficient guidance would weaken consumers' control of their personal information and the goal of CCPA to limit businesses' collection, use, retention, and sharing of consumers' personal information only to what is necessary.		
63.	Comment states that what is reasonably necessary and proportionate to achieve the purpose is subjective and therefore difficult to address with policies and procedures.	No change has been made in response to this comment. The Agency does not believe the regulation is subjective or difficult to implement. The regulation is reasonably clear. The minimum personal information to achieve a given purpose, possible negative impacts to consumers, and the use of safeguards to address these impacts are clear, objective requirements. Each subsection also includes a practical example to illustrate for businesses how to implement each requirement. As explained in the FSOR, § 7002(d) is necessary to achieve the intent and purpose of the CCPA, including by: limiting collection of personal information only to the extent it is relevant and limited to what is necessary to the purposes for which it is being collected, used, and shared; prohibiting collection, use, or disclosure of consumers' personal information for reasons incompatible with those purposes; and ensuring that consumers benefit from businesses' use of their personal information. *See* FSOR, pp. 8-9.	W157-4	0451
64.	Section 7002(d)(1)'s minimum personal information language is different from what is reasonably necessary and	No change has been made in response to this comment. The comment proposes an interpretation of the CCPA that is inconsistent with the language, structure, and intent of the CCPA. One of the purposes of	W157-4	0451

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	proportionate. Minimum refers to the absolute lowest quantity, while a reasonable standard allows some flexibility.	CCPA is to limit collection of personal information only to the extent it is relevant and limited to what is necessary to the purposes for which it is being collected, used, and shared. Section 7002(d)(1) is necessary to further this purpose by focusing on only the minimum personal information to achieve a given purpose. This prevents excessive data collection and use, which can harm consumers' privacy and security and undermine their control over their personal information. *See* FSOR, pp. 8-9.		
65.	Section 7002(d)(1)'s minimum personal information requirement is an appropriate way to ensure that the collection is reasonably necessary and proportionate. However, §§ 7002(d)(2)-(3) go beyond what is anticipated by CCPA and exceed statutory authority. They suggest that possible negative impacts on consumers without additional safeguards could mean that no amount of information is reasonably necessary and proportionate to meet the business's purposes. One comment also states that more guidance and specificity should be provided for § 7002(d)(2) and (d)(3) on implementation of these concepts.	No change has been made in response to this comment. The possible negative impacts to consumers and existence of additional safeguards to address these impacts are necessary to ensure that a business's collection, use, retention, and/or sharing is reasonably necessary and proportionate. A business's collection or processing is neither reasonably necessary nor proportionate if the business's collection or processing poses unnecessary and unmitigated risks for consumers. In addition, as explained in the FSOR, §§ 7002(d)(2) and (3) are consistent with the language, intent, and purpose of the CCPA. *See* FSOR, pp. 8-9. Lastly, the regulation is reasonably clear. Section 7002(d)(2) requires identification of possible negative impacts on consumers posed by the business's collection or processing of personal information, while § 7002(d)(3) addresses the existence of additional safeguards for these negative impacts. Each requirement also contains practical examples that illustrate how businesses can comply.	W128-7 W157-4	0212 0451
- **§ 7002(e)**				
66.	Comment supports removal of references to "explicit" in § 7002(e).	The Agency appreciates this comment of support. No change has been made in response to this comment. The comment concurred with the proposed modifications, so no further response is required.	W157-5	0451

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67.	The comment supports the following change: In the place of "express consent," the Agency now simply writes that the business shall obtain the consumer's "consent" in accordance with § 7004.	The Agency appreciates this comment of support. No change has been made in response to this comment. The comment concurred with the proposed modification, so no further response is required.	W142-5	0331
68.	Move § 7002(e) into a new subparagraph (3) of § 7002(c). Consent should not be an independent basis to collect or process data but should be considered a factor in evaluating the compatibility of another disclosed purpose. Comment proposes corresponding modified text.	No change has been made in response to this comment. As explained in the FSOR, consent is required if a business seeks to collect or process personal information in a manner that does not otherwise satisfy the requirements of § 7002(a), because consent ensures that consumers can control their personal information and renders processing compatible under Civil Code, § 1798.100(c). *See* FSOR, pp. 9-10. Consent must be freely given, specific, informed, and an unambiguous indication of the consumer's wishes, and must not be subject to language or user interfaces that are confusing or would impair or interfere with the consumer's ability to make a choice. Consent that complies with the CCPA's requirements therefore ensures that consumers reasonably expect the collection or processing and that the collection or processing is compatible with the purposes in § 7002(a).	W127-1	0200-0202
- **§ 7002(f)**				
69.	Section 7002(f)'s consent and notice at collection requirements raise the question as to what a business must do prior to collecting potentially incompatible personal information: obtain consent, send a new notice at collection, both, or something else. Comment suggests providing guidance for reconciling these subdivisions.	No change has been made in response to this comment. The regulation is reasonably clear. A new notice at collection is required if a business intends to collect additional categories of personal information or intends to use the personal information for additional purposes that are incompatible with the disclosed purpose for which the personal information was collected. However, a new notice by itself does not satisfy the statutory requirements for collection and processing under Civil Code § 1798.100(c), which must be addressed separately through compliance with § 7002(a)'s requirements that address a business's collection, use, retention, and/sharing of personal information. Section	W157-6	0451-0452

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		7002(a) also cross-reference requirements under § 7002(b) and (c). When a business's collection, use, retention, and/sharing does not comply with § 7002(b) and (c), it may obtain consent under § 7002(e) to render the processing compatible. Regardless of whether the business's use complies with § 7002(b), (c), or (e), it must also comply with § 7002(d)'s requirements.		
§ 7004. Requirements for Methods for Submitting CCPA Requests and Obtaining Consumer Consent				
- **Comments generally about § 7004**				
70.	Comments request a modification to §§ 7004(a) and (c) to reflect that a business should make "reasonable efforts" to avoid dark patterns, and that such reasonable efforts are a factor in deciding whether there was a dark pattern. Whether a practice constitutes a dark pattern is not an exact science. Instead, it requires a business to consider its own user interface and analyze what reasonable steps it should take to avoid dark pattern choices. If a business has methodically considered and documented its dark pattern analysis, the Agency should consider this as a factor in the analysis. One comment states that in addition to making reasonable efforts to comply, if businesses proactively build processes to review their user interfaces, this should be seen as a positive and privacy-protective practice and should be weighed in businesses' favor when the	No change has been made in response to this comment. The comments' proposed reasonableness standard is not more effective in carrying out the purpose and intent of the CCPA. See FSOR, App. A, Response # 119. In addition, the comment's proposed alternative to § 7004(c) that a business's showing of a process for reviewing user interfaces for dark patterns may weigh against establishing a dark pattern is unnecessary. The Agency may already consider all facts it determines to be relevant in its decision to pursue investigation of possible or alleged violations of the CCPA, including good faith efforts to comply with CCPA's requirements. § 7301(b) (proposed).	W116-9 W116-11 W124-16 W134-8 W139-4 W139-24	0094 0083, 0093 0174 0269, 0271-0272 0308 0307-0308

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	Agency makes determinations as to whether a user interface constitutes a dark pattern. Comments propose specific language that a business can demonstrate a documented process for reviewing user interfaces to avoid dark patterns, this may weigh against a user interface being a dark pattern.			
71.	Comment recommends that the Agency restore the examples in § 7004 that clarify specific categories of harmful choice architecture and are examples of deceptive dark patterns. For example, former § 7004(a)(4)(A) provided useful clarification. Similarly, the two deleted examples of "symmetry in choice" were useful examples of improperly manipulative presentation of choices that would encourage consumers to click yes or pass through without making a meaningful choice. One comment claims that the removal of the illustrative examples in § 7004(a)(2)(D) & (E) has the effect of significantly weakening the principle of "symmetry of choice" and striking an essential category of dark patterns. Lastly, comment reiterates prior suggestion to specify that more prominent choices that lead to additional data collection are prohibited, while	No change has been made in response to these comments. The requirements in § 7004(a)(2) and (a)(4) are reasonably clear about what constitutes symmetry in choice and how businesses must avoid choice architecture that impairs or interferes with the consumer's ability to make a choice. The examples are illustrative and meant to provide practical guidance to businesses about how to implement these requirements in different contexts. The examples cited in the comments are not necessary at this time. Further, whether a given user interface violates these requirements is a fact-specific determination. Lastly, the proposed alternative to allow privacy-preserving options to be more prominent may lead to confusion about implementation of the symmetry in choice principle. The Agency will continue to observe the marketplace and revisit these issues as necessary.	W127-2 W129-2 W145-4	0202 0217-0218 0350-0351

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	privacy-preserving options are allowed to be more prominent.			
72.	The regulations create subjective inquiries that are difficult to operationalize for businesses, such as whether a notification to consumers about the effects of their choice is a "disruptive screen." The Agency should modify the regulations to focus on prohibiting false or misleading language that could impair or interfere with a consumer's ability to exercise their choice.	No change has been made in response to this comment. Section 7004(a) sets forth general principles regarding how businesses are to design and implement methods for submitting CCPA requests and obtaining consent. To help illustrate those principles, the regulation provides various examples of how those principles can be applied. Those examples are beneficial to consumers and businesses, particularly smaller businesses that lack privacy resources. Section 7004 otherwise provides businesses with flexibility and discretion in how to apply the guidance in a manner that best fits their business and customers. Lastly, with respect to the comment's statement about whether a notification to consumers constitutes a disruptive screen, the regulation is reasonably clear. Section 7004(a)(4) specifically requires that businesses avoid choice architecture, such as disruptive screens, that impairs or interferes with the consumer's ability to make a choice. If a business seeks to notify consumers about the effects of their choice, then the notification must not impair or interfere with the consumer's ability to make a choice (such as a request to opt-out of sale/sharing). Further analysis is required to determine whether additional regulations on this issue are necessary. Lastly, the proposed alternative to focus on false or misleading language is not more effective in furthering the intent and purposes of CCPA. *See* FSOR, App. A, Response # 148.	W132-6	0241-0242; 0250
73.	Comment recommends that the proposed regulations be modified to remove the detailed prohibitions and permit businesses more flexibility in how they communicate with consumers in a particular context. The recently issued	No change has been made because the comments are not related to any modification to the text for the 15-day comment period. *See also* FSOR, App. A, Response # 119.	W137-6 W137-7	0297 0297

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	Colorado Privacy Act Draft Rules made the need for flexibility clearer. It includes additional, prescriptive rules and examples that diverge from the Agency's proposed approach.			
- **§ 7004(a)**				
74.	Comment requests inclusion of the word "may" under § 7004(a) to clarify that the factors listed are not on their own determinative if there is a dark pattern, but rather, issues a business should consider when designing a user interface.	No change has been made because the comment is not related to any modification to the text for the 15-day comment period.	W116-10	0083, 0093
- **§ 7004(a)(1)**				
75.	Comment urges the Agency to provide examples of language that is "easy to understand," in the context of businesses designing CCPA request processes and obtaining consumer consent. As an alternative, comment recommends the Agency considering a more objective standard than "easy to understand."	No change has been made because the comment is not related to any modification to the text for the 15-day comment period. *See also* FSOR, App. A, Response # 126.	W142-8	0332
- **§ 7004(a)(2)**				
76.	Comment requests modifications to § 7004(a)(2) clarifying that lack of symmetry is a dark pattern only when it results in impairing or interfering with the ability to make a choice. Comment recommends changing "because that would impair or interfere" to "to the extent it impairs or interferes." One	No change has been made in response to these comments. The comment's interpretation of the regulation is inconsistent with the regulation's language. Section 7004(a)(2) does not require exact symmetry. Rather, § 7004(a)(2) requires that the privacy-protective option shall not be longer or more difficult or time-consuming than the path to exercise a less privacy-protection option because that would impair or interfere with the consumer's ability to make a choice. The revised section clarifies that a more difficult or time-consuming path can	W116-12 W120-6 W132-6 W139-3 W152-28	0083, 0093 0120 0241-0242; 0250 0308 0415

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	comment claims that the revised standard still places an undue burden on design to the extent it requires exact symmetry in length.	also impair or interfere with consumers' choice. The proposed alternative to change this requirement to "to the extent it impairs or interferes with the consumer's ability to make a choice" is not more effective in furthering the intent and purposes of CCPA. Rather, it would create confusion for businesses and consumers about what "to the extent" means and when symmetry in choice is required. In addition, the comments do not provide substantial evidence or justification about when symmetry in choice may not be appropriate and why the proposed alternative is necessary.		
77.	Comment suggests that the Agency should not require a binary option for symmetry of choice.	No change has been made in response to this comment. The comment's interpretation of the regulation is inconsistent with the regulation's language. Section 7004(a)(2) does not mandate binary options. Rather, it requires that the path for a consumer to exercise a more privacy-protective option shall not be longer or more difficult or time-consuming than the path to exercise a less privacy-protective option. Businesses have flexibility in how they implement this requirement in their presentation of consumer requests and consent options to consumers.	W116-23	0086
78.	Comment recommends that the Agency strike § 7004(a)(2)(C) in its entirety or, in the alternative, reinsert the language that ties the example to a method for opting out of sales or sharing. By deleting the prior reference to a consumer's right to opt-out of the sale or sharing of their personal information in § 7004(a)(2)(C), the modified proposed regulations create additional confusion by invoking an example of a company seeking consent to use a consumer's personal information—which is rarely addressed	No change has been made in response to this comment. The regulation is reasonably clear. The example in § 7004(a)(2)(C) is illustrative and businesses have flexibility and discretion in how to apply the guidance provided in a manner that best fits the relevant context between the business and consumers, such as obtaining consent after a consumer has previously opted out of the sale or sharing of their personal information. Providing some examples is beneficial to consumers and businesses, particularly smaller businesses that lack privacy resources, by clarifying what factors they should consider in crafting their methods. In addition, the example has also been modified to use the word "could" instead of "would" to indicate that the symmetrical choice suggested is one possible way, not the only way, to correct the method. Lastly, the Agency does not believe the example as modified creates confusion for	W137-9	0298

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	by the CPRA's requirements—rather than overcoming a prior opt-out from the sale or sharing of the consumer's information.	businesses. In instances where a business seeks consent to use a consumer's personal information, such as pursuant to § 7002(e), this example provides practical guidance on obtaining consent. To the extent that the comment raises specific legal questions and seeks legal advice regarding the CCPA, the commenter should consult with an attorney who is aware of all pertinent facts and relevant compliance concerns. The regulation provides general guidance for CCPA compliance.		
79.	Comment supports symmetry standard. Comment notes that it is conceivable that to effectuate a "more privacy protective option," a business may develop a path that has more steps but does not present an undue burden.	No change has been made in response to this comment, which is an observation rather than a specific objection or recommendation regarding the regulation(s). In addition, the modifications to § 7004(a)(2) clarify that the path also shall not be "more difficult or time-consuming." This change is necessary to address situations where the number of steps may be equal, but the length of time or burden of completing the steps may be different. Whether a given path is compliant with § 7004(a)(2) is a fact-specific determination.	W157-7	0452
- **§ 7004(a)(3)**				
80.	Comment suggests that common features of rights submission interfaces, like toggles and webpage disclosures that can result in modest scrolling, should not be seen as practices interfering with consumer choice.	No change has been made because the comment is not related to any modification to the text for the 15-day comment period.	W134-9	0269, 0272-0273
81.	Comment claims that the Agency should strike the example provided in § 7004(a)(3)(B) regarding "on" or "off" toggles being confusing. On/off toggles are pro-privacy and intended to clearly and simply give consumers options. The regulations should not call them into question and imply that the use of these	No change has been made because the comment is not related to any modification to the text for the 15-day comment period. *See also* FSOR, Response # 143.	W124-15	0174

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	type of pro-consumer tools could be a confusing or constitute a dark pattern. Already, the regulations state that "Toggle or button must clearly indicate the consumer's choice." This language is sufficient to protect against confusing practices.			
82.	Comment suggests that § 7004(a)(3) should be expanded through a provision barring businesses from offering two options, say for the selling of sharing personal information, with the choice that would permit the business to sell or share being the default. One frequently encounters this choice architecture online where a website is seeking one's consent to use cookies and the choice that would allow the business to do so is already chosen, leading a distracted or unfocused person to click on the default choice. Regulators have documented evidence that use of dark patterns in this manner often affects user behavior in ways that can be harmful to them. This practice should be barred so that Californians will be able to choose freely when presented choices per the CCPA.	No change has been made because the comment is not related to any modification to the text for the 15-day comment period.	W149-2	0383
- **§ 7004(a)(4)**				
83.	Comments request that the Agency clarify in § 7004 that the references to	No change has been made in response to these comments. The comment's interpretation of the regulation is inconsistent with the	W116-8	0082-0083, 0093

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	"consent" refer to the limited instances in which the statute mandates consent because the CPRA is largely a notice at collection statute (not opt-in), and therefore does not require consent for the collection and processing of personal information in most instances. This could be interpreted as a backdoor and extra-statutory regulatory requirement to mandate opt-in consent for all data collection and uses. It also creates confusion for businesses already navigating a complex statutory regulatory standard. For example, in § 7004(a)(4)(B), the Agency's insertion of "because consent must be freely given, specific, informed, and unambiguous" appears to mandate opt-in consent under the CPRA, when that is not required under the statute for personal information collection, except in instances of selling/sharing children's personal information, or opting back into sale/sharing for adults, both of which are separately addressed under the CPRA. One comment suggests that the Agency should clear up any potential confusion or regulatory overreach by explicitly stating that the regulations do not intend to mandate an opt-in consent standard	regulation's language. Section 7004(a)(4) clarifies that businesses are to avoid choice architecture that impairs or interferes with the consumer's ability to make a choice, such as when exercising their consumer rights or providing consent. Section 7004(a)(4)(A) addresses when a consumer rights request mechanism can violate § 7004(a)(4). Similarly, § 7004(a)(4)(B) addresses when bundling choice options can impair consent (such as when consent is obtained under § 7002(e)). The regulation is reasonably clear. In addition, the proposed alternative is unnecessary. Consent is defined under Civil Code § 1798.140(h), and the CCPA and these regulations address when consent may be required.	W134-7 W152-29	0269-0270 0415

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	beyond what the statute expressly requires.			
84.	Comment urges the Agency to recenter the concept of "manipulation" in § 7004(a)(4) because removing "manipulative language" is antithetical to the spirit of the section and the CCPA. By only prohibiting language that would "impair or interfere" consumers' choice, it removes a class of dark patterns that are designed to nudge, manipulate, or influence.	No change has been made in response to this comment. Section 7004(a)(4) has been modified to focus on choice architecture that impairs or interferes with the consumer's ability to make a choice. This modification provides clarity to businesses and consumers about what types of choice architecture is prohibited. The Agency will continue to observe the marketplace and revisit this issue as necessary.	W145-5	0351-0352
- **§ 7004(b)**				
85.	Comments recommend the Agency to confirm that a dark pattern must have the "substantial effect of subverting or impairing user autonomy, decision-making, or choice," because § 7004(b) states that any user interface that does not comply with the highly detailed and specific design components set forth in § 7004(a) may be deemed a "dark pattern." One comment claims that the dark pattern reference of § 7004(b) is an overly harsh result. Broken links, slow webpages, and vagueness of some of the requirements of § 7004(a) do not necessarily result or lead to a "dark pattern" conclusion.	No change has been made because the comment is not related to any modification to the text for the 15-day comment period. *See also* FSOR, App. A, Response # 161.	W137-8 W152-30	0297-0298 0415

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86.	Comment suggests adding "reasonably" to § 7004(b) to ensure recognition that not all websites or user interfaces contain the features discussed in § 7004(a), or similarly, that not all of the elements of § 7004(a) are present for each website or user interface.	No change has been made because the comment is not related to any modification to the text for the 15-day comment period. *See also* FSOR, App. A, Response # 159.	W124-14	0174
- **§ 7004(c)**				
87.	Comment requests that the Agency modify § 7004(c) to closely align with the definition of "dark pattern" in the CPRA, which requires a "substantial effect of subverting or impairing user autonomy, decision making or choice" before a user interface is considered a dark pattern. Comment proposes additional modifying language, such as "designed in a manipulative manner."	No change has been made in response to this comment. The regulation is reasonably clear and is consistent with the CCPA's definition of "dark pattern." Moreover, the examples provided further illustrate what is meant by the term. Lastly, the proposed alternative is inconsistent with the CCPA's definition of dark pattern, which is defined to include "a user interface designed *or* manipulated with the substantial effect…" Civil Code § 1798.140(*l*) (emphasis added). Comment's proposed alternative would limit this prohibition to user interfaces that are "designed in a manipulative manner with the substantial effect…" This alternative would impermissibly narrow the CCPA's statutory definition of dark pattern.	W116-9	0083, 0093-0094
88.	Comment disagrees with the new language in § 7004(c), replacing "regardless of user intent," and urges the Agency to restore the previous language. Business intent is never relevant in assessing whether a particular design is deceptive or not. The effect of the pattern on the user is the only relevant consideration. For this reason, intent is typically not an element of consumer protection laws such as federal and state	No change has been made in response to this comment. The comment's interpretation of the regulation is inconsistent with the regulation's language. As explained in the FSOR, § 7004(c) has been modified to clarify that the statutory definition of a "dark pattern" does not require the business to intend to design a user interface to have the substantial effect of subverting or impairing consumer choice. *See* Civ. Code § 1798.140(*l*). The subsection is necessary to clarify how intent factors into assessments of violations of the CCPA and this subsection and to address comments raised during the public comment period. FSOR, p. 13.	W129-1	0217

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	prohibitions on deceptive and unfair business practices. A company's intent may be a consideration for a regulator in deciding whether to bring an action or in determining the appropriate penalty in a settlement. It is not, however, a relevant consideration in determining whether a legal violation has occurred.			
89.	Comment supports allowing a business's intent to be a factor to be considered in dark patterns determinations and recommends the Agency describe in detail the types of evidence it anticipates examining to determine a business's intent.	No change has been made in response to this comment. The comment's interpretation of the regulation is inconsistent with the regulation's language. As explained in the FSOR, § 7004(c) has been modified to clarify that the statutory definition of a "dark pattern" does not require the business to intend to design a user interface to have the substantial effect of subverting or impairing consumer choice. *See* Civ. Code § 1798.140(*l*). The subsection is necessary to clarify how intent factors into assessments of violations of the CCPA and this subsection and to address comments raised during the public comment period. FSOR, p. 13. Lastly, the proposed recommendation is not necessary. Section 7301(b) already addresses this point and states that the Agency may consider all facts it determines to be relevant, including good faith efforts to comply with CCPA.	W157-8	0452
90.	Comment states that requiring a business's intent to be a factor that must be considered in determining whether a user interface is a dark pattern is costly and reduces clarity of the regulations. Adding business intent in § 7004(c) as a factor creates a larger administrative burden for the Agency, as the Agency would presumably need access to the	No change has been made in response to this comment. The comment's interpretation of the regulation is inconsistent with the regulation's language. As explained in the FSOR, § 7004(c) has been modified to clarify that the statutory definition of a "dark pattern" does not require the business to intend to design a user interface to have the substantial effect of subverting or impairing consumer choice. *See* Civ. Code § 1798.140(*l*). The subsection is necessary to clarify how intent factors into assessments of violations of the CCPA and this subsection and to	W145-6	0352-0353

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	organization's emails, meeting minutes, and other documents in its attempt to construct intent. It also incorrectly shifts the focus from a practice's impact on end-users to a business's culture and internal procedures. Additionally, development of dark patterns is increasingly being done without any human interaction.	address comments raised during the public comment period. FSOR, p. 13.		
ARTICLE 2. REQUIRED DISCLOSURES TO CONSUMERS				
§ 7011. Privacy Policy				
- **Comments generally about § 7011**				
91.	Comment states the changes to § 7011 have "significantly weakened the ability for all people to access and understand business privacy policies." Comment contends that requiring privacy policies to be in a format that "allows a consumer to print it out as a document" is a major step back from the goals of accessibility laid out in the original rules.	No change has been made in response to this comment. To the extent the comment makes general statements about the revisions to § 7011, those statements do not propose specific amendments to the proposed regulations and do not provide sufficient specificity to the Agency to make any modifications to the text of the regulations. Civil Code § 1798.130(a)(5) requires a business to disclose certain information in its privacy policy. The purpose of § 7011 is to set forth the rules and procedures businesses must follow regarding the form, content, and posting of the privacy policy. The regulation is necessary to ensure that the privacy policy contains the necessary information and is provided in a manner that makes it easily accessible and understandable to consumers. In drafting the regulations, the Agency reorganized § 7011 to better assist businesses and consumers in understanding what information must be included in the privacy policy. *See* ISOR, pp. 14-16. To the extent the comment specifically objects to the requirement that privacy policies "be available in a format that allows a consumer to print it out as a document," that requirement is a holdover from the existing regulation. The comment also appears to misread the regulation. While	W145-7	0353

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		the regulation requires that privacy policies be in a format that allows a consumer to print them out, the regulation also requires that the policy be "posted and accessible online." § 7011(d). The revised regulation does not limit accessibility or limit what was laid out in the original rule. In the event the Agency becomes aware of accessibility issues relating to privacy policies, the Agency may consider additional regulations in future rulemakings.		
- **§ 7011(c)**				
92.	Comment suggests revising the regulation to expressly provide that businesses that are exempt from the CCPA under Civil Code § 1798.145 are allowed to notify consumers via the businesses' privacy policy that the business is exempt and that requests to exercise rights under the CCPA may be denied.	No change has been made because the comment does not relate to any modification to the text for the 15-day comment period. Moreover, the regulations are reasonably clear, and the Agency has determined that no additional guidance is necessary at this time. The regulations are "not meant to prescribe the organization of any business's privacy policy." *See* ISOR, p. 16. The regulations provide the business with discretion in determining how to provide a comprehensive description of its online and offline collection, use, sharing, and retention practices to comply with the CCPA's requirements for privacy policies in Civil Code §§ 1798.130, 1798.135. They provide general guidance and were drafted to make it easier for businesses "to use the regulation as a checklist to ensure that all the information necessary is included in their privacy policy." *Id.* The regulations are meant to be applicable to many factual situations and across industries. To the extent that the commenter seeks additional clarity, it likely requires a fact-specific determination. The commenter should consult with an attorney who is aware of all pertinent facts and relevant compliance concerns.	W157-9	0452
- **§ 7011(e)**				
93.	Comment states that § 7011 requires privacy policies to include too many details and content, making them unhelpful to consumers. Comment	No change has been made because the comment does not relate to any modification to the text for the 15-day comment period. Section 7011(e) implement the statutory requirements for privacy policies and are reasonably clear. The regulations are "not meant to prescribe the	W116-21	0086, 0099

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	proposes revising § 7011(e) to allow businesses to modify the requirements to make them easier to understand and conform to other privacy policy requirements that the business must follow.	organization of any business's privacy policy." *See* ISOR, p. 16. The regulations provide the business with discretion in determining how to provide a comprehensive description of its online and offline collection, use, sharing, and retention practices to comply with the CCPA's requirements for privacy policies in Civil Code §§ 1798.130, 1798.135. They provide general guidance and were drafted to make it easier for businesses "to use the regulation as a checklist to ensure that all the information necessary is included in their privacy policy." *Id.* The regulations are meant to be applicable to many factual situations and across industries. To the extent that the commenter seeks additional clarity, it likely requires a fact-specific determination. The commenter should consult with an attorney who is aware of all pertinent facts and relevant compliance concerns.		
94.	Comment reiterates objections raised in 45-day comment about § 7011(e)(1)(E) and (e)(1)(I). Comment contends that those subdivisions require a "level of granularity for information disclosures [that] is inconsistent with other disclosures that must be made to consumers."	No change has been made because the comment does not relate to any modification to the text for the 15-day comment period. *See also* ISOR, pp. 15-16; FSOR, App. A, Response #s 184, 185, and 187.	W134-15	0277
95.	Comment suggest that the regulations should not require granular mapping between purpose and data type.	No change has been made because the comment does not relate to any modification to the text for the 15-day comment period. *See also* FSOR, App. A, Response # 192.	W124-17	0175
96.	Comment recommends adding two additional subsections to § 7011(e)(1) that require (1) the identification of the specific business or commercial purpose for which the business uses or discloses sensitive personal information regardless	No change has been made because the comment does not relate to any modification to the text for the 15-day comment period. *See also* FSOR, App. A, Response # 193.	W127-4	0203-0204

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	of whether it falls within a § 7027 exception; and (2) a log of material changes retained as copies of previous versions of a business's privacy policy for at least 10 years, including describing the date and nature of each material change to its privacy policy over the past 10 years.			
97.	Comments state that the regulations do not define the phrase "categories of sources." Comment suggests including a new subsection to provide guidance about the meaning of the phrase.	No change has been made because the comment does not relate to any modification to the text for the 15-day comment period. *See also* FSOR, App. A, Response # 180.	W149-3 W149-4	0383 0383
98.	Comment recommends that adding a "caveat" to § 7011(e)(2)(D) and (E) providing that consumers may opt out of the sale or sharing of personal information at any time.	No change has been made because the comment does not relate to any modification to the text for the 15-day comment period. Moreover, the Agency has determined that the proposed modifications are not necessary at this time. Civil Code § 1798.130(a)(5) requires a business to disclose certain information in its privacy policy. The purpose of § 7011 is to set forth the rules and procedures businesses must follow regarding the form, content, and posting of the privacy policy. The regulations provide the business with discretion in determining how to provide a comprehensive description of its online and offline collection, use, sharing, and retention practices to comply with the CCPA's requirements for privacy policies in Civil Code §§ 1798.130, 1798.135. They provide general guidance and are meant to be applicable to many factual situations and across industries.	W149-5	0383
99.	Comment contends that § 7011(e)(1)(H), (I), and (J) are overly broad. It requests that the disclosures covered in those	No change has been made because the comment does not relate to any modification to the text for the 15-day comment period. *See also* FSOR, App. A, Response # 192.	W133-3	0255

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	subsections be limited to the sale and sharing of personal information.			
100.	Comment requests that businesses that do not sell or share consumers' personal information be exempt from the requirements in § 7011(e)(3)(F) and (G).	No change has been made because the comment does not relate to any modification to the text for the 15-day comment period. *See also* FSOR, App. A, Response # 195.	W133-4 W142-6	0255 0331
§ 7012. Notice at Collection of Personal Information				
- **Comments generally about § 7012**				
101.	Comment appreciates the modifications made to this Section with respect to the sharing of third- party names with consumers.	The Agency appreciates this comment of support. No change has been made in response to this comment. The comment concurred with the proposed modifications, so no further response is required.	W152-31	0415-0416
102.	Supports "the revisions that removed the disclosure requirements of third parties to which a covered business may in the future share with the supply chain partners most businesses must rely upon in Disclosure Requirements § 7012 (e)(6)."	No change has been made in response to this comment. The comment concurred with the proposed modification, so no further response is required. The Agency does not agree with the comment's characterization of § 7012(e)(6).	W131-3	0236
103.	Comment recommends that the Agency include a requirement for short form notice. Consumers interact with so many businesses every day that they cannot meaningfully review even clear terms included in longer form notices.	No change has been made because the comment is not related to any modification to the text for the 15-day comment period. *See also* FSOR, App. A, Response # 208.	W127-5	0204
104.	Comment states that in instances where the only in-scope personal information that a business is collecting is for the purpose of cross context behavioral advertising, companies should not be	No change has been made because the comment is not related to any modification to the text for the 15-day comment period. *See also* FSOR, App. A, Response # 206.	W133-5	0255

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	required to post a notice at collection since this is already required in the privacy policy as well as the opt-out notice which provide the same information. Adding yet another notice in this case simply adds confusion for the consumer and is an unnecessary burden on companies.			
105.	Comments disagree with the proposed deletion and hopes that the Agency will consider keeping the original text in § 7012(e)(6) and § 7012(g)(2) intact. One comment states that the provision already offered companies flexibility in either identifying companies or at least describing their practices to consumers. Other comments argue that consumers deserve to know who the third parties are in order to provide informed consent. Providing consumers with complete and accurate notice of the third parties' names and/or business practices greatly outweighs the minimal administrative burden placed on businesses. Furthermore, responsible businesses that properly safeguard consumer data should know how information they collect flows to third parties.	No change has been made in response to these comments. The Agency has deleted §§ 7012(e)(6) and (g)(2) to simplify implementation at this time. The Agency will continue to observe the marketplace and revisit this issue as necessary.	W129-3 W145-8 W145-9 W145-10 W148-1	0218 0353-0354; 0355 0354 0354 0377-0378
106.	Comment proposes the addition of "algorithms" in the Notice at Collection	No change has been made because the comment is not related to any modification to the text for the 15-day comment period. The Agency has	W109-4	0036

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	as an item to be included in § 7012(e)(6) because the algorithms that impact the consumers personal information should be disclosed in the Notice at Collection so that users can exercise control over how algorithms are used in regard to their personal information.	not addressed this issue of algorithms at this time. The Agency has prioritized the drafting of regulations that operationalize and assist in the immediate implementation of the law. Further analysis is required to determine whether a regulation on this issue is necessary.		
- **§ 7012(c)**				
107.	Comment suggests that placing the Notice at Collection on the download page and in the settings menu are two of the least conspicuous sites to notify users. The Notice should be provided when the application is launched.	No change has been made in response to this comment. Section 7012(c) provides guidance and examples of how the notice can be given where consumers will encounter it at or before the point of collection. To the extent that the commenter seeks additional clarity, it likely requires a fact-specific determination. The commenter should consult with an attorney who is aware of all pertinent facts and relevant compliance concerns. *See also* FSOR, App. A., Response # 102. The Agency has determined that no further clarification is needed at this time.	W149-6	0383-0384
- **§ 7012(e)**				
108.	Comment commends the removal of § 7012(e)(6) because providing to consumers long lists of all supply chain partners an organization may choose to work with in the future would overwhelm consumers and fail to meaningfully inform them of any criteria that may increase or decrease risks associated with the collection and processing of their personal data.	No change has been made in response to this comment. The comment concurred with the proposed modification, so no further response is required. The Agency does not agree with the comment's reasons for supporting the modification.	W131-3	0236
109.	Comment states that the personal information retention period is difficult to comply with because businesses deal	No change has been made because the comment is not related to any modification to the text for the 15-day comment period. *See also* FSOR, App. A, Response # 217.	W154-5	0429

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	with various factors such as the consumer relationship, transaction duration, and other legal requirements. Suggest a specified data element could have various retention periods under the law.			
- **§ 7012(f)**				
110.	Comments recommend striking § 7012(f) as it is overly prescriptive, impractical, inconsistent, and burdensome; or alternatively make edits to remove the requirement to provide a link to the specified section of the businesses' privacy policy containing the required terms. One comment concerns that this level of prescription raises constitutional and administrative legal questions by burdening the ability of businesses to use a single interface to interact with users across states without directing non-California consumers directly to a California-specific privacy notice. Generalizing this requirement would permit businesses greater latitude to communicate effectively with consumers, both Californians and non-Californians alike.	No change has been made because the comment is not related to any modification to the text for the 15-day comment period. *See also* FSOR, App. A, Response # 219.	W116-24 W128-9 W138-6 W139-17 W146-1 W150-2 W152-33 W155-1 W155-6	0087 0212 0303 0315-0316 0360-0631 0395 0416 0434 0435

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- **§ 7012(g)**				
111.	Comment appreciates the Agency for amending § 7012(g)(2) to read that a third party that controls the collection of personal information on the first party's physical premises must only provide a notice at collection at the physical premise.	The Agency appreciates this comment of support. No change has been made in response to this comment. The comment concurred with the proposed modification, so no further response is required.	W142-7	0331
112.	Comment recommends striking § 7012(g) that requires both the first party and the third party to provide a Notice at Collection. This section is almost impossible to apply to complex processing operations that involve different stages of the analysis process, technical activities, and actors involved at different points in the value chain, such as artificial Intelligence or the internet of things. This level of detail is unnecessary, and the section should be removed.	No change has been made because the comment is not related to any modification to the text for the 15-day comment period. *See also* FSOR, App. A, Response # 223.	W139-18	0316
113.	Comments suggest that the regulations follow the FTC's approach and permit notice that is "reasonable" in the context of the method of data collection. One comment is concerned that requirements in § 7012(g)(2) are overly prescriptive for companies. Businesses often engage with various third parties for numerous services that may involve the collection of data but the focus on a physical	No change has been made because the comment is not related to any modification to the text for the 15-day comment period. *See also* FSOR, App. A, Response # 228.	W132-7 W152-32	0242 0415

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	display is disproportionate, creating an unnecessary mandate to display a physical notice despite other methods being more effective and beneficial for a consumer.			
§ 7013. Notice of Right to Opt-Out of Sale/Sharing and the "Do Not Sell or Share My Personal Information" Link				
- **Comments generally about § 7013**				
114.	Comment requests that § 7013 allow businesses to post a link stating only, "Do Not Share My Personal Information" if the business is not engaged in the sale of data.	No change has been made because the comment is not related to any modification to the text for the 15-day comment period. *See also* FSOR, App. A, Response # 235.	W133-6	0255
115.	Permitting businesses to either post a "Do Not Sell or Share My Personal Information" link or direct the consumer "to a webpage where the consumer can learn about and make that choice" is antithetical to § 7004's symmetry principles and businesses will choose the latter option to dissuade consumers to opt out. Businesses should not be given a choice and should just be required to post the link to more information.	No change has been made because the comment is not related to any modification to the text for the 15-day comment period. This regulation allows businesses to execute the consumer's right to limit with one click and gives deference to businesses in how to craft their methods so that they are easily accessible to consumers, which is in line with the purpose and intent of the CCPA. *See* ISOR, p. 20 (referencing Prop. 24, as approved by voters, Gen. Elec. (Nov. 3, 2020), § 3(B)(4).)	W149-7	0384
116.	The Agency should not exceed its statutory authority by requiring businesses provide notice to opt-out of sale/sharing in the same way it collects the personal information.	No change has been made because the comment is not related to any modification to the text for the 15-day comment period. *See also* FSOR, App. A, Response # 244.	W132-8 W152-34 W152-35	0242-0243 0416 0416

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- **§ 7013(e)**				
117.	Comment recommends reinstatement of deleted examples in § 7013(e)(3). Deleting these examples will lead to the implication that connected devices and virtual reality systems do not need to provide notice.	No change has been made in response to this comment. Businesses in the connected device and virtual reality industries must still comply with the requirements of § 7013(e). The deletion of the examples § 7013(e)(3)(C)-(D) does not affect these obligations. The Agency will continue to monitor the marketplace and may revisit whether additional examples are necessary.	W129-4	0218
- **§ 7013(h)**				
118.	Proposed modifications do not provide sufficient language specifying when the requirement to obtain opt-out consent for pre-data collection applies. The Agency should modify § 7013(h) to require affirmative consent to sell/share information collected before the opt-out notice but limiting it to information collected after the notice goes into effect.	No change has been made because the comment is not related to any modification to the text for the 15-day comment period. *See also* FSOR, App. A, Response # 250.	W132-9	0243-0244
§ 7014. Notice of Right to Limit and the "Limit the Use of My Sensitive Personal Information" Link				
- **Comments generally about § 7014**				
119.	Comment requests that any new regulatory obligations be prospective and apply only to data collected after the effective date of the regulations. Commenter previously urged the Agency to reconsider the provision within § 7014 requiring a business to obtain consumer consent before using or disclosing sensitive personal information that the business collected "during the time the	No change has been made because the comment is not related to any modification to the text for the 15-day comment period. *See also* FSOR, App. A, Response # 260.	W140-2	0322

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	business did not have a notice of right to limit posted." This appears to create an obligation with respect to data collected before the regulations and the requirement to post a "notice of right to limit" takes effect.			
120.	As with the "Do Not Sell or Share My Personal Information" link in § 7013, businesses have the choice to let consumers immediately effectuate their preference by clicking on the link or to "lead the consumer to a webpage where the consumer can learn about and make that choice." This adds steps, and commenter suggests that businesses not be given a choice to do one of the other. They should just be required to post the "Limit the Use of My Sensitive Personal Information" link or this link and another that leads people to more information.	No change has been made because the comment is not related to any modification to the text for the 15-day comment period. This regulation allows businesses to execute the consumer's right to limit with one click and gives deference to businesses in how to craft their methods so that they are easily accessible to consumers, which is in line with the purpose and intent of the CCPA. *See* ISOR, p. 21 (referencing Prop. 24, as approved by voters, Gen. Elec. (Nov. 3, 2020), § 3(B)(4).)	W149-8	0384
- **§ 7014(f)**				
121.	Section 7014(f) would be improved with greater specificity about how businesses should describe the right to limit use and disclosure in its Notice of Right to Limit."	No change has been made because the comment is not related to any modification to the text for the 15-day comment period. The regulations provide the business with discretion in determining how to inform consumers of their right to limit that best fits their business and consumers. The regulations provide guidance and are meant to be applicable to many factual situations and across industries.	W149-9	0384
122.	The statute and regulations are silent on how frequently a business may ask a consumer for consent to essentially	No change has been made because the comment is not related to any modification to the text for the 15-day comment period. For consumers who exercise their right to limit the use or disclosure of their sensitive	W149-10	0384

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	reverse his decision to request to limit. The Agency should address this gap with guidance or new regulations to prevent the foreseeable situation where businesses constantly ask those who have made requests to limit to reverse their decisions.	personal information, businesses are required to wait at least 12 months before requesting that the consumer authorize the use and disclosure of the consumer's sensitive personal information. Civ. Code § 1798.135(c)(4).		
§ 7015. Alternative Opt-Out Link				
- **Comments generally about § 7015**				
123.	Comment states that the commenter appreciates the Agency's allowance of, and guidance regarding, the Alternative Opt-Out Link.	The Agency appreciates this comment of support. No change has been made in response to this comment. The comment concurred with the proposed modification, so no further response is required.	W157-10	0452
124.	Comment states that alternative opt out link needs a text description because many people may not understand what the choice entails. Comment suggests that the title "Alternate Opt-Out" would be confusing to consumers. It suggests requiring a short description of what the option is.	No change has been made in response to this comment. The comment's interpretation of the regulation is inconsistent with the regulation's language. The regulation requires alternative opt-out links to be titled "Your Privacy Choices" or "Your California Privacy Choices." § 7015(b). The regulation does not allow businesses to post a link entitled "Alternate Opt-Out." The Agency does not believe consumers will find links with those titles confusing.	W149-11	0384-0385
125.	Comments request that the opt-out icon be optional. Comments contend that icon will confuse consumers and that it prescribes graphic features that may not align with a business's design layout, putting unnecessary burden on a business without countervailing consumer benefit. One comment proposes that businesses should be	No change has been made because the comment is not related to any modification to the text for the 15-day comment period. Moreover, the regulation is consistent with the CCPA. Civil Code § 1798.135(a)(3) provides for an alternative opt-out link that is "clearly-labeled" and Civil Code § 1798.185(a)(4) and (6) explicitly provide the Agency with authority to establish rules to (1) facilitate and govern the submission of requests to opt-out of sale/sharing and requests to limit, (2) ensure that that notices and information are provided in a manner that may be easily understood by the average consumer, and (3) develop and use a	W116-15 W120-7 W122-12 W132-10 W139-15 W152-36	0084, 0096 0121 0148 0244, 0250 0314 0416

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	allowed to leverage existing in-market icons and choice mechanism. Some comments also contend that it is not mandated under Civil Code § 1798.135(a)(3).	recognizable and uniform opt-out logo. As explained in the ISOR, § 7015 sets forth rules and procedures businesses must follow regarding the form, content, and posting of the alternative link. ISOR, p. 23. The use of the icon along with the uniform title is informed by academic studies that tested a number of different icon designs and taglines and found that the icon and title are among the best methods for effectively conveying privacy choices. *Id.*, p. 23. The comments do not provide any support that would necessitate a change to this regulation. Regarding the proposal to use existing in-market icons, s*ee* FSOR, App. A, Response # 263.		
- **§ 7015(b)**				
126.	Comments suggest making the use of the icon optional with regard to the "Alternative Opt-Out link." Additionally, one comment suggests that the graphic feature prescribed may not align with the business's design and layout putting burdens on businesses.	No change has been made in response to this comment. As explained in the ISOR, the use of the icon with the uniform title is informed by academic studies that tested a number of different icon designs and taglines and found that the icon and title are among the best choices to effectively convey privacy choices. *See* ISOR, p. 23. The comments do not provide any support that would necessitate a change to this regulation.	W116-15 W120-7 W132-10 W152-36	0084, 0096 0121 0244, 0250 0414
§ 7016. Notice of Financial Incentive				
- **Comments generally about § 7016**				
127.	Comment requests that market research incentives and similar rewards to research subjects be exempt from notices of financial incentives requirements under the CPRA.	No change has been made because the comments are not related to any modification to the text for the 15-day comment period. *See also* FSOR, App. A, Response # 264.	W107-6	0022-0023
128.	Comment claims that the modified regulations do not provide clear guidance to companies or consumers as to what practices might violate Civil Code § 1798.125(b)(4)'s provision that a	No change has been made because the comments are not related to any modification to the text for the 15-day comment period. *See also* FSOR, App. A, Response # 268.	W129-5	0218-0219

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	"business shall not use financial incentive practices that are unjust, unreasonable, coercive, or usurious in nature." Comment suggests that the Agency clarify that offers should be presumed to be illegitimate in concentrated markets or markets for essential services, and that companies should be required to provide an accounting of the "good-faith estimate of the value of the consumer's data" as required by the CPRA.			
129.	Comment suggests that the Agency consider providing some sample computations of the value of a consumer's data to a business. The examples can and should include an example of a reasonable method to arrive at a value number as well as an example of an unreasonable method. Such examples should also include acceptable additional business purposes for acquired customer data that clearly meet the "reasonable consumer expectation" standard and examples of those that would not meet the "reasonable consumer expectation" standard.	No change has been made because the comments are not related to any modification to the text for the 15-day comment period. *See also* FSOR, App. A, Response # 266.	W145-1	0347-0348
- **§ 7016(d)**				
130.	Comment states that the requirement in § 7016(d) that businesses must furnish a	No change has been made because the comments are not related to any modification to the text for the 15-day comment period. Moreover,	W149-12	0385

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	"good-faith estimate of the value of the consumer's data" and "[a] description of the method(s) the business used to calculate the value of the consumer's data" may pose difficulties. Some businesses may opt for overly confusing or complex information so as to ward off scrutiny by the CPPA and consumers. The Agency should consider adding what might be considered a requirement that these portions of the financial incentives disclosures meet the requirements of § 7003(a) and § 7003(b) (i.e., mathematical language that is "easy to read and understandable to consumers" and uses "plain, straightforward language and avoid[s] technical or legal jargon"). Such a requirement would make clear the financial proposition before consumers join a financial incentive program.	§ 7016(b) already states that the Notice of Financial Incentive must comply with § 7003(a) and (b). In addition, a business's method for obtaining the consumer's consent to join a financial incentive program must comply with § 7004.		
ARTICLE 3. BUSINESS PRACTICES FOR HANDLING CONSUMER REQUESTS				
- **Comments generally about Article 3**				
131.	Expresses concern that regulations governing opt-out requirements may not protect consumers from companies that do not collect personal information directly from consumers but still use information from data brokers for decision-making. Comment appears to	No change has been made in response to this comment because the comment is not related to any modification to the text for the 15-day comment period. Nonetheless, to the extent the comment suggests that a consumer's opting out of sale/sharing with a data broker subject to CCPA would not impact a third party's purchase and use of the consumer's personal information, the comment appears to misinterpret the regulations. A data broker who receives a request to opt-out of	W105-1	0009

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	suggest that despite a consumer opting out of data brokers' selling/sharing, third-party companies may still buy and use consumers' personal information, effectively invalidating consumers' opt-out choices.	sale/sharing from the consumer would be required to comply with it. Third-party companies would no longer be able to buy and use that consumer's personal information from the data broker.		
132.	Recommends that the Agency investigate employment-verification services, the market practices of the data brokers involved, and their methods for collecting and selling payroll data, and take them into account in future rulemaking. Expresses concerns that data brokers' employment verification services and anti-competitive practices threaten consumer privacy and financial security. Claims that employers and payroll companies sell employee payroll data to data brokers, who then sell that data to lenders, landlords, debt collectors, and others. Claims that industry practices result in an abundance of inaccurate data and give individuals and workers little ability to opt out of profiling or provide meaningful consent.	No change has been made because the comment is not related to any modification to the text for the 15-day comment period. The Agency has not addressed this issue at this time. The Agency has prioritized the drafting of regulations that operationalize and assist in the immediate implementation of the law. Further analysis is required to determine whether a regulation on this issue is necessary.	W126-1 W126-2 W126-3	0186-0191 0186, 0191-0194 0186, 0191-0194
133.	Recommends including for clarity throughout Article 3 references to "business exemptions under 'subsection 1'" that conform with Civil Code § 1798.145 in sections of Article 3 that	No change has been made in response to this comment. It is unclear what the comment is saying. The comment does not provide sufficient specificity to the Agency to make any modifications to the text. *See also* FSOR, App. A, Response # 275.	W154-7	0430

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	reference "business exemptions under 'subsection 1'" but do not contain a "subsection 1."			
134.	Comment states the requirements in § 7022(b)(3), (c)(4), and § 7023(c) to send detailed correction and deletion requests to service providers and contractors is overly burdensome for businesses. There should be parameters in place for when such a request is impossible to meet or involves disproportionate effort.	No change has been made in response to this comment. The Agency has determined that the comment's suggested modifications are not necessary. Section 7001(i) already defines "disproportionate effort" and provides examples of when responding a consumer's request would require disproportionate effort. The term "impossible" is reasonably clear and should be understood by the plain meaning of the word.	W152-23	0414
135.	The requirements in §§ 7022(b), (c), (f)(1), 7024(h), and 7023(f), that businesses provide detailed explanations about why certain consumer requests cannot be fulfilled are onerous, unworkable, and not commensurate to any consumer benefit.	No change has been made in response to this comment. The Agency does not agree that these requirements are onerous, unworkable, or not commensurate to consumer benefit. As explained in the ISOR, the requirements to provide a detailed explanation in §§ 7022(b), 7023(f), and 7024(h) are necessary to prevent businesses from abusing the exception and to allow consumers and those enforcing the statute to hold businesses accountable with relatively little cost to the business. *See* ISOR, pp. 25, 30, and 32. Similarly, the requirement to explain the basis of denying a request to delete in § 7022(f)(1) is necessary to provide consumers transparency into the business's practices and prevents businesses from using statutory or regulatory exceptions to retain data for their own purposes in derogation of the consumer's request. *See* ISOR, p. 26. As for the requirement to provide an explanation in § 7022(c)(4), it has been deleted, and thus, this comment is moot. *See* FSOR, p. 18.	W134-10	0273-0274
136.	Comment believes a business should not be required to provide a consumer with detailed explanations in compliance with §§ 7022(f)(1), 7023(f)(2), and 7024(h).	No change has been made because the comment is not related to any modification to the text for the 15-day comment period. *See also* FSOR, App. A, Response #s 314, 348, and 378.	W152-24	0414

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137.	Comment expresses concern about changes to §§ 7026(f)(2) and 7027 that remove requirement to notify third parties of requests to opt out of sale or sharing or limit the use and disclosure of sensitive personal information. These changes exacerbate issues for consumers to exercise their rights by requiring consumers to file even more requests to safeguard and exert control over their personal information. Businesses have the knowledge of which third parties they share information with, and a means of communicating with those third parties. These changes will obscure how consumer information flows through companies and make it difficult for consumers to exercise their CCPA rights.	No change has been made in response to this comment. The regulation is reasonably clear that businesses must still notify third parties to whom the business has sold or shared the consumer's personal information and direct them to comply with the request and forward the request to any other person to whom the third party has made the personal information available during that time period. With respect to § 7027, § 7027(g)(1) similarly retains the requirement to notify third parties to whom the business has disclosed or made available the consumer's sensitive personal information to comply with the request and to forward the request to any other person with whom the person has disclosed or shared sensitive personal information during that time. The Agency disagrees that the modifications to § 7026(f)(2) and § 7027 remove the requirement to notify third parties of requests to opt of sale or sharing or limit the use and disclosure of sensitive personal information, or that the modifications will make it difficult for consumers to exercise their rights.	W145-11	0354-0355
138.	The Agency should extend the exception to flow-down requirements that applies to requests to delete to all other CCPA requests. Businesses should not have to forward requests to know, correct, opt-out of sale/sharing, and limit to service providers, contractors, and third parties if it would be impossible or would involve disproportionate effort.	No change has been made in response to these comments. The CCPA does not explicitly provide the "impossible" or "disproportionate effort" standard for the other CCPA requests. Further analysis is required to determine whether such a regulation is necessary.	W134-11	0274

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139.	Comment suggests a more granularized framework for the treatment of individual requests in light of the inclusion of household data in the definition of personal information. Individuals are at risk for having their opt-out preferences or consumer requests dictated by other members of their household.	No change has been made because the comment is not related to any modification to the text for the 15-day comment period. *See also* FSOR, App. A, Response # 273.	W142-3	0330
§ 7020. Methods for Submitting Requests to Delete, Requests to Correct, and Requests to Know				
- **Comments generally about § 7020**				
140.	Recommends that the Agency confirm that a business that follows § 7020 requirements when responding to requests to correct will be deemed as using "commercially reasonable practices" as required by CPRA.	No change has been made because the comment is not related to any modification to the text for the 15-day comment period. It is also unclear what the comment is saying. Whether a business is acting in a commercially reasonably matter is a fact-specific determination. The regulations provide general guidance and are meant to apply to a wide range of factual situations and across different industries.	W142-10	0332
141.	Expresses concern that businesses may broadly construe having a "direct relationship" with a consumer under § 7020(a) to limit their responsibilities in providing means for consumers to contact them to exercise their rights. Recommends clarifying the meaning of "direct relationship" on the claim that § 7020 as drafted would make it harder for consumers to exercise their CCPA rights. Additionally, recommends replacing § 7020(d)'s two-step process for requests to delete with a different	No change has been made because the comment is not related to any modification to the text for the 15-day comment period. Additionally, regarding comment's concerns about § 7020(a), comment's interpretation of the regulation is inconsistent with the regulation's language. Section 7020(a) applies to businesses that, not only have a direct relationship with consumers from whom they collect personal information, but also that operate exclusively online. Regarding comment's recommendation for § 7020(d), the Agency revised the subsection to add that the two-step process to make online requests to delete shall otherwise comply with § 7004. This ensures that the two-step process is not implemented in a manner that would subvert the consumer's intention. Comment's recommendation is not more effective in carrying out the purpose and intent of the CCPA.	W149-13 W149-14	0385 0385

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	process in which the requestor is asked twice on the same page if they would like to delete their personal information.			
- **§ 7020(b)**				
142.	Objects to § 7020(b)'s requirement that a business that does not operate exclusively online but that maintains an internet website must provide a method for submitting request to delete, request to correct, and request to know through its website. Comment claims that regulations require businesses to use webforms for such requests. Bases objection on the claims that (1) current regulations would burden many Receivables Management Association International (RMAI) members who operate websites designed not to collect consumer information but merely to serve as online brochures despite the language in § 7020(c); and (2) requiring webforms would harm consumer privacy and data security by enabling bad actors to conduct cyberattacks through SQL injection attacks and other exploits such as spoofing.	No change has been made because the comment is not related to any modification to the text for the 15-day comment period. *See also* FSOR, App. A, Response # 279.	W157-11	0452-0454
- **§ 7020(f)**				
143.	Recommends creating an exception in § 7020 that gives debt collectors and businesses subject to the federal Fair	No change has been made because the comment is not related to any modification to the text for the 15-day comment period. *See also* FSOR, App. A, Response # 277.	W157-12	0454-0455

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	Debt Collection Practices Act (FDCPA) greater flexibility in providing methods for submitting CCPA requests. Claims (1) consumers of businesses subject to the FDCPA will be confused by businesses' providing consumers with information about how to submit the CCPA requests pursuant to § 7020's requirements; and (2) consumers are likely to erroneously believe that a CCPA request to delete is synonymous with a demand to cease communications under the FDCPA.			
§ 7021. Timelines for Responding to Requests to Delete, Requests to Correct, and Requests to Know				
- **Comments generally about § 7021**				
144.	Claims that § 7021's timeline for responding to requests is overly burdensome. Expresses concern that validation of consumer requests may take a significant amount of time due to missed calls or lack of responses to emails, resulting in delays not the fault of businesses. Recommends amending § 7021(b) so that the 45-day timeline for responding to requests to delete, requests to correct, and requests to know begins "after validation is complete, while still permitting an additional 45-day extension if the business provides the appropriate notice and explanation."	No change has been made because the comment is not related to any modification to the text for the 15-day comment period. *See also* FSOR, App. A, Response # 281.	W133-7	0255

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145.	Recommends that the Agency set definite deadlines, by which businesses must comply with verified requests to delete, correct, and know, that are fair to both businesses and consumers.	No change has been made because the comment is not related to any modification to the text for the 15-day comment period. *See also* FSOR, App. A, Response # 281.	W149-30	0388
§ 7022. Requests to Delete				
- **Comments generally about § 7022**				
146.	Comment requests the Agency to reconsider its responses to the commenter's August 22, 2022 comments submitted during the 45-day comment period.	No change has been made because the comment does not relate to any modification to the text for the 15-day comment period. *See also* FSOR, App. A, Responses #s 296, 304, 314.	W116-25	0087
147.	Comment proposes revising the three modified provisions in § 7022 to focus on the personal information a service provider "processes" rather than the information it collects. Comment contends that the focus on processing rather than collection aligns with the CCPA's purpose.	No change has been made in response to this comment. The commenter's proposed modification is unnecessary and would not be more effective in carrying out the purpose and intent of the CCPA. To the extent the comment suggests that the regulations' use of "Collected" rather than "processed" alters the scope of a service provider's role under the statute, the comment misinterprets the regulations. The statute's definition of a "service provider" as, inter alia, "a person that processes personal information on behalf of a business and that receives from or on behalf of the business consumer's personal information for a business purpose pursuant to a written contract" (Civ. Code, § 1798.140(ag)), coupled with the statute's definition of "collect" (includes "obtaining, receiving, and accessing . . . by any means" (Civ. Code §1798.140(f)) makes clear that service providers necessarily "collect" personal information. The regulations' use of "Collected pursuant to its written contract with the business" is consistent with those definitions and more precise about how a service provider's obligations apply to personal information (i.e., to clarify which personal information the service provider's obligations apply to).	W123-2	0156-0157

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148.	Comment states that the regulation needs to make clear that businesses must pass requests to delete to third parties.	No change has been made in response to this comment. The regulation is reasonably clear, and the comment's interpretation of the regulation is inconsistent with the regulation's language. The regulation tracks the requirements in the Civil Code § 1798.105(c), which provides that a business that receives a request to delete from a consumer "shall delete the consumer's personal information from its records, notify any service providers or contractors to delete the consumer's personal information from their records, and notify all third parties to whom the business has sold or shared such personal information, to delete the consumer's personal information, unless this proves impossible or involves disproportionate effort." Civil Code § 1798.105(c)(1). Section 7022(b)(3) explicitly requires businesses to notify "all third parties to whom the business has sold or shared the personal information to delete the consumer's personal information unless this proves impossible or involves disproportionate effort." The obligations that third parties have in response to notices of that type are set forth in §§ 7052 and 7053.	W127-6	0204-0205
149.	Comments state that the relationship between § 7022(b) and (d) is unclear. Comment requests that the Agency clarify businesses' obligation to respond to a consumer's request to delete personal information that is archived or on a back-up system. Comments request that the regulation provide that de minimis access does not count as access under the regulation.	No change has been made in response to these comments. There is no need to clarify the relationship between § 7022(b) and § 7022(d). The two provisions are complementary. Section 7022(b)(1) provides that businesses' obligation to comply with consumers' requests to delete does not extend to consumers' personal information existing on archived and backup systems, which is specifically addressed in § 7022(d). Section 7022(d) provides that the obligation to comply is delayed until certain conditions are met. There is no inconsistency between the two provisions, and therefore no need to change them. Nor is there any need to amend § 7022(d) to clarify when deletion is required. It allows for delayed compliance for personal information stored on archived or backup systems "until the archived or backup system relating to that data is restored to an active system or is next accessed or used for a sale, disclosure, or commercial purpose." The	W138-8 W146-9 W150-3 W155-8	0303-0304 0369 0395-0396 0436

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		provision is clear about when the obligation arises to delete personal information existing on archived or backed-up systems.		
150.	Comment requests that the regulations "expand on what constitutes 'impossibility' or 'disproportionate effort.'" It contends that those terms are ambiguous.	No change has been made in response to these comments. The regulation is reasonably clear. Section 7001(i) defines "disproportionate effort," in pertinent part, as when "responding to a consumer request means the time and/or resources expended by the business, service provider, contractor, or third party to respond to the individualized request significantly outweighs the reasonably foreseeable impact to the consumer by not responding, taking into account applicable circumstances such as, the size of the business, service provider, contractor, or third party, the nature of the request, and the technical limitations impacting their ability to respond." The Agency has not defined "impossibility" because that term is reasonably clear.	W149-17	0386
- **§ 7022(a)**				
151.	Comment suggests that § 7022(a) establish verification requirements to ensure consumers know what to expect when submitting Requests to Delete.	No change has been made because the comment is not related to any modification to the text for the 15-day comment period.	W149-15	0385
- **§ 7022(b)**				
152.	Comment suggests the regulation provide reasonable time limits so that businesses are not required to retain records of the personal data, transfers, and uses indefinitely. Comment suggests limiting the requirement to where the business sold or shared personal information within the previous year.	No change has been made in response to this comment. The Agency has not addressed this issue at this time. The Agency has prioritized the drafting of regulations that operationalize and assist in the immediate implementation of the law. Further analysis is required to determine whether a regulation on this issue is necessary.	W125-3	0180
153.	Comment states the changes to § 7022(b) and (c) could narrow the instances in which business must notify	No change has been made in response to this comment. As explained in the FSOR, these subsections have been modified to more closely conform the regulation to language in the CCPA. *See* Civ.	W149-16	0385-0386

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	service providers or contractors about consumer deletions requests. The draft rules now only cover information that is specified in a written contract between businesses and their service providers or contractors, or that business have "enabled" these third parties to collect, as opposed to the "obtained in the course of providing services." This narrowing potentially allows for third parties to retains information they may collect in the course of doing business but that is not specifically enumerated in any written agreement, even in light of a deletion request. Another comment suggests that service providers and contractors be required to delete all personal information that they have collected, used, processed, or retained, regardless of where it was required.	Code§§ 1798.105(a), (c)(3) and 1798.130(a)(3)(A). The revised language is more precise about how the service provider's or contractor's obligations apply to the personal information it collected pursuant to the written contract with the business.		
- **§ 7022(b)(3)**				
154.	Comment suggests the Agency provide guidance and examples regarding the "detailed explanation" that must be provided to consumers per §7022(b)(3).	No change has been made because the comment is not related to any modification to the text for the 15-day comment period.	W157-13	0455
- **§ 7022(c)(4)**				
155.	Comment suggests modifying the language to require "reasonable efforts" to notify third parties about requests to delete. This would help alleviate	No change has been made because the comment is not related to any modification to the text for the 15-day comment period. *See also* FSOR, App. A, Response # 303.	W132-11 W157-14	0244 0455-0456

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	businesses from the potential flood of requests and help businesses meet this requirement, and thus, benefit consumers. Another comment claims that the requirement to notify service providers of a consumer's request to delete should be triggered by whether the service provider "has" accessed the consumer's personal information, not whether they "may have" accessed it.			
- **§ 7022(d)**				
156.	Comment states that the Request to Delete on archive or backed up systems is burdensome. Comment requests that this standard become a two-part test in line with the current language: the personal information must be restored to an active system and next accessed or used for a sale, disclosure, or commercial purpose.	No change has been made because the comment is not related to any modification to the text for the 15-day comment period.	W133-8	0255
157.	Comment suggests adding 6 months to the timeframe under which a business, service provider, or contractor should delete personal information on archived or backup systems.	No change has been made because the comment is not related to any modification to the text for the 15-day comment period.	W149-18	0386
- **§ 7022(f)(4)**				
158.	The comment suggests that § 7022(f)(4) should be further revised to align with CCPA's clear recognition that service providers may fulfill their role in handling	No change has been made because the comment is not related to any modification to the text for the 15-day comment period	W123-1	0155-0156

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	consumer rights requests by either executing those requests or enabling the business to do so.			
- **§ 7022(g)**				
159.	Comment suggests the regulations should require business to include in the denial of requests to delete information, the option to opt-out. Currently, the provision could be read as permitting a business to wait in making the offer to the requester to opt out of the selling or sharing of personal information.	No change has been made because the comment is not related to any modification to the text for the 15-day comment period.	W149-20	0386
- **§ 7022(h)**				
160.	Comment suggests the Agency add a requirement that this section must comport with § 7004 on dark patterns. There is the potential for some business to try to use deceptive means to get consumers to choose to delete less personal information. The choice to select categories of personal information for deletion should be presented to consumer in a clear and easy to understand manner.	No change has been made in response to this comment. Section 7004 already requires businesses to design and implement methods for submitting CCPA requests, including requests to delete, that comply with the principles set forth in § 7004. The Agency does not think that this modification is necessary at this time, but it will continue to monitor the marketplace and may revisit this issue if necessary.	W149-21	0386
§ 7023. Requests to Correct				
- **Comments generally about § 7023**				
161.	Comment raises concerns for implementation of handling consumer requests. First, insurers already have mechanisms and procedures in place to	No change has been made in response to this comment. Comment's statement regarding alleged procedural burdens lack specificity about what the specific burdens are or how they would delay or complicate existing compliance practices of the commenter. In addition, the Agency	W154-6	0403

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	ensure that the information on their consumers is as up to date as possible. The procedural burdens that the regulations outline would delay and complicate the existing practice, which would harm consumers. Further, "inaccurate information" is vague as to what information the consumer has the right to correct. In addition, there is critical information, such as an individual's driving record, which cannot and should not be corrected without a showing of inaccuracy by the consumer. The burden should not be placed exclusively on the insurer due to insufficient documentation.	does not believe that § 7023's requirements impose undue procedural burdens. Rather, the requirements are meant to be flexible for businesses to tailor to their specific compliance processes, such as the totality of the circumstances and documentation criteria under § 7023(b)-(c). In addition, with respect to what information the consumer has the right to correct, the CCPA is reasonably clear. The CCPA provides consumers the right to correct inaccurate personal information. "Personal information" is defined under Civil Code § 1798.140(v). "Inaccurate" is reasonably clear based on the plain meaning of the word. The Agency has determined that no further clarification is needed at this time.		
162.	Comment requests reconsideration of prior comments regarding the right to correct in order to make the standard more reasonable.	No change has been made because the comment is not related to any modification to the text for the 15-day comment period. *See also* FSOR, App. A, responses to W28.	W116-26	0087
163.	Comment proposes adding a new subsection so that companies may offer consumers "self-service" methods to correct their personal information. Comment proposes corresponding language.	No change has been made because the comment is not related to any modification to the text for the 15-day comment period. *See also* FSOR, App. A, Response # 366.	W124-12	0172-0173
- **§ 7023(b)**				
164.	Comment reiterates concern with proposed "totality of the circumstances" test, and language that "the consumer's	No change has been made because the comment is not related to any modification to the text for the 15-day comment period. *See also* FSOR, App. A, Response # 326.	W125-4	0181

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	assertion of inaccuracy may be sufficient to establish that the personal information is inaccurate." The proposed test is challenging to businesses that do not have direct interaction with the consumer, particularly with regard to the requirement to provide a detailed explanation of the basis for the denial, and could create confusion for consumers. Comment requests that businesses be granted the option to treat a request to correct in the same manner as a request to delete.			
- **§ 7023(c)**				
165.	Comment proposes a timeframe, such as 3-6 months, under which a business, service provider, or contractor should correct personal information on archived or backup systems.	No change has been made in response to this comment. Section 7023(c) requires that the personal information that is the subject of the request to correct be corrected when the archived or backup system relating to that data is "restored to an active system or is next accessed or used." This is necessary to balance the interests of consumers with the potentially burdensome cost of correcting information from backup systems that may never be used. FSOR, p. 16. The Agency favors an approach that is based on when the archived or backup system is used as opposed to a prescriptive time frame which, depending on when the archived or backup system is used, could either deprive the consumer of their right or burden the businesses unnecessarily.	W149-19	0386
166.	Regarding archived or backup systems, comment proposes that businesses should only have to respond to requests to correct when personal information is restored to an active system "and next	No change has been made in response to this comment. Comment does not provide substantial evidence or justification for why the proposed alternative is necessary. In addition, this proposed alternative is not more effective in furthering the intent and purposes of CCPA. As explained in the FSOR, § 7023(c) has been modified to add language that	W133-9	0256

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	accessed or used for a sale, disclosure, or commercial purposes."	enables businesses, service providers, and contractors to delay compliance with requests to correct, with respect to information stored on archived or backup systems until the archived or backup system relating to that data is restored to an active system or is next accessed or used. This is necessary to balance the interests of consumers with the potentially burdensome cost of correcting information from backup systems that may never be used. FSOR, p. 16. The proposed alternative would undermine consumer's ability to have their request to correct fully effectuated with respect to personal information that is restored to an active system or otherwise accessed or used, as a consumer's right to correct would not be effectuated even if the system is restored or the system is accessed but not for commercial purposes.		
167.	Comment appreciates the changes made to § 7023(c), which will now allow businesses to delay compliance with the consumer's request to correct. However, the parameters are not clear. For instance, it is unclear how long businesses have to honor requests, whether businesses can deny requests, and whether businesses have to store requests until the archive/backup systems become active. Clarification is needed.	No change has been made in response to this comment. The regulation is reasonably clear. Sections 7023(a), (b), (f), (g), and (h) already address when a business can deny a request to correct. Section 7023(c) does not provide a basis to deny a consumer's request to correct. The CCPA also addresses when a business must honor a request to correct. Under Civil Code § 1798.130(b), the business must correct inaccurate personal information personal information within 45 days of receiving a verifiable consumer request from the consumer. Section 7023(c) further explains that when personal information that is subject to a request to correct is stored on an archived or backup system, that information must be corrected when the archived or backup system relating to that data is "restored to an active system or is next accessed or used." Lastly, businesses are required to maintain records of consumer requests and how the business responds to the requests for at least 24 months. § 7101(a).	W152-26	0414-0415
168.	Section 7023(c) does not clearly permit businesses to retain information it updates as previous data points.	No change has been made in response to this comment. The comment proposes an interpretation of the CCPA that is inconsistent with the	W125-4	0180-0181

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	Comment recommends explicitly permitting retention of personal information for the purposes already detailed in CCPA for the right to delete.	language, structure, and intent of the CCPA and these regulations. *See also* FSOR, App. A, Response # 341.		
169.	Section 7023(c) should make clear that businesses are obliged to pass requests to correct through to third parties as appropriate and that such third parties are required to comply. The proposed modifications have potentially narrowed the instances in which a business must pass on requests and removed illustrative examples that provided clear and valuable guidance about how the correction right should be implemented. Comment proposes corresponding language.	No change has been made in response to this comment. The regulations are reasonably clear and are consistent with CCPA's requirements for third parties. Sections 7052 and 7053 of the proposed regulations set forth requirements for third parties, which include a requirement that businesses and their third parties agree that third parties are required to comply with all applicable sections of the CCPA. These requirements address when businesses must pass on requests to third parties, and the illustrative examples previously in § 7023 are not necessary at this time. The Agency will continue to monitor the marketplace and may revisit this issue, if necessary.	W127-7 W145-12	0204-0205 0355
170.	Comment reiterates recommendation to add a "disproportionate effort" standard for correction requests to prevent businesses from exerting disproportionate effort and comport with other state privacy laws.	No change has been made in response to this comment. As explained in the FSOR, the Agency has modified the definition of "disproportionate effort" to provide an illustrative example applying the factors to a request-to-correct scenario. *See* § 7001(i) (proposed); FSOR pp. 1-2. Thus, the regulations are reasonably clear and already address the comment's concern. *See also* FSOR, App. A, Response # 336.	W132-12	0244
- **§ 7023(d)(1)**				
171.	Section 7023(d)(1)'s requirement that consumers make a "good faith effort to provide businesses with all necessary information available at the time of the request" requires more clarification for consumers to be able to comply with it.	No change has been made in response to this comment. The regulation is reasonably clear and necessary to address concerns raised by public comments that businesses would receive multiple requests to correct with consumers offering different pieces of documentation each time. In addition, the regulations are meant to be applicable to many factual situations and across industries. What constitutes good faith effort is a	W145-13	0355-0356

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	The comment claims that consumers will not know what kind of information is necessary and may be prevented from being able to exercise this right at all. The comment also opposes any effort from a business to raise the bar so high that no average consumer would be able to demonstrate a "good-faith" effort.	fact-specific determination. The Agency will continue to monitor the marketplace for abuse of this requirement and may revisit this issue, if necessary.		
- **§ 7023(h)**				
172.	Section 7023(h) is ambiguous as to the level of detail a business must share with the consumer, only requiring a business to disclose why it believes the request is fraudulent or abusive. Comment proposes modifications to avoid having businesses disclose closely-held secrets related to how they guard against bad actors attempting to compromise their systems, and states that these modifications are beneficial for consumers to avoid identity theft and for businesses to protect their systems. Section 7023(h) also could subvert business's security or fraud prevention. Section 7023(h) should be deleted or revised to mitigate the risk of fraudsters or bad actors seeking to evade fraud and abuse detection mechanisms.	No change has been made because the comment is not related to any modification to the text for the 15-day comment period. *See also* FSOR, App. A, Response # 356.	W116-13 W134-17 W139-16	0083, 0095 0278 0314-0315

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- **§ 7023(i)**				
173.	Comment proposes to revert this section back so consumers can trace back the name of the source and wrong information. The requirement was originally written so that businesses were required to "provide the consumer with the name of the source from which the business received the alleged inaccurate information." Otherwise, consumers seeking the source of inaccurate information would be unable to trace the origin of the wrong information. Businesses should be required to make a good faith effort to share what they know about the source of inaccurate information, short of revealing confidential information or trade secrets.	No change has been made in response to this comment. As explained in the FSOR, § 7023(i) was modified to provide flexibility and discretion to the business regarding whether it will provide the consumer with the name of the source from which the business received the alleged inaccurate information. Businesses still have the option to provide consumers with the name of the source. The Agency will continue to monitor the marketplace and may revisit this issue, if necessary.	W149-22	0386
- **§ 7023(j)**				
174.	Section 7023(j)'s requirement for a business to disclose all the specific pieces of personal information that the business maintains and has collected about the consumer is overly broad. At minimum, this should only apply to the specific pieces of personal information relevant to the request to correct and should be subject to the same protections to which the right to know responses are subject. Otherwise, this requirement would serve	No change has been made in response to this comment. The comment appears to reiterate its comments regarding the prior version of § 7023(j). As explained in the FSOR, § 7023(j) was modified to remove the language "all the" to clarify that a business does not have to disclose all specific pieces of personal information that the business maintains and has collected about the consumer, but rather the personal information that would confirm that the business has corrected the inaccurate information that was the subject of the consumer's right to know. In addition, § 7023(j) was modified to include that a business shall not disclose sensitive personal information that it is not allowed to disclose in response to a request to know under § 7024(d). *See* FSOR, p.	W124-10 W140-3	0171 0322

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	as a loophole for reasonable security parameters in the access right. Comments propose striking or revising the requirement.	17; *see also* FSOR, App. A, Response # 362. Accordingly, portions of this comment are moot. Lastly, the comment does not provide substantial evidence or justification that its proposed alternative is necessary, and also acknowledges that many requests to correct do not require a burdensome disclosure. Moreover, § 7023(a) already allows a business to deny a request to correct if it cannot verify the requestor's identity. Similarly, § 7023(h) allows a business to deny a request to correct if it has a good-faith, reasonable, and documented belief that a request to correct is fraudulent or abusive. These requirements appropriately balance consumers' correction right with security concerns.		
175.	Section 7023(j) enables repetitive requests and upsets the balance set by CPRA limiting the number of right to know requests per year. A disclosure should be considered a request to know and be covered by the limitation on two requests within a 12-month period.	No change has been made because the comment is not related to any modification to the text for the 15-day comment period. *See also* FSOR, App. A, Response # 365.	W134-17 W140-3	0277 0322
176.	Section 7023(j) should be deleted because consumers have significant control over their personal information between the data broker registry and the fact that all California businesses will allow consumers to submit requests. In addition, this requirement puts the onus on businesses to processes repetitive requests in a manner that is inconsistent with the statute.	No change has been made in response to this comment. As explained in the FSOR, this regulation is necessary for consumers to verify that the contested information was in fact corrected. Moreover, the provision in § 7023(j) is not duplicative or repetitive of requests to know, because the right to correct is separate and distinct from the right to know. *See also* FSOR, App. A, Response # 365.	W152-25	0414
- **§ 7023(k)**				
177.	Comments request modification to § 7023(k) so that businesses are not	No change has been made in response to this comment. The regulation is reasonably clear and the proposed alternative is not necessary.	W116-14	0083-0084; 0095

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	automatically held in violation of the CPRA if incorrect data enters their systems and inadvertently renders corrected information back to an incorrect state. Comments propose adding a "reasonable efforts" standard for businesses to ensure that businesses have reasonable procedures in place while also avoiding imposing liability when issues related to correct and incorrect data are sometimes subjective and subject to change when new data sets enter the business's system.	Section 7023(k) states that failing to consider and address the possibility that corrected information may be overridden by inaccurate information "may" factor into whether a business, service provider, or contractor has adequately complied with a consumer's request to correct. As made clear by the regulation, this is a fact- and context-specific determination. The proposed alternative of adding "use reasonable efforts" to the regulation is unnecessary. Further, the Agency may exercise prosecutorial discretion if warranted, depending on the particular facts at issue. Prosecutorial discretion permits the Agency to choose which entities to investigate and whether to initiate an administrative action. How the Agency decides to exercise its enforcement authority is a context-specific, fact-specific, discretionary decision. Proposed regulation § 7301(b) recognizes that, as part of the Agency's decision to pursue investigations of possible or alleged violations of the CCPA, it may consider all facts it determines to be relevant, including good faith efforts to comply with the law.	W124-11 W139-16	0172 0315
178.	Comment claims that this standard is vague and does not provide guidance for how a business should go about addressing the possibility that corrected information may be overwritten. This section is also unnecessary because the consumer has multiple opportunities to request their information and ask for it to be corrected. Tracking this would be overly burdensome.	No change has been made in response to this comment. The regulation is reasonably clear. Section 7023(k) considers how the CCPA applies to a wide range of industries and enables businesses, service providers, and contractors to tailor their compliance efforts to their information practices and systems. Businesses have discretion to determine how to implement measures to ensure that personal information is corrected in compliance with the CCPA and these regulations. Lastly, the regulation is necessary to ensure that the right to correct is meaningful. Failure to implement measures to ensure that corrected information remains corrected could result in continued use and/or dissemination of inaccurate information, which would harm consumers and undermine the right to correct.	W128-10	0213

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§ 7024. Requests to Know				
- **§ 7024(g)**				
179.	Requests the Agency expand § 7024(g), which allows a business with password-protected accounts with consumers to use a self-service portal that allows consumers to access, view, and receive a portable copy of their personal information provided the portal meets certain requirements, to expressly allow consumers to request to delete or requests information.	No change has been made because the comment is not related to any modification to the text for the 15-day comment period.	W155-10	0437
- **§ 7024(h)**				
180.	Believes the modified regulation exceeds the scope of the CCPA by stating that a business is responsible for providing all personal information in response to a request to know, "including beyond the 12-month period preceding the business's receipt of the request, unless doing so proves impossible or would involve disproportionate effort" instead of requiring the business to provide such information only upon a consumer's request for information beyond the 12-month period.	No change has been made in response to this comment. The Agency modified § 7024(h) to specify that the consumer can request that the business disclose their personal information for a specific time period. The comment's objection to requiring a business to provide personal information beyond the 12-month period preceding the request, without the consumer having designated the specific period is thus moot. The regulation is consistent with Civil Code § 1798.130(a)(2)(B), which requires a business to respond to a request to know with specific pieces of personal information beyond the 12-month period preceding the business's receipt of the request pursuant to a regulation unless doing so proves impossible or would involve a disproportionate effort.	W124-13	0173-0714
181.	The section contemplates that businesses, in response to a request to know, will provide all personal information collected or maintained	No change has been made in response to this comment. Civil Code § 1798.130(a)(2)(B) states that a consumer may request that the business disclose the required information beyond the 12-month period and that the business must comply with that request unless doing so	W146-3 W152-27	0361-0362 0415

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	about the consumer on or after January 1, 2022 including beyond the 12 month period. Comment recommends amendments to conform with the statute that businesses must provide information only for the 12-month period preceding the request unless the consumer specifically requests it. Revision to the regulation to allow businesses to provide only the personal information it has collected for a specific time period when the consumer designates one "does not go far enough" because commenter believes that if the consumer does not designate a time period, "the business must still provide all information collected for unlimited time ranges."	proves impossible or would involve a disproportionate effort. The modified regulation sufficiently takes this into account by noting that the consumer may request data for a specific time period. The comment's proposed change is not more effective in carrying out the purpose and intent of the CCPA because the Agency does not see a significant difference between what the regulation states and what this comment proposes.		
182.	Comment recommends a "common-sense exception" to request to know obligations, including where business (1) migrated data to new storage facilities or service providers prior to 12-month lookback period, (2) does not otherwise maintain access to data, or (3) cannot make the requested data available without creating significant cybersecurity risk.	No change has been made because the comment is not related to any modification to the text for the 15-day comment period. *See also* FSOR, App. A, Response # 380.	W142-11	0333

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- **§ 7024(i)**				
183.	Comment states that the language detailing what a service provider or contractor must provide a business in responding to a request to know is overly prescriptive. Proposes that the last clause of the sentence be stricken and the paragraph just state that the service provider or contractor must provide assistance.	No change has been made in response to this comment. As stated in the FSOR, the last clause of the statement is necessary to conform the regulations to the language in Civil Code § 1798.130(a)(3)(A).	W133-11	0256
184.	Believes language detailing what a service provider or contractor must provide a business in response to a request to know is overly prescriptive; proposes the last clause of the sentence be stricken and the paragraph just state that the service provider or contractor must provide assistance.	No change has been made in response to this comment. The comment's proposed change is not as effective and less burdensome to affected persons than the adopted regulation. In drafting the regulations, the Agency added § 7024(i) because the CPRA amended Civil Code § 1798.130 to add subdivision (a)(3)(A), which requires service providers and contractors to provide assistance to businesses in responding to requires to know. *See* ISOR, p. 32. This subsection is necessary to clarify the requirements of a service provider and contractor when a consumer makes a request to know of the business it is servicing. It provides them with clear guidance about what is required of them. *Id.*	W133-10	0256
- **§ 7024(k)**				
185.	Believes § 7024(k)(3) does not match the CCPA in terms of the disclosure a business must make to a consumer under a request to know because Civil Code § 1798.110(c)(3) requires a business that collects personal information about consumers to disclose, among other information, "[t]he business or commercial purpose for collecting,	No change has been made because the comment is not related to any modification to the text for the 15-day comment period.	W149-23	0386–0387

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	selling, or sharing personal information" whereas § 7024(k)(3) requires the disclosure of "[t]he business or commercial purpose for which it collected or sold the personal information." Comment believes the business and commercial purposes for sharing personal information must be added to § 7024(k)(3).			
186.	Believes regulations should not require granular mapping between purpose and data type and requests to strike from § 7024(k)(5) and (6) the language "and for each category identified" and that listing the categories of third parties for "each category" is inconsistent with other disclosures made to consumers.	No change has been made because the comment is not related to any modification to the text for the 15-day comment period.	W124-18 W134-16	0175 0277
§ 7025. Opt-Out Preference Signals				
- **Comments generally about § 7025**				
187.	Comment supports modifications to § 7025(b) clarifying that the regulation applies to businesses that sell or share consumers' personal information and modification to § 7025(c)(6) clarifying that businesses "may" display whether they have processed consumers' opt-out preference signals.	The Agency appreciates this comment of support. No change has been made in response to this comment. The comment concurred with the proposed modifications, so no further response is required. The Agency's reasons for the modifications are set forth in the FSOR. See FSOR, p. 20. The Agency does not agree with the comment's reasons for supporting the modifications (*e.g.*, its implication that requiring a business to display whether they have processed consumers' opt-out preference signals would have required unnecessary devotion of resources or that such a tool would not benefit consumers.	W142-9	0332
188.	Comment states that the regulation requires businesses to "place this opt-out	No change has been made in response to this comment. The comment proposes an interpretation of the regulation that is inconsistent with the	W104-1	0007

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	signal on the home page of their web site." Comment proposes requiring that businesses "have the opt-out signal present on all pages of a Business web site."	regulation's language, structure, and intent. The comment appears to misunderstand what an opt-out preference signal is. It is not a link that businesses place on their websites. It is a "signal sent . . . by a platform, technology, or mechanism . . . to [a] business indicating the consumer's intent to opt-out of the business's sale or sharing of the consumer's personal information or to limit the use or disclosure of the consumer's sensitive personal information, or both." Civ. Code § 1798.135(b)(1); *see also* § 7001(u) ("'Opt-out preference signal' means a signal that is sent by a platform, technology, or mechanism, on behalf of the consumer, that communicates the consumer choice to opt-out of the sale and sharing of personal information and that complies with the requirements set forth in section 7025, subsection (b)."). To the extent the comment refers to the links discussed in the statute and regulation (e.g., the "Do Not Sell or Share My Personal Information" link), the CCPA requires that those be placed on a "business's internet homepage(s)." Civ. Code § 1798.135(a)(1)-(3).		
189.	Comments request that the regulation be revised to provide that businesses have the option of recognizing opt-out preference signals. Comments contend that the regulation is inconsistent with Civil Code §§ 1798.135(b)(3) and 1798.185(a)(20), which they argue provides businesses with the option of recognizing opt-out preference signals.	No change has been made in response to these comments. The comments propose an interpretation of the CCPA that is inconsistent with the language, structure, and intent of the CCPA. Section 7025 recognizes that Civ. Code § 1798.135 "does not give the business the choice between posting the above-referenced links or honoring opt-out preference signals." § 7025(e). The CCPA recognizes that opt-out preference signals are a method of invoking a consumer's right to limit the sale or sharing of their personal information. *See* Civ. Code §§ 1798.135(b), (e), 1798.185(a)(19), (a)(20). As explained in the ISOR, an "opt-out preference signal [is] an expression of a consumer's right to stop the sale and sharing of personal information." ISOR, p. 33; *see also id.* at p. 34 ("The selection of privacy-by-design products or services is an affirmative step and sufficient to express the consumer's intent to opt out of the sale and sharing of personal information."). Contrary to the	W122-4 W122-5 W124-2 W132-13 W133-11 W136-2 W139-5 W141-3 W149-28 W152-3 W152-9 W157-15	0141-0142 0142 0167-0168 0245 0256 0287-0288 0309-0310 0326 0387 0408 0410 0456

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		misinterpretation of the law in the comments, the CCPA does not provide businesses with a choice between either posting opt-out links under Civ. Code § 1798.135(a) or recognizing opt-out preference signals under § 1798.135(b). Rather, the choice put forward in the statute is between posting opt-out links and frictionless processing of opt-out signals—that is, businesses cannot respond to the signal with a less functioning website or product and cannot inundate the consumer with pop-up notifications, etc. *See* Civ. Code § 1798.135(b)(1) (citing Civ. Code § 1798.185(a)(20) as opposed to (a)(19)). A business may thus (1) post opt-out links and for example, respond to an opt-out preference signal with a popup (subject to other limitations, such as the prohibition on using dark patterns to obtain consent, *see* § 7004(b)); or (2) the business can choose to not post opt-out links under subdivision (a), but it then must process opt-out preference signals in a frictionless manner as set forth in § 7025(e) and (f). Moreover, the comments' request changes to the regulation that would allow businesses to ignore consumers' expression of their right to stop the sale and sharing of personal information. That would be inconsistent with the goals and purposes of the CCPA and outweighs any burden imposed on businesses. Indeed, other comments have recognized that companies are required to adhere to opt-out preference signals. *See* Comments W83-2, W90-1, and W92-2. Further, § 7025 is authorized by, and consistent with, the CCPA's grant of rulemaking authority. *See* Civ. Code § 1798.185(a)(19), (20); *id.* § 1798.185(b); *see also id.* §§ 1798.120, 1798.135. As explained in the ISOR, "[t]his regulation is necessary to respond to incorrect interpretations in the marketplace that complying with an opt-out preference is optional for the business." ISOR, p. 33. Finally, the comment's proposed interpretation is not consistent with negotiations that took place while drafting the CPRA, nor the plain language of the ballot initiative. *See, e.g.*, Comment W27-1 ("We wrote it this way…		

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		[T]here is no optionality about whether businesses must respond to global privacy controls.").		
190.	Comment states that the phrase "Do not use," which is "seen through the text" is confusing. Comment suggests defining the term.	No change has been made because the comment does not relate to any modification to the text for the 15-day comment period. Moreover, the comment is mistaken about the phrase "Do not use." That phrase does not appear anywhere in the regulations.	W104-2	0007
191.	Comment requests that the Agency reconsider its responses to the commentor's August 22, 2022 comments submitted during the 45-day comment period.	No change has been made because the comment does not relate to any modification to the text for the 15-day comment period. *See also* FSOR, App. A, responses to W28.	W116-22	0086
192.	Comment requests "the establishment of more prescriptive technical standards for the preference signal" because "uniformity in technical standards would make it easier for businesses to receive and honor signals."	No change has been made because the comment does not relate to any modification to the text for the 15-day comment period. *See also* FSOR, App. A, Responses #s 392 and 397.	W120-1	0118
193.	Comment proposes that the Agency limit the opt-out preference signal requirement to businesses that meet one of the first two prongs of the definition of "business."	No change has been made because the comment is not related to any modification to the text for the 15-day comment period.	W107-2	0018-0019
194.	The Agency should prioritize educating consumers about global opt-out mechanisms, including their scope and their limitations.	No change has been made in response to this comment. The CCPA directs the Agency to "[p]romote public awareness and understanding" of privacy rights and "[p]rovide guidance to consumer regarding their rights." Civ. Code § 1798.199.40(e), (f). To the extent the comment is requesting the Agency to engage in these activities outside of the rulemaking process, the comment is not directed at the proposed regulations or the rulemaking procedures followed, and no change is necessary. To the extent the comment is suggesting that the Agency	W123-9	0163

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		meet its guidance functions through regulations, the Agency believes that the regulations help to serve a guidance function.		
195.	The requirements relating to opt-out preference signals should be consistent with the statutory design, which affords businesses flexibility as to whether to honor such signals or post a link on their home page. In any event, to the extent some businesses honor opt-out preference signals, the regulations should be clear and consistent in terms of the relevant requirements, including by addressing the comments this commenter provided in Section 3(c) of comments dated August 23, 2022. Comment recommends amending language in § 7026(a), and in §§ 7025(b), 7025(c)(1)(3)-(4) implying that processing the opt-out preference signal is mandatory. In addition, comment recommends including technical specifications for opt-out preference signals under both §§ 7025 and 7026	No change has been made in response to this comment. The comments propose an interpretation of the CCPA that is inconsistent with the language, structure, and intent of the CCPA. Section 7025 recognizes that Civil Code § 1798.135 "does not give the business the choice between posting the above-referenced links or honoring opt-out preference signals." § 7025(e). The CCPA recognizes that opt-out preference signals are a method of invoking a consumer's right to limit the sale or sharing of their personal information. *See* Civ. Code §§ 1798.135(b), (e), 1798.185(a)(19), (a)(20). As explained in the ISOR, an "opt-out preference signal [is] an expression of a consumer's right to stop the sale and sharing of personal information." ISOR, p. 33; *see also id.* at p. 34 ("The selection of privacy-by-design products or services is an affirmative step and sufficient to express the consumer's intent to opt out of the sale and sharing of personal information."). Contrary to the misinterpretation of the law in the comments, the CCPA does not provide businesses with a choice between either posting opt-out links under Civil Code § 1798.135(a) or recognizing opt-out preference signals under § 1798.135(b). Rather, the choice put forward in the statute is between posting opt-out links and frictionless processing of opt-out signals—that is, businesses cannot respond to the signal with a less functioning website or product and cannot inundate the consumer with pop-up notifications, etc. *See* Civ. Code § 1798.135(b)(1) (citing Civ. Code § 1798.185(a)(20) as opposed to (a)(19)). A business may thus (1) post opt-out links and for example, respond to an opt-out preference signal with a popup (subject to other limitations, such as the prohibition on using dark patterns to obtain consent, *see* § 7004(b)); or (2) the business can choose to not post opt-out links under subdivision (a), but it then must process opt-out preference signals in a frictionless manner as set	W146-6 W146-7	0365, 0370 0365, 0370

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		forth in § 7025(e) and (f). *See also* FSOR, App. A, Response # 389. In addition, to the extent that the comments read § 7025 as not providing any of the requirements and technical specifications contemplated by Civil Code § 1798.185(a)(19)(A), the comments' interpretation of the regulation is inconsistent with the regulation's language. For instance, § 7025(b)(1) provides that an opt-out preference signal "shall be in a format commonly recognized by businesses," and provides as examples "an HTTP header field or JavaScript object." The requirement that the signal be in a format commonly used by businesses, accompanied by specific examples, is reasonably clear. *See also* FSOR, App. A, Response # 392.		
196.	Comment urges retaining incentives to implement privacy-by-design safeguards, such as pseudonymization, and believes draft regulations seem to reduce such incentives by assuming appropriately pseudonymized data poses identical risks to individuals as when using their "directly identifiable identity"; suggests pseudonymous data should be treated differently than personal information and therefore exempt from processing opt-out preference signals, as suggested in the example under § 7025(c)(7)(D).	No change has been made in response to this comment. The comment does not provide sufficient specificity for the Agency to make any modifications to the text. Regarding pseudonymous data as it relates to opt-out preference signals, *see* FSOR, pp. 18-19 and FSOR, App. C, Response # 210.	W131-2	0235-0236
197.	Large technology platforms, which have direct interface with the consumer, have an advantage over smaller platforms; privacy laws "subject to end user consent" may reinforce the market power of large platforms and harm	No change has been made in response to this comment, which is an observation rather than a specific objection or recommendation regarding the regulation(s). The comment does not provide sufficient specificity for the Agency to make any modifications to the text. To the extent the comment is referring to the modification of § 7025 as it	W131-4	0237

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	competition; because smaller platforms use or rely on third parties, which makes obtaining consumer consent difficult or impossible, privacy laws recognize pseudonymization as an important and valid compliance mechanism for smaller platforms.	relates to pseudonymous profiles, *see* FSOR, pp. 18-19 and FSOR, App. C, Response # 210.		
198.	Comments assert that the regulations do not include the technical specifications for opt-out preference signals required by Civil Code § 1798.185(a)(19)(A). Comments contend that without technical standards for opt-out preference signals, the use of the signals will create implementation challenges for businesses and confusion or danger for consumers.	No change has been made in response to these comments. To the extent that the comments read § 7025 as not providing any of the requirements and technical specifications contemplated by Civil Code § 1798.185(a)(19)(A), the comments' interpretation of the regulation is inconsistent with the regulation's language. For instance, § 7025(b)(1) provides that an opt-out preference signal "shall be in a format commonly recognized by businesses," and provides as examples "an HTTP header field or JavaScript object." The requirement that the signal be in a format commonly used by businesses, accompanied by specific examples, is reasonably clear. The Agency does not believe that this standard will create either implementation challenges or danger or confusion for consumers. As noted in the FSOR, the regulation supports and builds on existing technical mechanisms, such as the Global Privacy Control, which businesses are already required to honor as a valid request to opt-out of sale under the current CCPA regulations. FSOR, p. 18 (citing 11 CCR § 7026(c)); *see also* Final J. & Permanent Inj., *California v. Sephora USA, Inc.*, No. CGC-22-601380 (S.F. Super. Ct. Aug. 24, 2022), https://oag.ca.gov/system/files/media/pea-sephora-filed-judgment.pdf. The Global Privacy Control is already supported by a number of privacy-by-design browsers, including Mozilla FireFox, Brave, and DuckDuckGo, as well as a number of browser add-ons. To the extent § 7025 does not cover all the topics listed in Civil Code § 1798.185(a)(19)(A), that result was intended by the Agency and stated	W122-6 W122-13 W123-8 W124-3 W128-2 W134-14 W137-3 W139-5 W147-2 W152-9 W152-12 W156-9	0142-0143 0150-0151 0162-0163 0168 0210 0276 0292-0294 0309-0310 0373 0410 0410-0411 0446-0447

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		in the ISOR, which explains that not all topics were addressed in this rulemaking to (1) reduce the burden on business, (2) prioritize the Agency's limited resources, and (3) allow innovation to occur. ISOR, p. 33. Striking the regulation or delaying its enforcement could impede innovation in the emerging area of privacy engineering, and it would deprive consumers of a useful and efficient way to exercise their CCPA rights that exists already. That would not advance the purpose or intent of the CCPA.		
199.	Comments propose that the Agency revise the regulation to create a list or registry of approved opt-out preference signals. The comments contend this will reduce consumer and business confusion.	No change has been made in response to this comment. The Agency has determined that creating a public list or registry is not necessary at this time. Businesses can and have implemented the standard without examples codified in regulation. *See* ISOR, p. 33. Indeed, the regulation supports and builds on existing technical mechanisms, such as the Global Privacy Control, which businesses are already required to honor as a valid request to opt-out of sale under the current CCPA regulations. *See* 11 CCR § 7026(c); *see also* Final J. & Permanent Inj., *California v. Sephora USA, Inc.*, No. CGC-22-601380 (S.F. Super. Ct. Aug. 24, 2022), https://oag.ca.gov/system/files/media/pea-sephora-filed-judgment.pdf. Thus, the comment's proposal to provide specific examples is not more effective in carrying out the purpose and intent of the CCPA because comprehension may be contextual and specific to the industry or business. Moreover, the Agency has determined that the regulation remains "forward-looking and is intended to continue to encourage innovation and the development of technological solutions to facilitate and govern the submission of requests to opt out." ISOR, App. A at p. 1 (citing California Department of Justice, Attorney General's Office, *Final Statement of Reasons* (June 1, 2020)); *see also* Department of Justice, Attorney General's Office, *Final Statement of Reasons*, at p. 37 (June 1, 2020).	W122-7 W123-8 W129-7 W156-9	0143-0144 0162-0163 0218 0446

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200.	Comment proposes that the Agency should work with regulators in other states to ensure any opt-out mechanism recognized in California is interoperable with mechanisms recognized in other states.	No change has been made in response to this comment. The CCPA directs the Agency to cooperate with other agencies with jurisdiction over privacy laws and with data processing authorities in California, other states, territories, and countries "to ensure consistent application of privacy protections." Civ. Code § 1798.199.40(i). Accordingly, § 7025 intentionally sets a flexible standard that facilitates interoperability with other jurisdictions. Additional regulations have not been proposed because other jurisdictions have not yet operationalized their own laws regarding opt-out preference signals. For instance, the comment specifically cites Colorado and Connecticut privacy laws as examples. However, those laws are not yet in effect.	W123-7	0162
201.	Comment asserts that regulation does not contain clear disclosure requirements for opt-out preference signals. Comment states that the provider of the signal must be capable of identifying California residents and also inform users of the limitations of the signal.	No change has been made in response to this comment. The comment proposes an interpretation of the CCPA that is inconsistent with the language, structure, and intent of the CCPA. As explained in the ISOR, the platform, technology, or mechanism need not explicitly reference California to allow for flexible innovation and for opt-out preference signals to comply with multiple jurisdictions' requirements, especially as other states have passed privacy legislation that provides for a consumer right to opt-out via universal opt-out mechanisms. Requiring that the signal explicitly reference California would be burdensome to businesses because it would reduce the interoperability of a universal signal and require browser vendors and businesses to utilize state-specific implementations, which is unnecessary given that the sale or sharing of personal information is not unique to any individual state or jurisdiction. Furthermore, binding the signal to a specific state is not necessary because it is merely legal in nature and not required for functionality. *See* ISOR, p. 34. If a business treats consumers differently depending on their state of residence, they can seek this information in response to the signal (although doing so would not allow the business to fall within the exception provided for in Civil Code § 1798.135(b)(1)). The signal	W124-3	0168

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		itself is not required to include this information. This regulation is necessary to ensure that opt-out preference signals recognized in California are compatible with signals recognized in other jurisdictions, which is in line with the purpose and intent of the CCPA. ISOR, p. 34. In addition, requiring this would invalidate already existing technical mechanisms, such as the Global Privacy Control, which businesses are required to honor as a valid request to opt-out of sale under the current CCPA regulations. *See* 11 CCR § 7026(c); *see also* Final J. & Permanent Inj*., California v. Sephora USA, Inc.*, No. CGC-22-601380 (S.F. Super. Ct. Aug. 24, 2022), https://oag.ca.gov/system/files/media/pea-sephora-filed-judgment.pdf.		
202.	Comments recommend that the Agency should ensure that any opt-out preference signal is (1) free of defaults that presuppose consumer intent, (2) clearly described and easy to use, and (3) does not conflict with other commonly used privacy settings.	No change has been made in response to these comments. The regulation provides that a "platform, technology, or mechanism that sends the opt-out preference signal shall make clear to the consumer… that the use of the signal is meant to have the effect of opting the consumer out of the sale and sharing of their personal information." § 7025(b)(2). The regulation respects consumer's preferences and intent by requiring platforms to clearly explain the effect of the signal, thus allowing consumers to make an informed choice about their personal information and privacy. This requirement also addresses concerns about default settings that presuppose the consumer's intent. The proposal that any signal be clearly described is already part of the regulation. Further, opt-out preference signals are already available to consumers, s*ee* ISOR, p. 33, and the comments offer no evidence that they are difficult to use. Nor do they offer any evidence that opt-out preference signals conflict with commonly used privacy settings. Indeed, the Global Privacy Control is already supported by a number of privacy-by-design browsers, including Mozilla FireFox, Brave, and DuckDuckGo, as well as a number of browser add-ons. To the extent the comment is concerned about conflicts with business-specific privacy settings,	W136-3 W152-9 W152-10	0288 0410 0410

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		§ 7025(c)(3) already addresses those situations. The Agency has determined that no modifications are needed at this time.		
203.	Comment contends that the regulation is inconsistent with other regulations because "a global preference mechanism can enable by default and implement a choice without any disclosures to the consumer." Comment proposes revising regulation to "impose required parameters for choice architecture."	No change has been made in response to this comment. The comment proposes an interpretation of the regulation that is inconsistent with the regulation's language, structure, and intent. Section 7025(b) establishes the technical specifications for a valid opt-out preference signal and explains that the platform, technology, or mechanism needs to make clear to the consumer, whether in its configuration or in disclosures to the public, that the use of the signal is meant to have the effect of opting the consumer out of the sale and sharing of personal information. § 7025(b)(2). By specifying that the effect of the signal can be explained either in the signal's configuration or public disclosures, the regulation allows for situations where consumers affirmatively choose products or services that include built-in privacy-protective features because these products or services are designed with privacy in mind. As the ISOR explains, the "selection of privacy-by-design products or services is an affirmative step and sufficient to express the consumer's intent to opt out of the sale and sharing of personal information. Additional steps are not necessary, even if this means that a consumer relies on a privacy-by-default opt-out mechanism that is built into a platform, technology, or mechanism." ISOR, p. 34; *see also* ISOR, App. A at p. 1 (citing Department of Justice, Attorney General's Office, *Final Statement of Reasons Appendix A. Summary and Response to Comments Submitted during 45-Day Period* (June 1, 2020)); Department of Justice, *Final Statement of Reasons Appendix A. Summary and Response to Comments Submitted during 45-Day Period*, at pp. 31-32 ("The consumer exercises their choice by affirmatively choosing the privacy control, including when utilizing privacy-by-design products or services. If a global privacy setting experience frustrates the consumer, the consumer can disable	W152-11	0410

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		their user-enabled control and return to using the 'Do Not Sell My Personal Information' link.").		
204.	Comment states that the regulation does not address potential vulnerabilities with opt-out preference signals. Comment proposes requiring that opt-out preference signals be encrypted.	No change has been made in response to this comment. Businesses can and have implemented the standard without examples codified in regulation. *See* ISOR, p. 33. Indeed, the regulation supports and builds on existing technical mechanisms, such as the Global Privacy Control, which businesses are already required to honor as a valid request to opt-out of sale under the current CCPA regulations. *See* 11 CCR § 7026(c); *see also* Final J. & Permanent Inj., *California v. Sephora USA, Inc.*, No. CGC-22-601380 (S.F. Super. Ct. Aug. 24, 2022), https://oag.ca.gov/system/files/media/pea-sephora-filed-judgment.pdf.	W152-13	0411
205.	Comments recommend that opt-out preference signal regulations should not exceed current technical capabilities of opt-out preference signals that are on the market.	No change has been made in response to these comments. The Agency has made efforts to limit the burden of the regulations while implementing the CCPA. Specifically, the regulation supports and builds on existing technical mechanisms, such as the Global Privacy Control, which businesses are already required to honor as a valid request to opt-out of sale under the current CCPA regulations. *See* 11 CCR § 7026(c); *see also* Final J. & Permanent Inj., *California v. Sephora USA, Inc.*, No. CGC-22-601380 (S.F. Super. Ct. Aug. 24, 2022), https://oag.ca.gov/system/files/media/pea-sephora-filed-judgment.pdf. It does not require businesses to do more than what the law already currently requires. In addition, as explained in the ISOR, the Agency designed the regulation to allow innovation to occur. ISOR, p. 33. Limiting opt-out preference signals in the manner suggested by the comment could impede innovation in the emerging area of privacy engineering, and it would deprive consumers of a useful and efficient way to exercise their CCPA rights that exists already. That would not advance the purpose or intent of the CCPA.	W120-8 W132-15 W152-5	0121 0246 0409-0410
206.	Comment states that the Agency should prioritize educating consumers about	No change has been made in response to this comment. It is unclear what the comment is saying. The comment does not provide sufficient	W123-9	0163

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	global opt-out mechanisms, including their scope and limitations.	specificity to the Agency to make any modifications to the text. Section 7025 helps provide consumers with guidance in several ways. For instance, § 7025(b)(1) requires the platform, technology, or mechanism that sends the opt-out preference signal to "make clear to the consumer … that the use of the signal is meant to have the effect of opting the consumer out of the sale and sharing of their personal information." And § 7025(c)(7) provides illustrative examples that show how the rules operate in specific situations. To the extent the comment requests that the regulations contain more guidance than they do, the Agency has concluded that including such guidance in the regulations is unnecessary at this time. The CCPA directs the Agency to promote public awareness and understanding of the risks, rules, responsibilities, safeguards, and rights in relation to the collection, use, sale, and disclosure of personal information; and to provide guidance to consumers regarding their rights under the CCPA. *See* Civ. Code § 1798.199.40(d), (e). The Agency takes these mandates seriously and will fulfill them.		
- **§ 7025(b)**				
207.	Comments propose making the regulation "more user-friendly" by (1) permitting consumers to turn on and turn off the opt-out mechanism, and (2) by harmonizing the mechanism with the confirmatory signal in § 7026(g).	No change has been made in response to these comments. Section 7025 allows flexibility in the types of opt-out preference signals that consumers may choose. *See* § 7025(b)(1) (requiring businesses to process signals that are "in a format commonly used and recognized by businesses"). Section 7025 does not prohibit the type of function in opt-out preference signals that the comment proposes. Some signal providers may choose to incorporate it; the regulation just does not prescribe it. Requiring such a feature would invalidate already existing technical mechanisms, such as the Global Privacy Control, which businesses are required to honor as a valid request to opt-out of sale under the current CCPA regulations. *See* 11 CCR § 7026(c); *see also* Final J. & Permanent Inj*., California v. Sephora USA, Inc.*, No. CGC-22-601380 (S.F. Super. Ct. Aug. 24, 2022), https://oag.ca.gov/system/files/media/	W132-14 W120-8 W152-6	00245-0246 0121 0409-0410

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		pea-sephora-filed-judgment.pdf. Further, the confirmatory display in § 7026(g) is optional. Neither § 7025 nor § 7026 prohibit businesses from displaying confirmatory displays in response to opt-out preference signals, so long as those signals are otherwise compliant with the regulations. *See* § 7004(b) (addressing dark patterns).		
208.	Comment expresses concern that the phrase "in a format commonly used and recognized by businesses" in § 7025(b)(1) may allow businesses to improperly reject some opt-out preference signals. The comment proposes that the Agency maintain a list of signals that are commonly used.	No change has been made because the comment is not related to any modification to the text for the 15-day comment period. Moreover, the Agency has determined that creating a public list or registry is not necessary at this time for the reasons discussed in FSOR, App. C, Response # 199. *See also* FSOR, App. A, Response # 397.	W149-24	0387
- **§ 7025(c)**				
209.	Comment supports the new language in § 7025 clarifying that companies that receive an opt-out preference signal in one context must apply that opt-out in other contexts where it recognizes the consumer, account, or device. Comment notes that the revisions to the examples in § 7025 are also helpful in this regard.	The Agency appreciates this comment of support. No change has been made in response to this comment. The comment concurred with the proposed modification, so no further response is required.	W129-6	0219
- **§ 7025(c)(1)**				
210.	Comments contend that the addition of the phrase "pseudonymous profiles" to § 7025(c)(1) creates confusion and unnecessary burdens for businesses. One comment contends that the provision is inconsistent with the CCPA.	No change has been made in response to these comments. The Agency disagrees with this comment. As explained in the FSOR, the regulation has been modified to add language that the opt-out preference signal shall be treated as a valid request to opt-out of sale/sharing for any consumer profile, including pseudonymous profiles, that are associated with the browser or device for which the opt-out preference signal is given. FSOR, p. 18. This change is necessary to address the realities of	W119-3 W147-2 W130-10	0115 0373 0230-0231

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		how the internet works, i.e., sometimes the business may only know the consumer pseudonymously and other times they may match the online actions with an offline consumer. This modification ensures that the opt-out preference signal applies to both situations. *Id.* This change is not unnecessarily burdensome because the regulation supports and builds on existing technical mechanisms, such as the Global Privacy Control, which businesses are already required to honor as a valid request to opt-out of the sale of personal information under the current CCPA regulations. Cal. Code Regs., tit. 11, § 7026(c); *see also* Final J. & Permanent Inj., *California v. Sephora USA, Inc.*, No. CGC-22-601380 (S.F. Super. Ct. Aug. 24, 2022), https://oag.ca.gov/system/files/media/pea-sephora-filed-judgment.pdf. Further, the regulation is consistent with the CCPA. In requiring the business to treat the opt-out preference signal as a valid request to opt-out of sale/sharing for that browser or device, the regulation reflects that the definition of personal information is broad and includes persistent identifiers that could be used to recognize a device linked to a consumer or family information. *See* Civ. Code § 1798.140(v) (defining personal information); *id.* § 1798.140(aj) (defining unique identifier). The requirement to apply the request to opt-out of sale/sharing to pseudonymous profiles associated with that browser or device also appreciates how businesses may currently use probabilistic identifiers to identify a particular consumer or device linked to a consumer or family. *See* Civ. Code § 1798.140(aj) (defining unique personal identifier to include "persistent or probabilistic identifiers that can be used to identify a particular consumer or device that is linked to a consumer or family"). *See* FSOR, pp. 18-19.		
- **§ 7025(c)(5)**				
211.	Comment asserts that § 7025(c)(5) "is not intelligible" and needs revision.	No change has been made in response to this comment. The regulation is reasonably clear. As explained in the ISOR, it provides that a business cannot infer consent to sell or share a consumer's personal information	W149-25	0387

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		where a consumer that is known to the business sends an opt-out preference signal to a business on one visit, but does not continue sending opt-out preference signals on subsequent visits. *See* ISOR, p. 36. Moreover, § 7025(c)(7)(C) provides an example to further clarify this provision. *Id.* at 37.		
- **§ 7025(c)(6)**				
212.	Comment expresses support for the change to the regulation making it optional for businesses to display whether they have processed an opt-out preference signal.	The Agency appreciates this comment of support. No change has been made in response to this comment. The comment concurred with the proposed modification, so no further response is required.	W152-4	0409
213.	Comments request that businesses be required to confirm that a consumer sending an opt-out preference or opt-out preference signal been processed. The comments state that this is necessary to prevent consumers from mistakenly believing that they have opted out of the sale and sharing of their personal information. One comment expresses concern that companies may use "dodgy interfaces" to obtain consent when consumers have used opt-out preferences signals. It proposes a mandatory notice requirement when a business disregards an opt-out preference signal.	No change has been made in response to this comment. As explained in the FSOR, the regulation "has been modified to make it optional for the business to display the status of whether the business has processed the opt-out preference signal as a valid request to opt-out of sale/sharing on its website. This change reverts the regulation to how businesses are presently required to treat user-enabled global privacy controls." FSOR, p. 20. This change has been made to simplify implementation at this time. The Agency may revisit the issue in future rulemakings.	W129-8 W149-26	0219 0387
214.	Comment states that allowing businesses to display on their websites that an opt-out preference signal has been honored	No change has been made in response to this comment. The comment proposes an interpretation of the regulation that is inconsistent with the regulation's language, structure, and intent. The two provisions are fully	W149-29	0388

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	under § 7025(c)(6) is inconsistent with the requirements for processing opt-out preferences signals in a frictionless manner under § 7025(f)(3).	consistent. Section 7025(f) states that it applies "[e]xcept as allowed by these regulations[.]" Because § 7025(c)(6) allows businesses to display whether it has processed a consumer's opt-out preference signal (*e.g.*, may display "Opt-Out Preference Signal Honored") doing so does not violate § 7025(f). Indeed, that subdivision provides "[a] business's display of whether the consumer visiting their website has opted out of the sale or sharing their personal information shall not be in violation of this regulation." § 7025(f)(3).		
- **§ 7025(c)(7)**				
215.	Comments contend that the illustrative example in the § 7025(c)(7)(A) creates unnecessary risk to consumer privacy because it may require businesses to take extra action to associate an unauthenticated visitor with an account.	No change has been made in response to this comment. The comment's interpretation of the regulation is inconsistent with the regulation's language. As the comment notes, the example is illustrative and does not create any independent requirement. Moreover, the comment misreads the example as requiring a business to associate an unauthenticated visitor with an account. The example provides guidance when a consumer is not logged into their account and has an opt-out preference signal enabled. The example explains that "[u]pon receiving the opt-out preference signal, Business N shall stop selling and sharing [the consumer's] information linked to [the consumer's] browser identifier for cross-contextual advertising, *but it would not be able to apply the request to opt-out of the sale/sharing to Caleb's account information* because the connection between Caleb's browser and Caleb's account is not known to the business." § 7025(c)(7)(A) (emphasis added).	W120-9 W132-16 W152-7	0121-0122 0245 0410
216.	Comment states that it disagrees with the change to § 7025(c)(7)(B) that a business must wait 12 months. Comment states that 12 months is unreasonably long.	No change has been made in response to this comment. The comment proposes an interpretation of the CCPA that is inconsistent with the language, structure, and intent of the CCPA and these regulations. The comment also proposes an interpretation of the regulation that is inconsistent with the regulation's language, structure, and intent. As explained in the FSOR, the regulation was "modified to explain that,	W152-8	0410

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		when a consumer is known to the business, the business may not repeatedly ask the consumer to opt-in to the sale or sharing of personal information in response to an opt-out preference signal. Civil Code § 1798.135(c)(4)'s prohibition on how often the business can ask the consumer to opt-in to the sale/sharing, which is reiterated in subsection 7026(k), would still apply." FSOR, p. 20. The modification to the example in the regulation clarified what the regulations and CCPA already required. The comment's proposal would conflict with the CCPA and the regulations.		
217.	Comment asserts that, just because a consumer is logged into an account, it does not mean that the consumer is known to the business. Comment proposes revising the example in § 7025(c)(7)(C) to omit the phrase "known to the business" and replace it with the phrase "logged in."	No change has been made in response to this comment. The examples provided in this regulation present scenarios in which a consumer may be known to the business. Whether a consumer is known to the business is ultimately a fact-specific determination. The examples provide clarity and assist businesses in understanding the regulation, but they are not meant to be comprehensive.	W134-13	0275-0276
- **§ 7025(d)**				
218.	Comment suggests amending § 7025(d) to require businesses to maintain records of which customers have opted out that could only be used as evidence to show whether the business is complying with the CCPA and its regulations.	No change has been made because the comment does not relate to any modification to the text for the 15-day comment period.	W149-27	0387
- **§ 7025(e)**				
219.	Comment states commenters "previously objected to the concept of 'non-frictionless processing' under section 7025(e)."	No change has been made because the comment does not relate to any modification to the text for the 15-day comment period. *See also* FSOR, App. A, Response # 460.	W145-14	0356-0357

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§ 7026. Requests to Opt-Out of Sale/Sharing				
- **Comments generally about § 7026**				
220.	Comments express support for changes to this section, including proposed §§ 7026(f)(3) and (g).	The Agency appreciates this comment of support. No change has been made in response to this comment. The comment concurred with the proposed modifications, so no further response is required. The Agency's reasons for the modifications are set forth in the FSOR. See FSOR, p. 22. The Agency does not agree with the comment's reasons for supporting the modifications (e.g., its implication that requiring a business to provide a means by which consumers could confirm that their request to opt-out of sale/sharing has been processed by the business would have caused consumer confusion or cluttered user interfaces).	W139-20 W152-14	0316 0411
221.	Add exceptions to § 7026 from (1) § 7027 regarding maintenance or servicing of accounts or providing financing and (2) Civil Code § 1798.105(d)(1)'s exception from the right to delete, to make clear that an already regulated financial institution need not provide consumers with the choice to opt-out of sale/sharing personal information when selling or sharing that information is necessary for certain financing purposes. Alternatively, if there is no explicit exception for financial institutions, revise § 7026 to allow for certain permitted uses of personal information without the need to provide consumers with the choice to opt-out. Comment states these changes are necessary to avoid	No change has been made in response to this comment. The proposed change is inconsistent with the CCPA. The right to opt-out of sale/sharing is separate and distinct from the right to limit and the right to delete. The exceptions in § 7027 are from Civil Code § 1798.121(a) and specific to the right to limit. Similarly, the exceptions in Civil Code § 1798.105(d)(1) are specific to the right to delete. The CCPA does not provide that the identified exceptions apply to the right to opt-out of sale/sharing. The Agency cannot implement regulations that alter or amend a statute or enlarge or impair its scope. Whether the identified exceptions may overlap with existing exemptions that apply to the right to opt-out of sale/sharing set forth in Civil Code § 1798.145 is a fact-specific determination. The commenter should consult with an attorney who is aware of all pertinent facts and relevant compliance concerns. The Agency disagrees with the comment's statement that allowing consumers to opt-out of, or refuse to consent to, the sale or sharing of their personal information would have a devastating impact on the ability of financial institutions to make commercial loans lacks sufficient specificity. The CCPA's opt-out of sale requirements have been in effect	W153-1 W153-3 W153-4	0419-0420 0421 0422

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	unintended consequences and devastating impacts on the ability of financial institutions to serve California businesses. Comment proposes corresponding language.	since 2020, and the Agency is not aware of, nor does the comment provide data that, the consumers' right to opt-out of sale has had the impacts raised by the comment.		
- **§ 7026(a)**				
222.	This section should not apply to information that a business "makes available" to a third party. The language in § 7026(a) should follow the original draft and more accurately state "personal information that it sells to or shares with third parties, available technology, and ease of use by the consumer when determining which methods consumers may use to submit requests to optout of sale/sharing."	No change has been made in response to this comment. The regulation is reasonably clear, as § 7026(a) imposes its requirements upon "a business that sells or shares personal information." As explained in the FSOR, "makes available" includes a business selling to and sharing with a third party and makes the regulation easier to read and understandable for businesses and consumers. FSOR, p. 21.	W128-11 W132-17	0213 0246
- **§ 7026(a)(1)**				
223.	The Agency should remove the added limitation for processing in a frictionless manner because the alternatives and the benefits to the consumer are unclear.	No change has been made in response to this comment. The regulation is reasonably clear. Under the modified § 7026(a)(1), the business must process an opt-out preference signal, and, at a minimum, allow consumers to submit requests to opt-out of sale/sharing with an interactive form via the "Do Not Sell or Share My Personal Information" link or the Alternative Opt-Out Link. However, if the business processes an opt-out preference signal in a frictionless manner, the business is not required to provide an interactive form via the "Do Not Sell or Share My Personal Information" or the Alternative Opt-Out Link but must instead provide an interactive form in its privacy policy. This privacy policy requirement aligns with the requirement in § 7011(e)(2)(D) and § 7011(e)(3)(C), which requires that if the business sells or shares personal	W120-10 W132-18 W139-19 W152-16	0122 0246, 0251 0316-0317 0411

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		information, then the business's privacy policy must explain the consumer's right to opt-out of the sale or sharing of their personal information by the business and how the consumers can exercise this right. These requirements are consistent with the statutory requirements for businesses when processing opt-out of sale/sharing requests under Civil Code, § 1798.135(a)-(c), (e). The proposed alternative to delete the language "if the business processes an opt-out preference signal in a frictionless manner" is not more effective in furthering the intent and purposes of CCPA because it would leave both businesses and consumers with a lack of clarity about when businesses must provide an interactive form via the "Do Not Sell or Share My Personal Information" link or the Alternative Opt-Out Link versus when the business must provide only the interactive form in its privacy policy.		
§ 7026(f)(2)				
224.	Delete § 7026(f)(2). This requirement is operationally or technically challenging, impossible, and goes beyond CCPA's statutory requirements. Further, the requirement to forward a consumer's request to any person with whom the person has disclosed or shared the information does not take into consideration lawful disclosures to service providers, contractors, law enforcement, government agencies, or disclosures to other businesses or individuals pursuant to an explicit request or direction from the consumers to make the disclosure.	No change has been made in response to this comment. Section 7026(f)(2) is necessary to ensure that the consumer's opt-out request functionally operates as if it were complied with upon the business's receipt of the opt-out request. *See* ISOR, p. 41. This requirement is consistent with CCPA's requirements for businesses, which must refrain from selling or sharing personal information after consumers exercise their opt-out right, and for analogous requirements for third parties, which must provide the same level of privacy protection as is required by the CCPA and use the personal information transferred in a manner consistent with the business's obligations under the CCPA. *See* Civ. Code §§ 1798.135(c)(4), 1798.100(d)(2), and (d)(3). Section 7026(f)(2) is also consistent with Civil Code § 1798.135(f), which requires that a person to whom the business communicates a consumer's opt-out request shall only use that personal information for a business purpose specified by the business, or as otherwise permitted by CCPA, and shall be prohibited from selling or sharing the personal information, among other	W128-3 W138-7 W150-4 W155-7	0210 0303 0396 0436

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		requirements. Lastly, the CCPA addresses the lawful disclosures that are implicated by the requirement to forward a consumer's request to other persons. Civil Code § 1798.140(ad)(2) explicitly states that a business does not sell personal information when a consumer uses or directs the business to intentionally disclose personal information. This is a fact-specific determination. *See also* FSOR, App. A, Response # 488.		
225.	Delete § 7026(f)(2). The requirement to notify third parties of a consumer's opt-out status should apply on a going-forward basis only; it should not require a company to go back to previous transactions by sending the opt out request to all downstream partners. In any case, the notification requirement should (1) be limited to only the third parties to whom the business has sold or shared the customer's personal information, as opposed to § 7026(f)(3)'s requirement to notify all third parties to whom the business makes personal information available; and (2) include the disproportionate effort standard, to prevent a business from expending unnecessary time and resources with little benefit to consumers. While the GDPR does require notice to third parties when a consumer exercises their rights, it does not require such notice if it would require the business to expend disproportionate effort.	No change has been made in response to this comment. This regulation is necessary to ensure that the consumer's opt-out request functionally operates as if it were complied with upon the business's receipt of the opt-out request. *See* ISOR, p. 41. The regulation is also reasonably clear that it does not require businesses to apply opt-outs retroactively. As stated in the regulation, businesses must notify third parties to whom the business has sold or shared the consumer's personal information "after the consumer submits the request to opt-out of sale/sharing and before the business complies with that request[.]"	W132-19 W152-15	0246-0247 0411

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226.	Revise § 7026(f)(2) because it does not make sense in the context of cross-context behavioral advertising, where the opt-out will be almost instantaneous and occur on a technological level.	No change has been made in response to this comment. Section 7026(f)(2) addresses the concern by the comment, as it only requires notification to third parties to whom the business has sold or shared the consumer's personal information after the consumer submits the request to opt-out of sale/sharing and "before the business complies with that request[.]" As explained in the ISOR, § 7026(f)(2) allows the consumer's request to opt-out of the sale/sharing to functionally operate as if it were complied with upon the business's receipt and also incentivizes businesses to comply with consumers' requests as soon as possible. ISOR, p. 41. If a business complies with an opt-out of sharing request near instantaneously, then the business would only be required to notify any third parties of the opt-out request with whom the business may have shared personal information, if any, in the limited time period between the consumer's request and the business's near instantaneous compliance with the request. Further analysis is required to determine if a regulation on this issue is necessary.	W133-12	0256
§ 7027. Requests to Limit Use and Disclosure of Sensitive Personal Information				
- **Comments generally about § 7027**				
227.	The Agency should reconsider commenter's arguments regarding sensitive personal information, but also consider modifying § 7027(j) to permit a business to deny an authorized agent request if there is reasonable suspicion of fraud.	No change has been made because the comment is not related to any modification to the text for the 15 day comment. *See also* FSOR, App. A, responses to W28.	W116-27	0087
228.	The Agency should include examples where a business uses sensitive personal information to infer characteristics about an individual.	No change has been made in response to this comment. Section 7027(m)(8) includes an example of the use case referenced by the comment.	W121-13	0134-0136

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229.	Recommends that the Agency reform § 7027 to reflect an explicit and affirmative limitation of disclosure of sensitive data, because the rules for handling sensitive personal information should be more restrictive than those for non-sensitive information. The Agency should promulgate rules that substantively restrict the permissible purposes for using sensitive data.	No change has been made in response to this comment. Civil Code § 1798.121 requires a business to honor a consumer's request to limit only after a consumer makes the request. Prohibiting businesses from using or disclosing sensitive personal information for any purpose with limited exceptions contravenes Civil Code § 1798.121. Separately, Civil Code § 1798.100(c) already addresses requirements for businesses' collection, use, retention, and sharing of personal information, which includes sensitive personal information. Section 7002 implements that statutory requirement. The Agency cannot implement regulations that alter or amend a statute or enlarge or impair its scope.	W127-8	0206-0207
230.	Collecting or processing sensitive information with the purpose of inferring characteristics about a consumer should be included separately as a pre-requisite to offering the option to limit, rather than as one of a list of exceptions in subsection (m).	No change has been made in response to this comment. As an initial matter, § 7027(a) already states that sensitive personal information that is collected or processed without the purpose of inferring characteristics about a consumer is not subject to requests to limit. As to why it is also listed in § 7027(m), the FSOR explains that it is included because it is an exception under which businesses are not required to provide a right to limit. FSOR, p. 24. Its inclusion makes the regulations regarding the right to limit easier to understand because it locates all the exceptions in one place. *See* ISOR, p. 47.	W130-4	0224-0225
231.	The regulations narrow security-related uses of sensitive personal information that are unaffected by the right to limit. Specifically, § 7027(m)(2) should be made consistent with CPRA's statutory text.	No change has been made in response to this comment. The Agency disagrees with the comment's interpretation of the regulation and the CCPA. The regulation is consistent with the language, structure, and intent of the CCPA. Civil Code § 1798.121(a) cross-references the permissible uses of personal information in Civil Code § 1798.140(e)(2)(4)(5), and (8), and § 7027(m) describes all permissible uses in a single, easily referenced list with the goal of facilitating compliance and easing the burden of compliance on businesses. *See* ISOR, pp. 46-47 (discussing § 7027*(l)*, now § 7027(m)). Specifically, § 7027(m)(2) corresponds to Civil Code §§ 1798.121(a), 1798.140(e)(2), 1798.140(ac)(1). "Security and integrity" is a statutorily defined term,	W134-18	0278

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		the language of which is reflected in § 7027(m)(2). *See* Civ. Code § 1798.140(ac).		
232.	Comment suggests that use cases for sensitive personal information should not be preselected for the consumer. The Agency should not require that a single option be presented more prominently than the others. This could interfere with customer choice and information. It also conflicts with the Agency's proposed symmetry standards for consumer choice architecture under § 7004.	No change has been made in response to this comment. Comment appears to address a prior version of the regulations. Section 7027(i) has been modified to delete the language "more prominently presented than the other choices." Thus, this comment is now moot. *See also* FSOR, App. A, Response # 520.	W152-38	0416
233.	Comment contends that § 7027(m), incorrectly referenced as § 7027*(l)*, contravenes Civil Code § 1798.121(a)-(b) and should be revised and expanded to resolve inconsistencies with statute. Comment asserts that the regulation does not exempt, for example, uses of sensitive personal information (1) to comply with legal or regulatory obligations, (2) relating to use of employee information, (3) preventing fraud or ensure fairness in testing, (4) where the covered business can use its reasonable discretion to use sensitive data.	No change has been made because the comment is not related to any modification to the text for the 15-day comment period. *See also* FSOR, App. A, Response #527.	W150-5 W155-5	0397-0398 0434
234.	Comment reiterates prior comment to clarify that the use in research results and reports of sensitive personal	No change has been made because the comment is not related to any modification to the text for the 15-day comment period. *See also* FSOR, App. A, Response # 526.	W107-4	0021

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	information is a reasonably expected use of information provided in connection with corresponding surveys and research studies.			
- **§ 7027(a)**				
235.	Section 7027(a) includes new language where sensitive personal information "that is collected or processed without the purpose of inferring characteristics about a consumer is not subject to requests to limit." Comment requests more guidance on how businesses determine whether personal information is used for inferences.	No change has been made in response to this comment. The regulation is reasonably clear. Section 7027(m)(8) provides further guidance and includes an example on when this exception to the right to limit would apply. To the extent this comment seeks legal advice regarding the CCPA, the comment is irrelevant to the proposed rulemaking action. The commenter should consult with an attorney who is aware of all pertinent facts and relevant compliance concerns.	W128-12	0213
236.	The agency should define a "heightened risk of harm" to consumers in § 7027(a) as it relates to the use or disclosure of sensitive personal information.	No change has been made because the comment is not related to any modification to the text for the 15-day comment period. *See also* FSOR, App. A, Response # 509.	W133-13	0256
237.	Comment states that the rules seem to create three distinct categories of consumer harm, with § 7027(a) referencing a "heightened risk of harm," which is ambiguous in light of the references to "risk of harm" and "greater risk of harm" in § 7060(c)(3).	No change has been made because the comment is not related to any modification to the text for the 15-day comment period.	W152-37	0416
- **§ 7027(h)**				
238.	Rewrite § 7027(h) to require businesses to confirm receipt of and compliance with a request to limit use and disclosure of personal information so consumers	No change has been made in response to this comment. This section was modified to make it optional for the business to provide a means by which the consumer can confirm that their request to limit has been processed. This change lessens requirements for businesses to simplify	W149-31	0388

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	can be sure that their request was processed and being honored. The business must inform service providers, contractors, and third parties, so additional notice to the consumer is a marginal burden at worst.	the implementation at this time. *See* FSOR, p. 22. It also aligns with modifications to other sections that make displaying whether the business has processed a request optional for businesses at this time. *See, e.g.*, § 7025(c)(6) ("A business may display whether it has processed the consumer's opt-out preference signal as a valid request to opt-out of sale/sharing on its website.").		
- **§ 7027(j)**				
239.	Revise § 7027(j), incorrectly cited by commenter as § 7027(i), to enable businesses to deny requests for sensitive information from authorized agents if there is reasonable suspicion that it is a fraudulent request.	No change has been made because the comment is not related to any modification to the text for the 15-day comment period. *See also* FSOR, App. A, Response # 520.	W152-39	0416
- **§ 7027(m)**				
240.	Delete or revise the examples in § 7027(m) because they depict uses that do not involve the generation of inferences and therefore describe uses of sensitive personal information that would never give rise to a right to limit in the first place. The examples mix apples (exceptions to right to limit sensitive information used to create inferences) and oranges (sensitive information used to deliver a service, but not to create an inference). The Agency should at least include different examples where sensitive personal information is used to infer characteristics about an individual when providing services.	No change has been made in response to this comment. The Agency disagrees with the comment's interpretation of the CCPA and regulations. The examples in § 7027(m) do not preclude uses that do not involve the generation of inferences. For example, use of sensitive personal information in the manner described in § 7027(m)(5)-(6) could result in the creation of inferences but would not trigger the right to limit.	W121-11 W121-13	0134 0134-0136

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241.	The use cases listed do not encompass all uses of sensitive personal information that may be "necessary to perform the services or provide the goods reasonably expected by an average consumer who requests such goods or services." The Agency should reconsider narrowly defined uses or add an additional subsection to § 7027(m) allowing "any other acts or practices that may be necessary to perform the services or provide the goods reasonably expected by an average consumer who requests such goods or services." Another comment recommends deleting "provided that the use or disclosure is reasonably necessary and proportionate for those purposes" because it goes beyond the statute.	No change has been made in response to this comment. The comment's interpretation of the regulation is inconsistent with the regulation's language. Section 7027(m)(1) expressly contains the language referenced by the commenter. Moreover, it is not necessary for the Agency to include a comprehensive list of examples. The regulation is meant to apply to many factual situations and across industries. In addition, § 7027(m) is consistent with the requirements in Civil Code §§ 1798.140(e) and 1798.100(c), which apply to all purposes for which personal information is collected or used by the business. *See* FSOR, p. 23. Section 7027(m) implements this statutory requirement for the relevant exceptions in §§ 7027(m)(1)-(8). The proposed change to delete this language is not more effective in furthering the intent and purposes of CCPA, as it would lead to confusion for businesses and consumers on the specific requirements for businesses to leverage the exceptions within Civil Code § 1798.121(a).	W128-13 W138-5	0213 0302-0303
242.	Comment proposes to extend the exception in § 7027(m)(6) to other places within the regulations.	No change has been made because the comment is not related to any modification to the text for the 15-day comment period.	W153-2	0420
- **§ 7027(m)(3)**				
243.	This exception does not clearly extend to a business's efforts to prevent fraud or other malicious, deceptive, or illegal actions on other businesses. CCPA permits a broader exception for the use and disclosure of sensitive personal information to help ensure security and	No change has been made in response to this comment. The language in § 7027(*l*)(3), now § 7027(m)(3), clarifies that businesses cannot use this exception in a broad manner for actions that have nothing to do with the business. Civil Code §§ 1798.121(a) and 1798.140(e)(2) permit the use and disclosure of sensitive personal information for "[h]elping to ensure security and integrity to the extent of the use of the consumer's personal information is reasonably necessary and proportionate for	W125-5	0181-0182

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	integrity. Civ. Code § 1798.140(e)(2). Businesses may provide services that prevent identity theft, fraud, and other illegal actions on businesses and consumers. These efforts reduce business costs and protect consumers and further consumer privacy. Comment recommends expanding this exception to align with CCPA and allow businesses to use sensitive personal information for fraud prevention and detection services-related third parties to further consumer privacy and identity theft prevention efforts.	these purposes." "Security and integrity" is further defined by Civil Code § 1798.140(ac)(1) to include the ability of a business to detect security incidents that compromise the availability, authenticity, integrity, and confidentiality of stored or transmitted personal information, resist malicious, deceptive, fraudulent, or illegal actions, and help prosecute those responsible for those actions. The statute does not include an exception for fraud prevention and detection services for third parties. In addition, Civil Code § 1798.145 provides exceptions that prevent unnecessary constraints on businesses, such as cooperating with law enforcement agencies concerning conduct that may violate federal, state, or local law. Whether a business's use of sensitive personal information falls within any of these exceptions is a fact-specific determination. The Agency has determined that no modification is needed at this time.		
- **§ 7027(m)(8)**				
244.	Section 7027(m)(8) is confusing because it incorrectly suggests that the collection or processing of sensitive personal information not for the purposes of inferring characteristics is another type of use of sensitive information that is distinct from the other listed uses, such as verifying or maintaining the quality or safety of a product.	No change has been made in response to this comment. As explained in the FSOR, § 7027(m)(8) is included in this subsection because it is an exception under which businesses are not required to provide a right to limit. Its inclusion makes the regulations regarding the right to limit easier to read because it allows for all the exceptions to be in one place. Section 7027(m)(8) is a catchall, potentially overlapping with § 7027(m)(1)-(7) but not at odds with those sections.	W121-12	0134, 0135-0136
245.	The example from § 7027(m)(8) should be moved up to follow the last sentence in § 7027(a) because it should be pointed out explicitly as a pre-requisite to the requirement of offering the option to limit in both § 7027(b) and § 7027(m).	No change has been made in response to this comment. The Agency disagrees with this comment. Although this § 7027(m)(8) is not a permitted "purpose" for using sensitive personal information, it is an exception under which businesses are not required to provide a right to limit. *See* FSOR, p. 24. Including this exception within this subsection makes the regulations regarding the right to limit easier to understand	W130-5	0225-0226

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		because it locates all the exceptions in one place. *Id.* Accordingly, the example is appropriately within this subsection, which contains examples for each of the exceptions.		
§ 7028. Requests to Opt-In After Opting-Out of the Sale or Sharing of Personal Information				
- **§ 7028(a)**				
246.	Section 7028(a) would require a two-step process for sharing/sale and requests to opt-in for use and disclosure of sensitive personal information. This could potentially be an onerous requirement depending on what is required as a second confirmation step. The CPPA should confirm that the requirement is satisfied if, for example, the consumer clicks a button or check box and then clicks submit.	No change has been made in response to this comment. The regulation is reasonably clear and should be understood by the plain meaning of the words. The commenter's example appears to understand what is meant by a two-step opt-in process. Compliance is ultimately a fact and context-specific determination.	W155-11	0437
§ 7031. Requests to Know or Delete Household Information				
- **Comments generally about § 7031**				
247.	Comment objects to the deletion of § 7031. Comment states that it is unclear how businesses would be expected to process household information requests without the regulation.	No change has been made because the comment is not related to any modification to the text for the 15-day comment period. See also FSOR, App. A, Response # 542.	W125-6	0182
ARTICLE 4. SERVICE PROVIDERS, CONTRACTORS, AND THIRD PARTIES				
- **Comments generally about Article 4**				
248.	The Agency should reconsider unaddressed comments pertaining to §§ 7051 and 7053 regarding service provider, contractor and third-party contracts.	No change has been made because the comment is not related to any modification to the text for the 15-day comment period. *See generally*, FSOR, App. A, responses to W28.	W116-29	0087

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249.	Comments recommend deleting or modifying all or parts of §§ 7051 and 7053 to provide businesses with greater flexibility regarding contractual requirements, including by adding "in material respects" to §§ 7051(c) and 7053(c). Comments contend that the Agency should permit material compliance because businesses may have already entered into data protection agreements with service providers, contractors, and third parties to address other data privacy laws and general protection requirements, which materially contain similar terms, and should not be punished for trivial violations or immaterial non-compliance with requirements of their contracts. Another comment notes that under § 7051(c) a business could be deemed to have "sold" personal information without having provided the corresponding notice and opt out even when the disclosure was made pursuant to a contract that provided that the recipient is a service provider to the disclosing business, simply because the contract does not meet the requirements mandated by § 7051(a).	No change has been made because these comments are not related to any modification to the text for the 15-day comment period. *See also* FSOR, App. A, Response # 558; *see generally*, FSOR, App. A, responses to W75.	W116-20 W137-5 W139-12 W156-2 W156-3 W156-4	0085, 0097-0098 0296-0297 0312, 0313 0442 0442 0442

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250.	Delete or modify the requirements in §§ 7051 and 7053 to identify and specifically describe the specific business purposes, and limited and specified purposes, for which a business discloses or makes available personal information to a service provider or contractor, or third party. Comments contend that the requirements exceed the statute, limit contracting flexibility, fail to take into account how businesses execute contracts, and burden businesses (e.g., by requiring an impracticable amount of contract remediation) with minimal benefit to consumers. Another comment notes that other than CCPA's requirements in Civil Code §§ 1798.100(d) and 1798.140(ag), CCPA lets businesses and service providers craft their own contracts, based on nature of the relationship, information to be processed, and role of the service provider. Another comment states that the requirements deviate from other federal, state, and international privacy laws, which is particularly salient for banks.	No change has been made because the comment is not related to any modification to the text for the 15-day comment period. *See also* FSOR, App. A, Response # 553.	W123-5 W128-5 W138-4 W139-9 W146-5 W150-6 W150-7 W155-3 W154-8 W156-2	0158-0159, 0160 0211 0302 0311-0312 0364-0365, 0370 0398 0398 0434 0430 0442
251.	Strike or amend §§ 7051(c)'s and 7053(b)'s provisions regarding businesses' due diligence of their service	No change has been made because the comment is not related to any modification to the text for the 15-day comment period. *See also* FSOR, App. A, Response #s 571, 572, 573, 575, and 576.	W122-8 W124-8 W128-4	0144 0170-0171 0211

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	providers, contractors, and third parties, because they (1) unnecessarily burden businesses and mandate regular and unnecessary audits irrespective of the circumstances, including the relative risks (2) shift liability onto businesses and/or change the standard of liability, (3) go beyond the CPRA, and (4) don't consider that businesses may have conducted due diligence as part of selecting or onboarding such entities. Comment contends businesses should be able to rely upon third parties' compliance with contracts. Another comment states that businesses should be required to conduct due diligence only if they reasonably believe such entities are misusing personal information. Another comment recommends clarifying the level of due diligence required to prevent liability shift to business. Another comment suggests including "trusted privacy programs" as reasonable privacy vendor due diligence. Another comment recommends that if the Agency promulgates regulations on when the exemption in Civil Code § 1798.145(i) applies, the regulations should be limited to factors that affirmatively indicate that		W132-22 W132-23 W132-24 W134-12 W138-9 W139-11 W139-12 W139-13 W141-4 W150-8 W152-22 W154-8 W155-9 W156-5	0248 0248, 0252 0248, 0252 0274-0275 0303-0304 0312, 0313 0312 0313 0326 0398 0413-0414 0430 0437 0442-0443

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	the external party is violating its obligations.			
252.	Clarify that §§ 7053 and 7052 apply only to "[a] business that sells or shares a consumer's personal information with a third party," including by replacing "made available to" with "sold to or shared with." The proposed regulations' use of "make available" in § 7053(a)'s subsections and in § 7052(a) could be interpreted as making § 7053 applicable to conduct broader than selling or sharing. Another comment states that § 7052(a) implies that there must be a contract between a business and every third party, as opposed to those to which personal information is sold or shared. Comments state that this wouldn't be consistent with the statute, would limit consumers' control over their personal information, and would impose an unreasonable or impossible compliance burden (e.g., a business might be required to make personal information available to a third party in the context of a litigation, or to comply with regulatory requirements, which would conflict with entering into a contract with a third party that contains the requirements in § 7053(a)). Another comment suggests	No change has been made in response to this comment. The regulation is reasonably clear based upon the plain meaning of the language, and the comment's proposed modification is not more effective in carrying out the purpose and intent of the CCPA. Section 7053 begins with "[a] business that sells or shares a consumer's personal information with a third party," and § 7052(a) references 7053(a), thus it is sufficiently clear that the use of "made available to" in § 7052(a) and in the subsections of § 7053 pertains to third parties to whom the business sells or shares. The FSOR includes all the explanation that is required by the APA. As explained in the FSOR, the use of "made available to" is to be more precise about how the third party's contractual obligations apply to the personal information that the business sold to or shared with them and makes the regulations easier to read and understandable for businesses and consumers. The definition of "sale" and "sharing" both include the phrase "make available," and thus, using this phrase is consistent with the statute. *See* Civ. Code § 1798.140(ad), (ah); FSOR, pp. 30-31. The Agency notes that Civil Code § 1798.145(a)(1), (a)(5) makes clear that obligations imposed on businesses by CCPA shall not restrict a business's ability to comply with federal, state, or local laws, nor to exercise or defend legal claims.	W121-14 W137-5 W146-2 W151-3	0136-0137 0296-0297 0361, 0367-0368 0405-0406

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	revising the "Explanation of Modified Text" to make the same clarification, because it includes potentially confusing language (e.g., that §§ 7052 and 7053 "use 'made available to,' which includes a business selling, sharing, and otherwise making personal information available to a third party.")			
253.	Comments object to the requirements in §§ 7051 and 7053 to identify and specifically describe the specific business purposes, and limited and specified purposes, for which a business discloses or makes available personal information to a service provider or contractor, or third party. Comments contend that the requirements burden businesses without adding protection for consumers.	No change has been made because the comment is not related to any modification to the text for the 15-day comment period. *See also* FSOR, App. A, Response # 553.	W155-3 W154-8 W156-2	0434 0430 0442
254.	Strike or amend §§ 7051(c)'s and 7053(b)'s provisions regarding businesses' due diligence of their service providers, contractors, and third parties, because they (1) unnecessarily burden businesses and mandate regular and unnecessary audits (2) shift liability onto businesses, and (3) go beyond the CPRA. Comment contends businesses should be able to rely upon third parties' compliance with contracts. Another comment recommends striking	No change has been made because the comment is not related to any modification to the text for the 15-day comment period. *See also* FSOR, App. A, Response #s 571, 572, and 575.	W154-8 W155-9	0430 0437

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	§§ 7051(c) and 7053(b) or amending them to clarify the level of due diligence required to prevent liability shift to business.			
§ 7050. Service Providers and Contractors				
- **Comments generally about § 7050**				
255.	Comment reiterates proposal to add "audience measurement" to express list of business purposes. Comment states that the current regulations prohibit service providers from combining personal information received from businesses with personal information received from the service provider's own interactions with consumers unless it has a valid "business purpose" for combining the information. Because audience measurement is not included in the list of business purposes, this effectively amounts to a ban on critical audience measurement activities. Comment attaches prior comments from August 11, 2022.	No change has been made because the comment is not related to any modification to the text for the 15-day comment period. *See also* FSOR, App. A, Response #s 388, 545, and 590.	W107-1 W107-2	0015 0017-0018
256.	Section 7050(a) is silent on the express circumstances in which service providers may "combine" personal information, and § 7050(b) is ambiguous on whether advertising measurement and attribution services constitute cross-contextual behavioral advertising. The Agency	No change has been made in response to this comment. The CCPA and the revised regulations are reasonably clear regarding the situations in which service providers and contractors may combine, update, retain, or use personal information. *See* FSOR, App. A, Response # 545. In addition, whether measurement and attribution activities would constitute a business purpose or cross-context behavioral advertising raises specific	W151-2	0403-0405

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	should clarify that (1) advertising measurement and attribution providers can combine personal information for measurement and attribution purposes, and (2) advertising measurement and attribution are permissible business purposes. Comment proposes corresponding modifications.	legal questions that would require a fact-specific determination. *See* FSOR, App. A, Response # 590.		
257.	Comment recommends replacing the term "collect" with "process" throughout § 7050 and 7051 to ensure alignment with the CCPA's statutory text, which defines "service provider" as "a person that processes personal information on behalf of a business" rather than one that collects.	No change has been made in response to this comment. The commenter's proposed modification is unnecessary and would not be more effective in carrying out the purpose and intent of the CCPA. To the extent the comment suggests that the regulations' use of "Collected" rather than "processed" alters the scope of a service provider's role under the statute, the comment misinterprets the regulations. The statute's definition of a "service provider" as, inter alia, "a person that processes personal information on behalf of a business and that receives from or on behalf of the business consumer's personal information for a business purpose pursuant to a written contract…" (Civ. Code, § 1798.140(ag)), coupled with the statute's definition of "collect" (includes "obtaining, receiving, and accessing…by any means" (Civ. Code §1798.140(f)) makes clear that service providers necessarily "collect" personal information. The regulations' use of "Collected pursuant to its written contract with the business" is consistent with those definitions and more precise about how a service provider's obligations apply to personal information (i.e., to clarify which personal information the service provider's obligations apply to).	W123-6	0158-0161
258.	Shipping companies should not be considered "service providers," but "businesses," for various reasons. Shipping companies determine the	No change has been made because the comment is not related to any modification to the text for the 15-day comment period. *See also* FSOR, App. A, Response #s 567 and 568.	W115-1 W115-2 W115-3 W115-4	0071-0072 0072 0072-0073 0073-0074

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	shipping and processing activities, not the merchant. EU law considers them to be "controllers," and consumers see themselves as having a direct relationship with the individual carriers delivering shipments to them. A service-provider designation will also create operational issues. The transportation industry uses compiled or shared data for route optimization and network-planning, which may be prohibited by the modified regulations; and shipping companies must retain certain shipping records. Another comment requests that the Agency clarify the application of Civil Code § 1798.140(ad)(2)(A) to shipping information that transportation providers receive from businesses. Comment states that sharing shipping information with transportation providers ("carrier") should not be deemed a "sale" because the sharing is performed at the direction of the consumer who has instructed the retailer to ship the goods to the consumer's designated address.		W118-1 W118-4	0106-0109 0109-0110
- **§ 7050(a)**				
259.	Comment requests the Agency revert § 7050(a)(3) to its original draft CPRA language, and delete current restrictions	No change has been made in response to this comment. The comments propose an interpretation of the CCPA that is inconsistent with the language, structure, and intent of the CCPA. The CCPA prohibits a service	W116-17	0085, 0097

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	on using personal information to only build or improve the quality of the services to a business and limits on such improvements when performing services for other businesses. Service providers and contractors often contract with multiple businesses, and any personal information collected from all of these businesses is then used to improve the service provider and contractor's overall internal functions; these same internal functions are then used to service other businesses. To the extent the Agency has concerns that a service provider or contractor will use personal information from one business to service another business, the remaining provisions in § 7050(a)(3) already preclude them from doing so.	provider or contractor from retaining, using, or disclosing the personal information collected pursuant to its written contract with the business for any commercial purpose other than the business purposes specified in its contract with the business unless expressly permitted by the CCPA or these regulations. Civ. Code § 1798.140(j)(1)(A)(ii), (ag)(1)(B). Revised § 7050(a)(3) is consistent with the CCPA. As explained in the FSOR, the Agency modified § 7050(a)(3) to clarify that a service provider or contractor may use personal information collected pursuant to its written contract with the business to build and improve the quality of the services it is providing to the business, even if this business purpose is not specified in the written contract, provided that it is not using the personal information to perform services on behalf of another person. FSOR, p. 26. Whether a business is using personal information to improve the services it is providing to the business would be a fact-specific determination. The commenter should consult with an attorney who is aware of all pertinent facts and relevant compliance concerns. *See also* FSOR, App. A, Response # 545.		
260.	The Agency should clarify that the exception for service providers and contractors to "use" personal information to "prevent, detect, or investigate data security incidents or protect against malicious, deceptive, fraudulent or illegal activity" in § 7050(a)(4) includes the ability to "combine" personal information for those purposes.	No change has been made in response to this comment. The regulation is reasonably clear. As explained in the FSOR, the Agency modified § 7050(a)(4) to clarify that a service provider or contractor may use personal information collected pursuant to its contract with the business to prevent and investigate security incidents, even if this business purpose is not specified in the written contract required by the CCPA and these regulations. FSOR, p. 26. Whether a business is using personal information to improve prevent, detect, or investigate data security incidents or protect against malicious, deceptive, fraudulent, or illegal activity would be a fact-specific determination. The commenter should	W151-1	0401-0403

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		consult with an attorney who is aware of all pertinent facts and relevant compliance concerns.		
- **§ 7050(b)**				
261.	A company that contracts with a business to provide cross-contextual behavioral advertising should be considered a service provider. If the company is not using the personal information for its own purposes and only uses it to provide services as laid out in the agreement, there is no reason why they should not be considered a service provider. As written, this section will only harm advertising businesses without benefiting consumers.	No change has been made in response to this comment. The comment proposes an interpretation of the CCPA that is inconsistent with the language, structure, and intent of the CCPA. *See* FSOR, App. A, Response # 589.	W120-12 W139-6	0123 0310-0311
262.	Section 7050(b) is duplicative of the CPRA and should be removed from the modified regs. Section 7050(b) simply reiterates the law, which plainly permits entities to provide advertising and marketing services to businesses as "service providers."	No change has been made in response to this comment. As explained in the FSOR, § 7050(b) is necessary to explain Civil Code § 1798.140(e)(6). *See* FSOR, pp. 26-27; *see also* FSOR, App. A, Response # 589.	W122-11	0147-0148
263.	Section 7050(b) prohibits statutorily permissible advertising activity. The example in § 7050(b)(1) suggests that any combination of information by a service provider is impermissible, not just the combination of personal information of opted-out consumers. It creates uncertainty regarding CPRA's treatment	No change has been made because the comment is not related to any modification to the text for the 15-day comment period. *See also* FSOR, App. A, Response # 592.	W124-9 W132-20	0171 0247, 0251-0252

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	of relationships between businesses and service providers with respect to advertising as well as more broadly with respect to future contracts between them. It would also have significant implications for small businesses that rely on those advertising tools.			
264.	Comment recommends revising the sentence in § 7050(b)(1) that implies businesses are prohibited from leveraging advertising based on email addresses, which diverges from statute. Comment recommends clarifying that the example authorizes the service provider to fulfill its fiduciary duty in using the list of customer email addresses by its business (Business S) to serve Business S's customers with ads. Comment also recommends adding a sentence to clarify the prohibition on cross-contextual advertising.	No change has been made because the comment is not related to any modification to the text for the 15-day comment period. *See also* FSOR, App. A, Response # 592.	W112-6	0051-0053
265.	Comment objects to the example in § 7050(b)(1) (incorrectly listed as § 7051(c)(2)) that prohibits a form of widely accepted advertising based on email addresses. The example is inconsistent with CCPA, and would have significant implications for businesses that rely on these advertising tools to reach their customers. A customer list	There is no § 7051(c)(2) in the proposed modifications, and thus the Agency assumes from the context that this comment is regarding § 7050(b)(1). No change has been made because the comment is not related to any modification to the text for the 15-day comment period. *See also* FSOR, App. A, Response # 592.	W120-13 W139-7	0123 0311

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	that a business uploads, provided they have necessary permission, helps them each their own customers in a privacy-protective way. Restricting this ability will make it harder for them to reach their customers on social media platforms, increase costs for businesses, and disproportionately effect their ability to compete. This section also goes beyond the Agency's statutory authority, and raises new questions and uncertainty for businesses.			
- **§ 7050(e)**				
266.	Comment reiterates its prior comments regarding the impact of not having a service provider/contractor contract, which was previously under § 7051(c). The CPRA statute already provides the requirement for there to be an agreement or written contract between the parties. The effect of not having an agreement or written contract, but otherwise having a mutual understanding with your service provider or contractor, should be assessed on a case-by case basis to see if it is truly a "sale" under the CPRA.	No change has been made in response to this comment. Section 7050(c) is necessary to explain the consequence of not complying with the CCPA in having the requisite contract in place. *See* FSOR, App. A, Response # 608.	W116-28	0087
267.	Comment reiterates prior comment to delete § 7050(e) because it would convert all service provider or contractor	No change has been made because the comment is not related to any modification to the text for the 15-day comment period. Section 7050(c) is necessary to explain the consequence of not complying with the CCPA	W132-21 W139-8 W152-21	0247, 0252 0311 0413

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	relationships into third-party relationships, with a host of additional legal obligations, where the contract is not fully compliant with the Regulations.	in having the requisite contract in place. *See* FSOR, App. A, Response # 608.		
- **§ 7050(g)**				
268.	Supports businesses providing services to nonbusinesses not being exempt from CCPA requirements.	No change has been made in response to this comment. The comment appears to support the proposed modification, so no further response is required. The Agency's reasons for the modification are set forth in the FSOR. FSOR, p. 27. The Agency makes no comment regarding the commenter's reasons for supporting the proposed modification.	W127-9	0207
269.	Modify § 7050(g) by adding the underlined text: "Whether an entity that provides services to a Nonbusiness must comply with a consumer's CCPA request depends upon whether the entity is a "business," as defined by Civil Code section 1798.140, subdivision (d) and the entity is using the personal information for any business purpose other than as necessary to provide Employment Benefits." Comment contends that the proposed regulation could disrupt access to employee benefits by appearing to subject certain entities (e.g., stand-alone not-for-profit legal entities that offer retirement plans and health plans) to CCPA requirements. Comment contends that the proposed regulations conflict with structural frameworks provided by ERISA, GLBA, HIPAA, and HITECH.	No change has been made in response to this comment. As explained in the FSOR, the purpose of § 7050(g) is to provide guidance to entities that service nonbusinesses (e.g., often non-profits and government entities) regarding whether they must comply with consumers' CCPA requests received with respect to the personal information they process when providing services to the nonbusiness. FSOR, p. 27. Subsection 7050(g) concisely explains that whether an entity that provides services to a nonbusiness must comply with a consumer's CCPA request depends upon whether that entity is a "business," as defined by Civil Code § 1798.140(d). *Id.* This is necessary to clarify the obligations of entities that service nonbusinesses in accordance with the CCPA's definitions of "service provider," "contractor," and "business," (*see* Civ. Code § 1798.140(d), (j), (ag)), and the definition of "nonbusiness," (*see* § 7001(p)). *Id.* It would not be appropriate to add a requirement that pertains specifically to employee benefits to this regulation. This regulation provides general guidance regarding how to comply with the CCPA and is meant to be applicable to many factual situations and across industries. Regarding issues related to employee benefits, the Agency has not addressed this issue at this time. The Agency has prioritized the drafting of regulations that operationalize and assist in	W106-1 W106-2	0011-0012 0012

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		the immediate implementation of the law. Further analysis is required to determine whether a regulation on this issue is necessary. Regarding the comment's contention that the proposed regulations conflict with existing laws, the CCPA provides explicit exemptions in certain instances. *See e.g.,* Civ. Code § 1798.145(a), (c), and (e) (exceptions for complying with federal, state, or local laws, HIPAA, and GLBA in certain instances). Accordingly, the Agency has determined that no modifications are necessary at this time.		
270.	Modify § 7050(g) to clarify that the scope of the personal information for which the entity may be deemed a "business" is limited by adding the underlined text to § 7050(g): "Whether an entity that provides services to a Nonbusiness must comply with a consumer's CCPA request depends upon whether the entity is a "business" <u>with regard to any personal information that it collects, maintains, or sells in the provision of those services, as defined by Civil Code section 1798.140, subdivision (d)</u>." Comment suggests including the examples that had been circulated with the agenda for the Oct. 28-29 Agency Board meeting. Another comment contends that not including an example with § 7050(g) results in the regulation merely referring to the statutory definition of "business" as the determining factor in whether an entity	No change has been made in response to this comment. As explained in the FSOR, § 7050(g) concisely explains that whether an entity that provides services to a nonbusiness must comply with a consumer's CCPA request depends upon whether that entity is a "business," as defined by Civil Code § 1798.140(d). FSOR, p. 27. This is necessary to clarify the obligations of entities that service nonbusinesses in accordance with the CCPA's definitions of "service provider," "contractor," and "business," (*see* Civ. Code § 1798.140(d), (j), (ag)), and the definition of "nonbusiness," (*see* § 7001(p)). *Id.* The Agency does not believe it is necessary to add examples at this time as they may be too limiting.	W121-8 W121-9 W121-10 W130-9	0131, 0132 0131, 0132 0131, 0132 0229-0230; 0230

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	servicing a nonbusiness must comply with a consumer's CCPA request.			
271.	Modify § 7050(g) by adding the underlined text and deleting the struck-through text: "If ~~Whether~~ an entity that provides services to any Nonbusiness ~~must comply with a consumer's CCPA request depends upon whether the entity~~ is a "business," as defined by Civil Code § 1798.140, subdivision (d), then it shall comply with a consumer's CCPA request only with regard to any personal information that it collects, maintains, or sells outside of its service to any Nonbusiness." The proposed regulation creates an inconsistency relative to § 7050(d) and could be interpreted as requiring a "business that provides services to a 'nonbusiness' as having to comply with a CCPA request with regard to even information from a 'nonbusiness' that is processed pursuant to its service to the 'nonbusiness.'"	No change has been made in response to this comment. As explained in the FSOR, § 7050(g) provides guidance to entities that service nonbusinesses (e.g., often non-profits and government entities) regarding whether they must comply with consumers' CCPA requests received with respect to the personal information they process when providing services to the nonbusiness. FSOR, p. 27. Subsection 7050(g) concisely explains that whether an entity that provides services to a nonbusiness must comply with a consumer's CCPA request depends upon whether that entity is a "business," as defined by Civil Code § 1798.140(d). *Id.* This is necessary to clarify the obligations of entities that service nonbusinesses in accordance with the CCPA's definitions of "service provider," "contractor," and "business," (*see* Civ. Code § 1798.140(d), (j), (ag)), and the definition of "nonbusiness," (*see* § 7001(p)). *Id.* The Agency disagrees that there is inconsistency between § 7050(d) and this regulation. Section 7050(d) pertains to a service provider or contractor and § 7050(g) pertains to an entity providing services to a Nonbusiness which, by definition, is not a service provider or contractor. The comment ultimately raises a legal question that would require a fact-specific determination. The commenter should consult with an attorney who is aware of all pertinent facts and relevant compliance concerns.	W144-1	0341
§ 7051. Contract Requirements for Service Providers and Contractors				
- **§ 7051(a)**				
272.	The requirement to identify the specific business purpose for which personal information is disclosed instead of describing it generic terms goes beyond	No change has been made because the comment is not related to any modification to the text for the 15-day comment period.	W128-4	0211

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	statutory requirements and should be removed.			
273.	Revise § 7051(a)(1) to add underlined text: "Prohibit the service provider or contractor from selling or sharing personal information it receives from, or on behalf of, the business, unless otherwise permitted by the CCPA and these regulations" to permit service providers to disclose personal information received on behalf of a business "to third parties in relation to providing fraud detection and prevention services."	No change has been made because the comment is not related to any modification to the text for the 15-day comment period. *See also* FSOR, App. A, Response # 598.	W125-7	0182
274.	Supports striking the last sentence of § 7051(a)(3), which comment contends would have required a list of the specific business purpose(s) and service(s) identified in § 7051(a)(2). Supports modification of § 7051(a)(8), which would have provided five business days for service providers and contractors to notify businesses they could no longer meet their obligations.	The Agency appreciates this comment of support. No change has been made in response to this comment. The comment concurred with the proposed modification, so no further response is required. The Agency's reasons for the modification are set forth in the FSOR. FSOR, pp. 28-29. The Agency makes no comment regarding the comment's contentions about why the modifications were made.	W152-20	0413
275.	Comments propose various revisions to clarify when service providers and contractors may combine, update, retain, or use personal information. Comments suggest modifying § 7051(a)(5) to (1) clarify that service providers and	No change has been made because the comment is not related to any modification to the text for the 15-day comment period. *See also* FSOR, App. A, Response # 545; *see generally*, FSOR, App. A, responses to W75.	W116-18 W137-4 W139-10	0085, 0097 0294-0295 0312

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	contractors may combine or update personal information received from, or on behalf of, the business for the same business purposes for which they may use personal information, or if necessary to carry out a business purpose; or (2) align with the definitions of "service provider" and "contractor" by stating that they may combine data for "business purposes," provided that where they are providing advertising and marketing services, they do not do so for cross-context behavioral advertising purposes, nor combine the personal information of opted-out users with other personal information. Comment contends that § 7051(a)(5) contradicts broad permitted uses in 7050(b). Another comment notes that service providers and contractors may need to combine or update the personal information of multiple businesses for the business purpose of servicing businesses, such as for fraud prevention, but § 7051(a)(5) may conflict with § 7050(a)(4), which allows service providers and contractors to retain, use or disclose personal information to prevent, detect or investigate security incidents or protect against fraud and			

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	other activities.			
- **§7051(a)(7)**				
276.	Delete or revise § 7051(a)(7) to better align with CCPA's requirements and avoid suggesting that the compliance-monitoring steps are required, because the statute permits but does not require the commitments. Another comment suggests requiring an annual certification of compliance in lieu of audit requirements, because a business's ability to audit impacts license agreements and contractual provisions, intellectual property and security with service providers, and its ability to create such a testing program.	No change has been made in response to these comments. The comments' proposed changes are not more effective in carrying out the purpose and intent of the CCPA. As explained in the ISOR, § 7051(a) has been included because the requirements for what must be included in a service provider or contractor contract are listed in several places. ISOR, pp. 50-51. Civil Code §§ 1798.100(d)(3) and 1798.140(j)(1)(C), (ag)(1)(D) explicitly include that service providers and contractors will be subject to some type of monitoring by the business, and thus, § 7051(a)(7) has been included in this regulation. Consolidating all the requirements in one place helps businesses, service providers, and contractors understand what is required of them. The examples provided in § 7051(a)(7) are not comprehensive, and businesses have flexibility and discretion to determine how to comply with the law within their specific factual situation (e.g., considering specific business practices, environments, and relationships; and costs). The regulation is meant to apply to a wide range of factual situations and across industries. To the extent that the commenter seeks additional clarity, it likely requires a fact-specific determination. The commenter should consult with an attorney who is aware of all pertinent facts and relevant compliance concerns. *See also* FSOR, App. A, Response #s 553, 602, and 603.	W116-19 W123-4 W155-4	0085, 0097 0158-0160 0434
277.	Cite to, or describe in more detail, the phrase in § 7051(a)(7): "in a manner consistent with the business's obligations under the CCPA and these regulations."	No change has been made because the comment is not related to any modification to the text for the 15-day comment period. *See also* FSOR, App. A, Response # 604.	W157-16	0456
- **§ 7051(c)**				
278.	The requirement that businesses conduct due diligence of its service providers and contractors goes beyond statutory	No change has been made because the comment is not related to any modification to the text for the 15-day comment period.	W122-8 W128-4 W132-22	0144 0211 0248

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	requirements and should be removed or revised. Businesses should only be required to conduct due diligence if they reasonably believe such entities are misusing personal information. Another comment suggests the Agency provide clarity by listing factors that affirmatively indicate a violation instead of leaving businesses to formulate a reasonable belief that the external party is in violation.			
§ 7052. Third Parties				
- **Comments generally about § 7052**				
279.	Comment recommends that § 7052 be updated to clarify that third parties must also comply with correction and access requests, and proposes corresponding modifications.	No change has been made because the comment is not related to any modification to the text for the 15-day comment period. *See also* FSOR, App. A, Response # 612.	W127-10	0207-0208
280.	Modify § 7052(b) by adding the underlined language and deleting the language in struck-through text: "A third party shall ~~comply with the terms of the contract required by the CCPA and these regulations, which include~~ treat~~ing~~ the personal information that the business made available to it in a manner consistent with the ~~business's~~ third party's obligations under the CCPA and these regulations."	No change has been made in response to this comment. The comment proposes an interpretation of the CCPA that is inconsistent with the language, structure, and intent of the CCPA. The CCPA requires businesses' agreements with third parties to provide the same level of privacy protection as required of businesses by the CCPA and these regulations (*see, e.g.*, Civ. Code § 1798.100(d)(2)). The purpose and intent of the CCPA include strengthening consumer privacy, providing clear guidance to businesses about their responsibilities, and holding businesses accountable through vigorous administrative and civil enforcement. *See* Prop. 24, as approved by voters, Gen. Elec. (Nov. 3, 2020), § 3(C)(1), (2), (7). Subsection 7052(b) makes clear that the third party must comply with the terms of the contract required under	W146-2	0361, 0367-0368

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		§ 7053, which include treating the personal information at issue in a manner consistent with the business's obligations under the CCPA and these regulations. This helps to ensure that consumers receive the same level of privacy protections, regardless of whether their personal information is processed by the business or a third party to whom the business sells or shares their personal information. As explained in the FSOR, this subsection is necessary to make clear that a failure to comply with the contract is a violation of the CCPA enforceable by the Agency and the Attorney General's office. FSOR, p. 30.		
§ 7053. Contract Requirements for Third Parties				
- **Comments generally about § 7053**				
281.	Modify § 7053 to add the underlined text and delete the struck-through text: "A business that <u>collects</u> ~~sells or shares~~ a consumer's personal information <u>and sells or shares that information</u> with a third party shall enter into an agreement with the third party that…" Comment contends that Civ. Code § 1798.100(d) does not apply to a business that does not *first* collect and *then* sell personal information to, or share it with, a third party. For example, with browsing cookies, the business does not collect and then sell or share; rather, it only sells or shares when it allows third parties to collect the personal information.	No change has been made because the comment is not related to any modification to the text for the 15-day comment period. The comment appears to propose an interpretation of the CCPA that is inconsistent with the language, structure, and intent of the CCPA. To the extent the comment suggests that the CCPA requires a business to first collect and then sell or share consumers' personal information to a third party in order for the contractual requirements to apply to the third party, the comment misinterprets the law. CCPA defines "collect" to include "accessing any personal information pertaining to a consumer by any means" and requires a business that "collects a consumer's personal information and that sells that personal information to, or shares it with, a third party to have an agreement in place with a third party...." Civ. Code §§ 1798.100(d), 1798.140(f).	W139-14	0314
282.	Modify § 7053(a)(3) to require contracts between businesses and third parties to	No change has been made in response to this comment. The Agency has determined that no modification is necessary at this time. The CCPA and	W149-32	0388

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	mandate that third parties comply with a consumer's request to opt-out of the sale/sharing forwarded to them by a first party business. If third parties are not contractually required to honor such opt-out requests, then they would not be in compliance with applicable obligations under the CCPA (e.g., Civil Code § 1798.100(d)(2) requires that contracts with third parties obligates them "to comply with appliable obligations under this title and obligates those persons to provide the same level of privacy protection as is required by this title.")	other sections of these proposed regulations specifically address opt-out requirements. Civil Code § 1798.135(f) makes clear that if a business communicates a consumer's opt-out request to a third party, the third party is prohibited from selling or sharing it. Section 7026(f)(1)(2) requires businesses to comply with a request to opt-out of sale/sharing by ceasing to sell to and/or share with third parties the consumer's personal information, and by notifying all third parties to whom the business has sold or shared the consumer's personal information and directing them to comply with the consumer's opt-out request. Civil Code § 1798.100(d)(2) and (3) require that a business that collects a consumer's personal information and sells it to, or shares it with, a third party enter into an agreement with the third party that requires the third party "to comply with applicable obligations under this title and…provide the same level of privacy protection as is required by this title," and grants the business "rights to take reasonable and appropriate steps to help ensure that the third party…uses the personal information transferred in a manner consistent with the business's obligations under this title." The example in § 7053(a)(3)—of the contract requiring a third party to comply with a consumer's request to opt out of sale/sharing—is consistent with these statutory requirements. As explained in the ISOR, § 7053(a)(3) clarifies that the third party must comply with applicable sections of the CCPA and these regulations and provides examples of what that would include. ISOR, p. 54. *See also* FSOR, App. A, Response # 548. The Agency will continue to monitor the marketplace and may revisit the issue, if necessary.		
283.	Modify § 7053 to add the underlined text and delete the struck-through text: "A business that <u>collects</u> ~~sells or shares~~ a consumer's personal information <u>and sells or shares that information</u> with a	No change has been made because the comment is not related to any modification to the text for the 15-day comment period. The comment appears to propose an interpretation of the CCPA that is inconsistent with the language, structure, and intent of the CCPA. To the extent the comment suggests that the CCPA requires a business to first collect and	W139-14	0314

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	third party shall enter into an agreement with the third party that…" Comment contends that Civ. Code § 1798.100(d) does not apply to a business that does not *first* collect and *then* sell personal information to, or share it with, a third party. For example, with browsing cookies, the business does not collect and then sell or share; rather, it only sells or shares when it allows third parties to collect the personal information.	then sell or share consumers' personal information to a third party in order for the contractual requirements to apply to the third party, the comment misinterprets the law. CCPA defines "collect" to include "accessing any personal information pertaining to a consumer by any means" and requires a business that "collects a consumer's personal information and that sells that personal information to, or shares it with, a third party to have an agreement in place with a third party...." Civ. Code §§ 1798.100(d), 1798.140(f).		
ARTICLE 5. VERIFICATION OF REQUESTS				
§ 7060. General Rules Regarding Verification				
- **Comments generally about § 7060**				
284.	The Agency should create a business exception to § 7060(b) for situations where the sharing of personal information or the use of sensitive personal information is necessary to support a product or service previously requested by the consumer such as automobile geodata use for emergency responder services. Comment suggests that an opt out would essentially void those services; but it would be appropriate for business services to verify who that person is.	No change has been made because the comment is not related to any modification to the text for the 15-day comment period.	W140-4	0322
285.	The Agency should allow verification of requests limits to prevent fraud.	No change has been made because the comment is not related to any modification to the text for the 15-day comment period.	W142-12	0333

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286.	Businesses are making the verification process as hard as possible to ward off consumer requests. The Agency should add language clarifying that businesses weaponizing the verification process as a means of defeating properly submitted consumer requests is a violation of the CCPA.	No change has been made because the comment is not related to any modification to the text for the 15-day comment period.	W149-33	0389
§ 7063. Authorized Agents				
- **Comments generally about § 7063**				
287.	Use of authorized agents invites fraud, and the Agency should limit the use of authorized agents to minors, elderly, and incapacitated individuals.	No change has been made because the comment is not related to any modification to the text for the 15-day comment period.	W107-7	0023
288.	Comment reiterates requests that financial institutions be given explicit regulatory authorization to use a risk-based approach in responding to authorized agent requests in order to minimize risk of unintentional release of consumer sensitive personal information.	No change has been made because the comment is not related to any modification to the text for the 15-day comment period. *See also* FSOR, App. A, Response #645.	W133-14	0256-0257
289.	Comment is concerned for financial institutions' unauthorized release of data to authorized agents. Business should be permitted to take a risk-based approach to processing authorized agent requests to minimize the risk of unintentional release of consumers sensitive personal information.	No change has been made because the comment is not related to any modification to the text for the 15-day comment period.	W133-15	0256-0257

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ARTICLE 6. SPECIAL RULES REGARDING CONSUMERS UNDER 16 YEARS OF AGE				
§ 7070. Consumers Less Than 13 Years of Age				
- **Comments generally about § 7070**				
290.	Comment recommends the Agency define the term "actual knowledge" to include the meaning of "willfully disregard."	No change has been made because the comment is not related to any modification to the text for the 15-day comment period.	W135-1	0281
291.	Comment recommends the Agency make clear the responsibilities of a business once it has actual knowledge that a consumer is under 16 years of age.	No change has been made because the comment is not related to any modification to the text for the 15-day comment period.	W135-2	0282
292.	Comment recommends the Agency establish a specific time by when a business must inform parents or guardians of consumers under the age of 13 of their right to opt out of the sale or sharing of their personal information.	No change has been made because the comment is not related to any modification to the text for the 15-day comment period.	W135-3	0283
- **§ 7070(a)**				
293.	Comment notes that the methods of verifying the identity of a child's parent are much less rigorous with respect to consent to sell or share a child's personal information. Comment suggests the Agency considering permitting adults to use the same identity verification methods for themselves that they can avail themselves of for their children. The same is applicable to adults' identity verification visa a vis the methods of identity verification in § 7070(c) for	No change has been made because the comment is not related to any modification to the text for the 15-day comment period.	W149-34	0389

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	determining a parent or guardian's identity for purposes for exercising the rights to delete, correct, and know.			
§ 7071. Consumers at Least 13 Years of Age and Less Than 16 Years of Age				
- **§ 7071(b)**				
294.	Comment recommends the Agency amend § 7071(b) to make clear that businesses must inform consumers between the ages of 13 and 16 of their opt-out right within a certain period of time if the business receiving the request.	No change has been made in response to this comment. The regulation is reasonably clear and should be understood by the plain meaning of the words. Businesses are to inform those consumers of their right to opt-out of sale/sharing when they receive the request. Further analysis required to determine whether this modification is necessary. The Agency continue to monitor this area.	W135-4	0283-0284
ARTICLE 7. NON-DISCRIMINATION				
§ 7081. Calculating the Value of Consumer Data				
- **§ 7081(a)**				
295.	Comment recommends deleting clause (8) from § 7081(a) because they are concerned about how the revised draft regulations permit businesses to use indeterminate and untested methods to calculate the value of consumer data in the good-faith provision. The use of this provision is likely to lead to businesses' significantly undervaluing consumer data or valuing some consumers' data more than others.	No change has been made because the comment is not related to any modification to the text for the 15-day comment period. *See also* FSOR, App. A, Response # 661.	W127-3	0202-0203

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ARTICLE 8. TRAINING AND RECORD-KEEPING				
§ 7100. Training				
- **Comments generally about § 7100**				
296.	Claims that the training requirement set forth in § 7100 appears to expand the regulation's scope beyond the law because it states that businesses must train individuals handling inquiries on Information Practices or compliance with the CPPA on all CPPA requirements. Claims that those who handle inquiries on Information Practices or inquiries about protected persons, breach investigations, or HIPAA, may not have any CPPA request-handling responsibilities and that businesses should not be forced to train people who have no CPPA responsibilities.	No change has been made because the comment is not related to any modification to the text for the 15-day comment period. In addition, this requirement is consistent with Civil Code §§ 1798.130(a)(6) and 1798.135(c)(3).	W152-40	0416-0417
§ 7101. Record-Keeping				
- **Comments generally about § 7101**				
297.	Recommends that the Agency extend the period that businesses must maintain records of consumer requests to more than two years based on Civil Code §§ 1798.199.70 and 1798.199.75(b).	No change has been made because the comment is not related to any modification to the text for the 15-day comment period.	W149-35	0389
§ 7102. Requirements for Businesses Collecting Large Amounts of Personal Information				
- **Comments generally about § 7102**				
298.	Comment requests clarification on the number of consumers that trigger reporting requirements. It's unclear if the	No change has been made because the comment is not related to any modification to the text for the 15-day comment period.	W133-16	0257

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	reference to 10 million consumers in the modified text of the proposed regulation is referring to Californian consumers, consumers in the United States or consumers globally.			
299.	Comment recommends striking the higher set of requirements for the holders of large amounts of data as it is not evidenced anywhere else in the CCPA	No change has been made because the comment is not related to any modification to the text for the 15-day comment period.	W149-36	0390
ARTICLE 9. INVESTIGATIONS AND ENFORCEMENT				
§ 7301. Investigations				
- **Comments generally about § 7301**				
300.	Expresses concerns about the amount of time businesses will have to comply with final regulations. Contends that (1) § 7301 should expressly require the Agency consider delays in promulgating regulations and good faith efforts to comply; (2) businesses need more time to adjust to the expiration of exemptions for employee and B2B data; (3) nothing in Civil Code § 1798.185(d) precludes the agency from further delaying enforcement; and/or (4) the Agency should provide assurances to the business community that enforcement will not begin until at least 1 year after final regulations are adopted.	No change has been made in response to this comment. The Agency has made every effort to issue final regulations in a timely manner that comply with the CCPA and the rulemaking procedures. The Agency has considered delaying the effective date and/or the enforcement date of the regulations and has determined that doing so is not more effective in carrying out the purpose and intent of the CCPA than having the regulations take effect in accordance with the standard rules governing rulemaking. *See* Gov. Code § 11343.4(a). The proposed regulations provide comprehensive guidance to consumers, businesses, service providers, and third parties on how to implement and operationalize new consumer privacy rights and other changes to the law introduced by the CPRA amendments to the CCPA. The Agency has determined that delaying the regulations will cause greater confusion for consumers and businesses. In addition, the Agency has determined that businesses will have sufficient time to comply with the regulations before the Agency's enforcement commences. Although the proposed regulations are not yet final and have been subject to public comment and amendments, businesses have been aware of the proposed regulations' general	W108-1 W116-1 W133-17 W138-1 W138-2 W142-1 W147-1	0025 0080 0257 0301 0301 0329-0330 0372

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		contours since July 8, 2022, when they were released. Many of these regulations have been in effect with only slight modifications since 2020. Moreover, when considering whether to investigate a violation or initiate an enforcement action, the Agency, in the exercise of its prosecutorial discretion, may consider the effect that the delay in adopting the regulations has had on a business's ability to comply as well as the businesses' good-faith efforts to comply with the law. Prosecutorial discretion permits the Agency to choose which entities to investigate and whether to initiate an administrative action. How the Agency decides to exercise its enforcement authority is a context-specific, fact-specific, discretionary decision.		
301.	Contends that § 7301(b) should provide various limitations on Agency-initiated investigations, audits, and/or enforcement. Recommends amending regulations by (1) clarifying that an investigation can be initiated where the Board, by a majority vote, finds reasonable suspicion that a business has violated the CCPA; (2) clarifying how and when businesses submit information prior to probable cause hearings for the Agency to consider in determining whether to initiate an investigation; (3) requiring that each notice of a probable cause hearing contain a clear statement of the claims and summary of evidence; (4) clarifying that businesses have the right to a live proceeding upon request, even in the case of private proceedings;	All of these comments and proposed modifications were raised and considered by the Agency after the 45-day comment period. No change has been made in response to these comments for the same reasons stated previously. The comment's recommendations are unnecessary and would not be more effective in carrying out the purpose and intent of the CCPA to hold businesses accountable through vigorous enforcement. *See* FSOR, App. A, Response #s 679, 680, 681, 683, 684, and 685.	W139-22 W156-7	0318 0444-0445

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	(5) clarifying that unless the alleged violator requests otherwise, information or arguments presented at the probable cause hearing will not be shared with the public; (6) clarifying the manner by which probable cause determinations must be delivered and to whom they must be addressed; and/or (7) clarifying that the Agency's probable cause determination is only "final" for the purpose of determining that the Agency may hold an administrative hearing to determine whether there has been a violation of the CCPA.			
- **§ 7301(b)**				
302.	Comment contends that the phrase "all facts it determines to be relevant" lacks clarity. Comment requests that the Agency revise the regulation to "specify a forum or process for businesses to submit this information."	No change has been made in response to this comment. The comment proposes an interpretation of the CCPA that is inconsistent with the language, structure, and intent of the CCPA. In addition, the comments' interpretation of the regulation is inconsistent with the regulation's language. The comment contends that "§ 7301(b) gives the Agency discretion." That is incorrect. Civil Code § 1798.199.45 grants the Agency discretion to investigate possible and alleged violations of the CCPA. The regulation thus recognizes the discretion conferred by the CCPA. The regulation provides guidance to consumers and businesses about the scope of that discretion, informing them that "the effective dates of the statutory and regulatory requirements of CCPA and good faith efforts to comply with those requirements" are examples of what the Agency might consider in exercising its discretion. *See* FSOR, p. 71.	W130-6	0226-0227

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§ 7302. Probable Cause Proceedings				
- **Comments generally about § 7302**				
303.	Recommends amending § 7302 by adding express requirements that the Agency provide businesses with probable cause reports containing the basis of alleged violations and that the Agency give such businesses formal opportunities to respond in writing in advance of probable cause proceedings. Makes recommendation based on California Public Utilities Commission (CPUC)'s progressive enforcement model. Claims that proposed modifications for developing a written briefing process in advance of the actual probable cause proceedings "build on" Civil Code § 1798.199.50 and align with Fair Political Practices Commission (FPPC)'s probable cause requirements.	No change has been made because the comment is not related to any modification to the text for the 15-day comment period. *See* FSOR, App. A, Response # 680.	W116-30	0087
304.	Recommends revising § 7302 to provide the alleged violator an opportunity to cure during the 30-day window between receipt of notice and subsequent proceedings.	No change has been made because the comment is not related to any modification to the text for the 15-day comment period. *See* FSOR, App. A, Response # W699.	W152-42	0417
305.	Urges the Agency to reconsider the commenter's previously proposed changes, including various amendments to § 7302 such that (1) each probable cause notice must contain a clear	No change has been made because the comment is not related to any modification to the text for the 15-day comment period. *See* FSOR, App. A, Response #s 680, 683, and 684.	W156-8	0445

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	statement of claims and evidence; (2) alleged violators may elect to conduct proceedings by telephone or videoconference if proceedings are not open to the public; (3) the Agency's probable cause determination is only final for the purpose of determining that the Agency may hold an administrative hearing to determine whether there has been a violation of the CCPA under Civil Code § 1798.199.55; and (4) information or arguments presented at the probable cause proceeding by the parties is not open to the public nor admissible in evidence in any action or special proceeding other than one enforcing the CCPA.			
§ 7304. Agency Audits				
- **Comments generally about § 7304**				
306.	Claims that Agency audits would be burdensome to credit unions. Requests that the Agency create specific exemptions for credit unions based on the claim that credit unions differ from for-profit entities, are already highly regulated, and must comply with privacy and security requirements under other laws, such as the GLBA and CalFIPA.	No change has been made because the comment is not related to any modification to the text for the 15-day comment period. *See* FSOR, App. A, Response # 693.	W108-2 W108-6	0026 0030

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307.	Urges the Agency to reconsider previously proposed changes. Contends proposed regulations exceed the Agency's statutory authority because the scope of the audit power is too broad and proposed regulations fail to define the scope and process of Agency audits with limitations. Comments previous proposals include various changes, such as (1) limiting the temporal scope of audit investigations to 180 days from the audit's start date unless otherwise agreed; (2) establishing a "statute of limitations" on the Agency's ability to audit a business; and/or (3) adding other requirements, such as that the Agency approve audits by majority vote prior to initiation and give businesses the right to request a hearing before an administrative law judge to determine the propriety and scope of an audit.	No change has been made because the comment is not related to any modification to the text for the 15-day comment period. *See* FSOR, App. A, Response # 691.	W116-31 W137-10 W140-6 W140-7	0087 0298-0299 0323 0323
308.	Alleges Agency's audit power lacks adequate protections for shielding information obtained during audits from disclosure in the absence of a court order, warrant, or subpoena. Alleges that § 7304(e)'s requirement to protect "consumer personal information" is too narrow because it does not protect the business's confidential, proprietary, or	No change has been made because the comment is not related to any modification to the text for the 15-day comment period. *See also* FSOR, App. A, Response # 701.	W123-10	0163-0164

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	other sensitive information. Recommends that the Agency create additional safeguards in the regulations to ensure that the audit authority is not exercised in a manner that could inadvertently undermine consumer privacy or cybersecurity.			
309.	Urges the Agency to reconsider previously proposed changes. Proposes (1) deleting regulations that authorize the Agency to conduct unannounced audits or make unilateral determinations of "significant risk;" (2) requiring that the scope of audit requests receive Board approval; (3) giving companies the ability to respond to audit requests; and (4) deeming businesses' election to participate in audits a mitigating factor in any subsequent enforcement decision.	No change has been made because the comment is not related to any modification to the text for the 15-day comment period. *See also* FSOR, App. A, Response # 695.	W124-20	0175-0176
310.	Comment seeks guidance on the scope of an audit and how audits will be conducted. Recommends amending § 7304 to provide businesses with written notice at least 30 days in advance of any audit and requiring the audit to be completed within 180 days from its start.	No change has been made because the comment is not related to any modification to the text for the 15-day comment period. *See also* FSOR, App. A, Response # 687.	W139-21	0317
311.	Recommends revising § 7304 to limit audits to possible violations that are based on reasonable suspicion and defining "significant risk" under § 7304(b)	No change has been made because the comment is not related to any modification to the text for the 15-day comment period. *See also* FSOR, App. A, Response # 691.	W152-43 W137-10	0417 0298-0299

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	or providing examples, and confining audits to businesses, not individuals.			
312.	Urges the Agency to reconsider previously proposed changes. Proposals include various changes, such as (1) limiting the scope of audits to alleged violations; (2) limiting criteria for selection for audits to where the Chief Privacy Officer finds reasonable suspicion that a business is violating a provision of the CCPA; (3) requiring the Agency to give businesses 30 days of advance notice for unannounced audits that details the suspected violations; (4) confirming that audits will be confidential; and/or (5) prohibiting the Agency from seeking disclosure of consumer personal information during an audit in the absence of a court order, warrant, or subpoena.	No change has been made because the comment is not related to any modification to the text for the 15-day comment period. *See also* FSOR, App. A, Response #s 687 and 694.	W156-6 W137-10	0443-0444 0298-0299
313.	Recommends that the Agency amend § 7304 to define the specific criteria it will use to determine whether processing presents "significant risk" and to limit audits to businesses that have been found to have violated the CCPA and are subject to continuing supervision.	No change has been made because the comment is not related to any modification to the text for the 15-day comment period. *See also* FSOR, App. A, Response # 695.	W157-17 W157-18	0456-0457 0457

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OTHER – NOT REGARDING A PARTICULAR SECTION				
- **Delay**				
314.	Comments suggest delaying the effective date and/or enforcement of the regulations for 6 to 12 months, or 12 months from the date the regulations go into effect, because the regulations were not finalized by July 1, 2022. Several comments contend that the voters intended to give businesses 12 months to comply with the regulations. Many comments note that regulations implementing certain CCPA provisions remain forthcoming and that requiring businesses to comply before January 2024 will lead to confusion. In particular, comments request that the Agency delay enforcement in the employment, business-to-business, and insurance contexts until the Agency engages in rulemaking on those topics.	No change has been made in response to those comments because they do not relate to any modification to the text for the 15-day comment period. To the extent the comments can be read as requesting a delay based on modifications to the text for the 15-day comment period, no change has been made in response to those comments. The Agency has made every effort to issue final regulations in a timely manner that comply with the CCPA and the rulemaking procedures. The Agency has considered delaying the effective date and/or the enforcement date of the regulations and has determined that doing so is not more effective in carrying out the purpose and intent of the CCPA than having the regulations take effect in accordance with the standard rules governing rulemaking. *See* Gov. Code § 11343.4(a). Although Civil Code § 1798.185(d) directed the Agency to adopt final regulations required by the Act by July 1, 2022, that directive must be read in conjunction with the CCPA's overarching purpose and intent. The voters intended the law to take effect on January 1, 2023, and for enforcement to begin July 1, 2023. Delaying the regulations or enforcement would deprive millions of California consumers of the rights codified in the CCPA. Prop. 24, as approved by voters, Gen. Elec. (Nov. 3, 2020), § 3(A); Civ. Code §§ 1798.105-125. In addition, the Agency has determined that businesses will have sufficient time to comply with the regulations before the Agency's enforcement commences. Although the proposed regulations are not yet final and have been subject to public comment and amendments, businesses have been aware of the proposed regulations' general contours since July 8, 2022, when they were released. Many of these regulations have been in effect with only slight modifications since 2020. Moreover, when considering whether to investigate a violation or initiate an enforcement action, the Agency, in the exercise of its	W103-1 W103-2 W103-3 W103-4 W108-3 W112-8 W113-1 W113-2 W116-1 W122-10 W122-13 W124-19 W125-1 W133-1 W136-4 W139-23 W140-1 W140-5 W141-2 W146-4 W152-1 W152-2 W153-7 W154-2 W154-4 W155-12	0003 0003-0004 0004 0004-0005 0027 0053 0056-0063 0059-0060 0080, 0089 0147 0150-0151 0175 0179 0254 0288 0318-0319 0322 0323 0325 0362-0634 0408 0408 0424-0425 0427 0429 0437

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		prosecutorial discretion, may consider the effect that the delay in adopting the regulations has had on a business's ability to comply. Prosecutorial discretion permits the Agency to choose which entities to investigate and whether to initiate an administrative action. How the Agency decides to exercise its enforcement authority is a context-specific, fact-specific, discretionary decision. Proposed regulation § 7301(b) also recognizes that, when the Agency investigates violations of the CCPA or its implementing regulations, the Agency has the discretionary authority to consider the effective date of statutory and regulatory requirements and businesses' good-faith efforts to comply with the law. With regard to when the regulations will come into effect, that process is governed by statute and administered by the Office of Administrative Law. The Agency encourages those interested in the regulatory process to join the Agency's email listserv to receive updates on the rulemaking process.		
315.	Comment requests that the Agency provide "timeline for compliance with net-new requirements."	No change has been made in response to this comment. To the extent the comment requests that the Agency amend the regulations to include a timeline, doing so would be ineffective. To the extent the comment intends to ask the Agency to delay the effective date of the regulations, the Agency will not do that for the reasons set forth in Response # 319. *See also* FSOR, App. A, Response #s 704 and 705. Finally, to the extent the comment is requesting guidance about the timeline under which regulations are promulgated, that process is governed by statute and administered by the Office of Administrative Law. The Agency encourages those interested in the regulatory process to join the Agency's email listserv to receive updates on the rulemaking process.	W120-2	0118
316.	Comment reiterates request from 45-day comment period that "new obligations in the regulations be prospective and apply	No change has been made because the comment does not relate to any modification to the text for the 15-day comment period. *See also* FSOR, App. A, Response # 260.	W140-2	0322

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	only to data collected after the regulation's effective date."			
317.	Comment suggests that the Agency view the California Administrative Procedure Act as a minimum set of requirements and that the Agency add more "interactive" steps in the process.	No change has been made because the comment does not relate to any modification to the text for the 15-day comment period. *See also* FSOR, App. A, Response # 260.	W147-4	0374
- **Economic Analysis**				
318.	Comment identifies 14 compliance burdens that were flagged in their earlier comments but have not been modified, removed, or deleted, including §§ 7001(c), 7013(c), 7022(b)(3), 7025(c)(5), 7026(a)(4), 7027(g)(3), 7050(c)(1), 7051(a)(2), 7051(e), 7053(e), 7102(a)(1)(B), 7102(a)(1)(E), 7102(a)(1)(F), and 7304(c). These proposals should not be adopted as an SRIA has not been completed regarding the impact that these requirements would impose.	No change has been made because the comment is not related to any modification to the text for the 15-day comment period. *See also* FSOR, App. A, responses to W9.	W119-1	0114-0115
- **Employee/Business-to-Business Personal Information**				
319.	Comments recommend that additional guidance be provided to: (a) exempt employee and business to business (B2B) data from compliance with CCPA and CPRA, as well as the modified regulations; and (b) ensure businesses are provided further support on the appropriate treatment of employee and	No change has been made because the comment is not related to any modification to the text for the 15-day comment period. The regulations provide general guidance for CCPA compliance and are meant to be robust and applicable to many factual situations and across industries. The Agency has prioritized the drafting of regulations that operationalize and assist in the immediate implementation of the law. Further analysis is required to determine whether a regulation on this issue is necessary. *See also* FSOR, App. A, Response # 725.	W112-7 W128-14 W138-3 W141-1 W150-1 W155-2	0053 0214 0302 0325 0394-0395 0434

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	B2B data with regard to CPRA. Another comment suggests the Agency add further real-world illustrations in the examples to illustrate how the proposed regulations apply to personal information concerning employees, job applicants, and independent contractors to a business, and the B2B contracts. The Agency should make the exemptions permanent or extend them to January 1, 2024 to allow for additional time to comply with regulations.			
- **Exceeds Scope**				
320.	Comment asks the Agency to re-consider comments from their previous letter. Commenter remains concerned with provisions that are inconsistent or go beyond the statute, and requests that such provisions either align with the statute or be deleted.	No change has been made because the comment is not related to any modification to the text for the 15-day comment period. *See also* FSOR, App. A, responses to W43.	W128-1	0210
- **Industry Specific**				
321.	Comment urges the Agency to clarify that, as to operators in the insurance industry, compliance with the privacy provisions in existing Insurance Laws is sufficient for compliance with CCPA and its implementing regulations, until such time as the Agency addresses related issues.	No change has been made because the comment is not related to any modification to the text for the 15-day comment period. *See also* FSOR, App. A, Response 731.	W117-1 W154-1	0101-0102 0427; 0431

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- **Miscellaneous**				
322.	Comment is concerned about a number of procedural irregularities throughout this rulemaking process, including the potential conflicts of interest posed by recent CPPA board appointments, opacity in the decision-making that led this rulemaking to be considered a non-major rulemaking, and the removal of the Department of Finance's study on the initial implementation costs of the CCPA from the state's website.	No change has been made in response to this comment, which is an observation rather than a specific objection or recommendation regarding the regulation. The comment does not propose specific amendments to the proposed regulations or provide sufficient specificity to the Agency to make any modifications to the text. Moreover, in proposing these regulations, the Agency has complied with the Administrative Procedure Act and remained transparent through the rulemaking process. The Agency has explained in its rulemaking materials, as well as in response to other comments, that for the purposes of its economic analysis the Agency looked to the legal environment that consists of existing California law as well as other relevant privacy obligations to comprise the baseline economic conditions for the proposed regulations. The Agency's economic analysis of this regulatory proposal is specifically concerned with the impacts attributable to the proposed regulations rather than the impacts associated with baseline, and those costs did not meet the threshold for a major regulation.	W124-1	0166
323.	Comment notes that the public interest would have been better served if the Agency had provided a longer period than 15 days for commenting.	No change has been made because the comment is not related to any modification to the text for the 15-day comment period.	W119-2	0114-0115
324.	Comment expresses concern about the prevalence of data brokers, the risks they pose, including the risk of identity theft; and the challenges of investigating associated crimes.	No change has been made because the comment is not related to any modification to the text for the 15-day comment period. However, the Agency thanks the commenter for sharing their concerns. The Agency takes its mandate to protect consumers seriously, including the CCPA's direction that the Agency protect the fundamental privacy rights of natural persons with respect to the use of their personal information through the implementation of the CCPA. *See* Civ. Code § 1798.199.40(c). If the commenter believes a business has violated the	W105-2	0009

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		CCPA, they may file a consumer complaint with the Office of the Attorney General at https://www.oag.ca.gov/contact/consumer-complaint-against-business-or-company. Beginning July 1, 2023, the Agency is tasked with enforcing the CCPA through administrative enforcement actions. As set forth in § 7033(a), consumers may file sworn complaints with the Enforcement Division via the electronic complaint system available on the Agency's website at https://cppa.ca.gov/ or submit in person or by mail to the headquarters office of the Agency.		
325.	Concerned smaller organizations face increased uncertainty whether they can compete against larger organizations because (1) of ambiguities in recent data protection regulations that constrain the ability to use "supply chain partners" or third parties, which could be remedied by greater clarity about the reasonable measures organization can put in place for the responsible use of data; and (2) policies that exempt first parties from identical obligations for third parties will centralize more control under "the largest digital platforms and internet gatekeepers," reducing transparency and consumer choice and control.	No change has been made in response to this comment, which is an observation rather than a specific objection or recommendation regarding the regulation(s). The comment does not provide sufficient specificity for the Agency to make any modifications to the text. Regarding the differing obligations between first and third parties, these are set forth in the CCPA. The Agency cannot implement regulations that alter or amend a statute or enlarge or impair its scope.	W131-1	0234-0235
326.	Comment states that no company operating in California should be able to use any third-party data without the consumer's prior express written	No change has been made because the comment is not related to any modification to the text for the 15-day comment period. *See also* FSOR, App. A, Response # 748.	W105-3	0009

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	consent, and should adhere to all other provisions of the law.			
327.	The Agency should clarify the scope and meaning of "business" throughout the regulations. The comment cites alleged ambiguities in CCPA, specifically Civil Code §§ 1798.140(1)(A), 1798.140(d)(2)-(3), and 1798.140(d)(4).	No change has been made because the comment is not related to any modification to the text for the 15-day comment period.	W130-9	0229-0230; 0230
328.	Comment urges the Agency to prioritize development of regulations specific to the employment context and to do so as quickly as possible.	No change has been made because the comment is not related to any modification to the text for the 15-day comment period. The Agency has not addressed this issue at this time. The Agency has prioritized the drafting of regulations that operationalize and assist in the immediate implementation of the law. Further analysis is required to determine whether regulation on this issue is necessary.	W121-1	0126
329.	Comment states sufficient consideration should be given to the data-driven and ad-supported online ecosystem that benefits California residents and fuels economic growth.	No change has been made in response to this comment. The comment does not provide sufficient specificity to the Agency to make any modifications to the text of the regulations. The comment is a general description about the data-driven advertising industry.	W122-9	0144-0146
330.	Comment urges the Agency to further consider recommendations that were not addressed in full as part of the edits made to the Modified Proposed Regulations on July 8, 2022. Commenter refers to Appendix A of their comments dated August 23, 2022.	No change has been made because the comment is not related to any modification to the text for the 15-day comment period. *See also* FSOR, App. A, responses to W52.	W146-8	0356
331.	Comment notes the draft regulations do not have the exemptions explicitly enumerated for compliance with existing State and Federal Law. Comment states	No change has been made because the comment is not related to any modification to the text for the 15-day comment period.	W154-3	0428

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	they interpret §§ 7022(f)(1), 7023(f)(1), and 7024(e) of the proposed regulations to reflect the Agency's intent to adhere to and honor the protections.			
- **Model Notices**				
332.	Comments suggest that model notices, or templates, be provided and are necessary to: (1) promote consumer understanding; (2) ensure clear and consistent notices; and (3) assist businesses. Comment also indicated their disappointment that neither the Original Proposed Regulations nor the Modified Proposed Regulations included model notices.	No change has been made because the comment is not related to any modification to the text for the 15-day comment period. The Agency has prioritized the drafting of regulations that operationalize and assist in the immediate implementation of the law. Further analysis is required to determine the necessity of additional models, sample language, and/or templates.	W108-5	0029-0030
- **Need Regulation**				
333.	Comment request that processing which presents "significant risk" be limited to processing of highly sensitive personal information (such as financial information), to limit the number of audits per year proposing a numerical trigger to audit, and to limit the "business" definition to the first two prongs.	No change has been made because the comment is not related to any modification to the text for the 15-day comment period.	W107-3	0020-0021
334.	Commenter has identified opportunities that will allow consumers greater access to and control of their social media data with respect to the algorithms that dictate their online experience without	No change has been made because the comment is not related to any modification to the text for the 15-day comment period.	W109-5	0036

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	the consumer's input or knowledge. Believes some ambiguities in text that need regulation. Specifically, by expanding consumer control of data through requiring social media platforms to offer open APIs, which will allow users to choose tools (whether developed by third-party developers or by the users themselves) to better manage the algorithms.			
335.	Civil Code § 1798.185(a) directs the Attorney General to undertake rulemaking on a number of topics that the Agency has not yet done. They include: further defining "intentionally interacts" with the goal of maximizing consumer privacy;" further defining "precise geolocation;" defining the term "specific pieces of information obtained from the consumer;" cybersecurity audits; risk assessments; defining a "law enforcement agency-approved investigation" for purposes of the exception in Civil Code § 1798.145(a)(2).	No change has been made because the comment is not related to any modification to the text for the 15-day comment period. The Agency has not addressed these issues at this time. The Agency has prioritized the drafting of regulations that operationalize and assist in the immediate implementation of the law.	W149-37	0390-0391
336.	Neither the modified regulations nor the Board addressed probable cause proceedings, agency audits, risk assessments of personal information processing, or the impending expiration	No change has been made because the comment is not related to any modification to the text for the 15-day comment period. The Agency has not addressed these issues at this time. The Agency has prioritized the drafting of regulations that operationalize and assist in the immediate implementation of the law.	W152-41 W152-45	0417 0417

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	of the employment records exemption set forth in Civil Code § 1798.145(m)(1).			
337.	The regulations should place some parameters on the Agency's power to conduct compliance audits. The Agency should institute clear triggers and limitations because audits are resource-intensive and the Agency could conduct broad fishing expeditions.	No change has been made because the comment is not related to any modification to the text for the 15-day comment period.	W152-44	0417
338.	Comment notes that Civil Code § 1798.185(a)(15) and (a)(16) require the Agency to issue rules governing (1) risk assessments and (2) access and opt-out rights regarding a business's use of automated decisionmaking technology. Comment notes that the regulations do not provide guidance on the structure or frequency of risk assessments; and do not provide clarity regarding the use of automated decisionmaking technology, which many businesses use to conduct their businesses efficiently and eliminate bias in decisionmaking.	No change has been made because the comment is not related to any modification to the text for the 15-day comment period. *See also* FSOR, App. A, Response #s 765 and 766.	W138-10	0304
- **Other Privacy Laws**				
339.	The exemption provided in Civil Code § 1798.145(e) for personal information collected, processed, sold, or disclosed subject to the federal Gramm-Leach-Bliley Act (GLBA) or the California Financial Information Privacy Act (CFIPA)	No change has been made because the comment is not related to any modification to the text for the 15-day comment period. *See also* FSOR, App. A., Response # 773.	W108-4	0027

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	is unclear and can be interpreted several ways. This is because the CCPA/CPRA uses terms that are inconsistent with the GLBA and CFIPA. The Agency should provide clarification in the regulations and guidance to financial institutions to which the exemption applies.			
- **Support**				
340.	Comment supports streamlined notice at collection for first and third parties, streamlined practices for information shared with consumers in privacy policies (§ 7012); expansion of the types of entities that can claim "disproportionate effort" in fulfilling consumer requests (§§ 7023 and 7001); allowing businesses the option to display whether the company processed an opt-out preference signal (§ 7025); added clarity with regard to the business purposes for which service providers can use data (including when the business purpose is not specified in the written contract required by the CCPA. Comment notes that the substantive changes in the modified regulations will greatly reduce consent fatigue and support harmonized business processes.	The Agency appreciates these comments in support. No change has been made in response to this comment. The comment concurred with the proposed modifications, so no further response is required. The Agency's reasons for the modifications are set forth in the FSOR. FSOR, pp. 4, 18, 24, 26. The Agency makes no comment regarding the comment's reasons for supporting the proposed modification.	W112-1	0046-0047