FSOR APPENDIX C: SUMMARY AND RESPONSE TO COMMENTS SUBMITTED DURING FIRST 15-DAY COMMENT PERIOD

Response #	Summary of Comment	Response	Comment #s	Bates Label (CCPA_15DAY_)
ARTICLE 1. GENERAL PROVISIONS				
§ 999.301. Definitions				
- **§ 999.301(c)**				
1.	Supports the clarification of § 999.301(c) stating authorized agents are required to be licensed to conduct business in California.	The OAG appreciates this comment of support. No change has been made in response to this comment. The comment concurred with the proposed regulations, so no further response is required.	W212-1	000010
- **§ 999.301(d)**				
2.	Supports the changes to definition of "categories of sources" because they will help consumers understand who is collecting, processing, and receiving their personal information.	The OAG appreciates this comment of support. No change has been made in response to this comment. The comment concurred with the proposed regulations, so no further response is required.	W284-1	000617
3.	Modify to require businesses to describe sources by name or make clear that businesses should not name the person or entity. As currently drafted, the middle ground approach is too vague.	No change has been made in response to this comment. The current approach seeks to balance providing consumers with relevant information without overly burdening businesses with compiling long lists of names that may change frequently.	W292-1	000710
- **§ 999.301(e)**				
4.	Supports the changes to definition of "categories of third parties" because they will help consumers understand who is collecting, processing, and receiving their personal information.	The OAG appreciates this comment of support. No change has been made in response to this comment. The comment concurred with the proposed regulations, so no further response is required.	W284-1	000617
5.	Make the list of third parties in this subsection explicitly non-exhaustive. The list may be misconstrued to be the only third parties.	No change has been made in response to this comment. The regulation is reasonably clear in establishing that the list of third parties is non-exhaustive because it states the list of third parties "may include" certain entities. See § 999.301(e). Further modification is unnecessary.	W233-1	000204, 000209
6.	Modify to require businesses to describe sources by name or make clear that businesses should not name the person or	No change has been made in response to this comment. The current approach seeks to balance providing consumers with relevant information without overly burdening businesses with compiling long	W292-2	000710-000711

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	entity. As currently drafted, the middle ground approach is too vague.	lists of names that may change frequently.		
- **§ 999.301(h)**				
7.	Revise the definition of "employment benefits" to include benefit provided to "dependents." Information about dependents is sometimes needed to administer such benefits.	Accept. The regulation has been modified to add "dependents."	W252-2	000406
8.	Supports addition of "employment benefits" to definitions.	The OAG appreciates this comment of support. No change has been made in response to this comment. The comment concurred with the proposed regulations, so no further response is required.	W240-1 W281-1 W285-1	000284 000602 000631
- **§ 999.301(i)**				
9.	Supports addition of "employment-related information" to definitions.	The OAG appreciates this comment of support. No change has been made in response to this comment. The comment concurred with the proposed regulations, so no further response is required.	W240-1 W281-1	000284 000602
10.	Make the employee-related information exemption permanent. If information used to administer benefits is subject to CCPA, employers may decide to limit scope of benefit available to employee and their dependents and beneficiaries.	No change has been made in response to this comment. The comment objects to the CCPA, not the proposed regulation. Civil Code § 1798.145(h)(4) provides that the exception for employment-related information will expire on January 1, 2021. The OAG cannot implement regulations that alter or amend a statute or enlarge or impair its scope.	W281-2	000602
11.	Delay enforcement related to employment-related information.	No change has been made in response to this comment. The OAG has considered and determined that delaying the implementation of these regulations is not more effective in carrying out the purpose and intent of the CCPA. The modified rules, which include regulations on employment-related information, were released on February 10, 2020 and revised on March 11, 2020. Thus, businesses have been aware that these requirements could be imposed as part of the OAG's regulations. Indeed, many of the regulations are restatements of a business' obligations under the CCPA, which went into effect on January 1, 2020. Civ. Code § 1798.198(a). To the extent that the regulations require	W281-3	000602-000603

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		incremental compliance, the OAG may exercise prosecutorial discretion if warranted, depending on the particular facts at issue. Prosecutorial discretion permits the OAG to choose which entities to prosecute, whether to prosecute, and when to prosecute. But see Civ. Code § 1798.185(c) (enforcement may not begin until July 1, 2020). Thus, any regulation that delays implementation of the regulations is not necessary.		
12.	Delete "[t]he collection of employment-related information, including for the purpose of administering employment benefits, shall be considered a business purpose." This is unnecessary.	No change has been made in response to this comment. The proposed language is necessary to eliminate any ambiguity about whether the collection of employment-related information is considered a business purpose or commercial purpose, as those terms are defined in Civil Code § 1798.140(d) and (f), respectively.	W257-3	000444-000445
13.	Modify the definition of "employment-related information" to expressly exclude information used in commercial credit reports. The current proposed definition would give individuals the right to delete or prevent the sharing of employment-related information, which could include business information that is the foundation of credit consumer reports.	No change has been made in response to this comment. The OAG disagrees with the comment's interpretation of the CCPA and the regulations. Contrary to the comment's assertion, § 999.301(i)'s definition of "employment-related information" implements Civil Code § 1798.145(h)'s exemption for employment-related information from the deletion and opt-out provisions of the CCPA. Further, the comment's proposal to expressly exempt information used in commercial credit reports does not fall within any enumerated exception provided for by the CCPA. Modifying the definition further to expressly exclude information used in commercial credit reports may have unintended consequences without identifiable benefits.	W264-1	000477-000478
- **§ 999.301(j)**				
14.	Amend the definition of "financial incentive" to include "collection," which is used in the statute, and omit "disclosure," which is too broad. "Retention" is also included in definition, but should be deleted because the term "retention" is not used in the statute.	Accept in part. "Collection" has been added and "disclosure" has been deleted from the definition of "financial incentive." The term "retention" remains in the definition because Civil Code § 1798.125(b)(1) discusses financial incentives related to the "deletion" of a consumer's data, and "retention" is simply the opposite of deletion and is the appropriate word in the grammatical context of the regulation.	W245-9 W245-10	000342 000342
15.	Add language to clarify that promotional	No change has been made in response to this comment. The regulation's	W302-1	000756

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	offers or discounts do not fall under the definition of "financial incentive" and thus do not require a notice.	definition of financial incentive and the regulation describing when a notice is required are consistent with CCPA's provisions regarding financial incentives. Compare §§ 999.301(j) & 999.307(a) with Civ. Code § 1798.125(b). Modifying the regulations to account for this specific situation may be overly broad and would add complexity to the rules without providing identifiable benefits.		
- **§ 999.301(k)**				
16.	Define "household" more broadly to persons who have "shared identifiers" rather than consumers of a household affirmatively determined to be sharing a house and a device.	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. Defining households too broadly risks the privacy of a larger number of members and commenter fails to raise the benefit to consumers from expanding the definition in this manner.	W222-22	000113
17.	Change "household" definition to apply to a person or group of people who (1) reside at the same address, (2) share a common device, (3) share the same service provided by the business, and (4) are identified by the business as sharing the same group account or unique identifier. Without this change, consumers would be put at risk of having personal information associated with them exposed to other individuals in the household.	No change has been made in response to this comment. The comment proposes adding an additional prong that requires both a shared device and a shared service, but the comment does not show why this revision would be necessary or how not including it would put consumers at greater risk of having personal information exposed to other individuals in the household. From a practical standpoint, households, including those with children, often may not share common devices. The amended definition, together with the verification requirements set forth in §§ 999.323 through 999.325, should balance the privacy of consumers in a household with the rights afford by CCPA.	W277-4	000575-000576
18.	Delete the term "household" from the regulations because the OAG has not clearly delineated household personal information from consumer personal information. People who constitute a household are, at the same time, consumers who have rights under the CCPA.	No change has been made in response to this comment. The comment essentially objects to the CCPA, not the regulation. Civil Code § 1798.140(o) defines personal information, and includes information that is reasonably capable of being associated with a particular household. A definition of "household" is necessary for the operability of the regulations. See also Civ. Code § 1798.185(b)(1). The regulations address the business's obligations to process requests for household information, as that term is defined in the regulations. A business also has the discretion to impose a different, albeit reasonable method for	W298-1	000748-000749

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		verification in determining how to respond to a consumer or household request. Whether a request is for consumer or household personal information is fact-specific determination.		
19.	Supports the new definition of "household".	The OAG appreciates this comment of support. No change has been made in response to this comment. The comment concurred with the proposed regulations, so no further response is required.	W219-9 W267-3	000080 000494
20.	Modify or strike regulations regarding "household" to account for potentially coercive situations, add a timeframe for "household," and address who is assigned personal data rights to shared devices/accounts, how notices should be delivered to households, specific procedures for deletion of household data, and how that effects how the business determines the value of the data.	No change has been made in response to this comment. In drafting the regulations regarding household personal information, the OAG set forth a definition of household and corresponding verification requirements for both password-protected accounts and non-accounts. As opposed to assigning personal data rights to shared devices/accounts, this approach is consistent with the personal data rights that already exist for accountholders; the regulations purposefully do not impose additional burdens on businesses or consumers to access or delete information when an account is in use. This is consistent with practical considerations and the CCPA. See Civ. Code §§ 1798.130(a)(2), 1798.185(a)(7). With respect to the other suggested changes, the comment does not provide sufficient specificity to the OAG to make any modifications to the text. Further analysis is required to determine whether a regulation is necessary on those issues.	W226-28 W267-3 W298-2	000155 000494 000749
21.	Expresses concern regarding the new definition of household. It does not address that members of a household can access others information or coerce other members to provide consent.	No change has been made in response to this comment. The regulations address concerns regarding members of a household accessing others' information by requiring requests to be made jointly and individual verification of the household members when household information is not protected by an account. Sections 999.323 and 999.325 provide guidance regarding how to verify individual members of a household. With regard to the concern regarding coercion, the comments fail to provide an alternative approach or any language that would implement the consumer's CCPA-given right to access household information while addressing concern of coercive consent.	W226-2 W226-28	000139 000155
- **§ 999.301(l)**				
22.	Supports clarification of § 999.301(l)	The OAG appreciates this comment of support. No change has been	W212-2	000010

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	stating that a "notice at collection" must be provided to a consumer at or before "the point at" at which a business collections personal information.	made in response to this comment. The comment concurred with the proposed regulations, so no further response is required.		
- **§ 999.301(n)**				
23.	Modify the definition of "Notice of financial incentive." It uses the phrase "as required by" twice and should be amended to use it only once.	Accept.	W262-1	000460
- **§ 999.301(o)**				
24.	Remove "disclosure" from the definition of "price or service difference."	Accept.	W284-2	000617-000618
- **§ 999.301(u)**				
25.	Requests modification to require that businesses must accept an "executed" electronic signature. Section 999.301(u)'s definition could be interpreted to mean that a record that is "provided electronically" counts as a signed record even if the record has not been executed with an electronic signature. However, this does not reflect current law regarding electronic signatures. The Uniform Electronic Transactions Act (UETA) defines an electronic signature as, "an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record." Civ. Code § 1633.2(h).	No change has been made in response to this comment. The modification is not necessary because the term "provided electronically" in the definition refers to the signature, not the document. The UETA explicitly provides that a record or signature may not be denied legal effect or enforceability solely because it is in electronic form. See Civ. Code § 1633.7.	W212-3 W250-12	000010 000385, 000393-000394

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- **§ 999.301(w)**				
26.	Clarify whether or not the term "value" as used in this definition includes non-financial or intangible values.	No change has been made in response to this comment. The comment does not provide enough specificity on why further revision is necessary. Section 999.337 provides descriptions of multiple factors and methods for businesses to consider in calculating the good-faith estimate of the value of a consumer's data. Whether a particular price or service difference is reasonably related to the value of the consumer's data is a fact-specific question that will depend on the business's reasonable good-faith estimate of the value of the consumer's data and the price or service difference offered. Modifying the definition further may also be too limiting and would add complexity to the rules without provide identifiable benefits.	W245-12	000343
§ 999.302. Guidance Regarding the Interpretation of CCPA Definitions				
27.	Delete or modify this subsection. The proposed guidance generated some support, but many found it problematic, in need of substantial modification, or confusing.	The OAG has withdrawn the proposed regulation, and thus, the comments are now moot.	W212-4 W214-2 W217-3 W219-4 W220-2 W221-1 W222-2 W228-17 W229-1 W242-3 W244-1 W248-29 W250-6 W253-6 W256-3 W260-2 W263-1 W265-1 W266-1	000010-000011 000030 000061-000062 000075-000076 000084 000091-000092 000106-000107 000175 000180 000292-000295 000337 000372-000373 000385-000387 000412 000435-000438 000451-000452 000473-000474 000482-000483 000488

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			W267-1 W269-1 W276-7 W279-4 W280-1 W284-3 W294-1 W299-1 W304-1	000493 000500 000562 000592 000594-000595 000618-000619 000718-000720 000751 000762
ARTICLE 2. NOTICES TO CONSUMERS				
Comments Generally About Notices				
28.	Modify regulations so that accessibility standards are not mandatory for any notices, as set out in subsections 305(a)(2)(d), 306(a)(2)(d), 307(a)(2)(d), and 308(a)(2)(d).	No change has been made in response to this section. Civil Code § 1798.185(a)(4)(B)(6) requires the Attorney General to establish rules and procedures to ensure that that businesses provide the notices required by the CCPA in a manner that is accessible to consumers with disabilities. As stated in the ISOR, the OAG determined that these provisions are necessary because presentation and the use of plain language techniques positively influence the effectiveness and comprehension of privacy policies. ISOR, p. 8. As stated in the FSOR, the OAG determined that these provisions are necessary to provide more specific guidance regarding what would be considered accessible to consumers with disabilities. FSOR, §§ 999.305, 999.306, 999.307, 999.308. The regulations limit the burdens on business by only requiring them to follow already recognized industry standards, which reduces the burden on business in complying with a mandated standard that may be novel or not widely adopted. Additionally, the standard incorporated in the regulations as an example was released in 2018 and provides improved accessibility guidance for three major groups: users with cognitive or learning disabilities, users with low vision, and users with disabilities on mobile devices.	W220-1 W222-5 W236-12 W250-13 W253-9 W270-3	000082-000083, 000084-000086 000107 000260-000261 000385, 000394 000413 000506-000507
29.	Concerned that deletion of the word “average” will require an individually	No change has been made in response to this comment. The regulation is reasonably clear and does not require that the notice of right to opt-	W262-2	000460, 000462, 000464, 000468

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	tailored notice, as set out in multiple subsections of the regulations, including subsections 305(a)(2), 306(a)(2), 307(a)(2), and 308(a)(2).	out be individually tailored to each consumer. As explained in the FSOR, deletion of the term "average" was in response to several comment expressing confusion about the meaning of the term. FSOR, §§ 999.305, 999.306, 999.307, 999.308.	W262-6	000461
§ 999.304. Overview of Required Notices				
30.	Supports addition of regulation providing overview of required notices, but cautions that notices in general typically place unfair burdens on consumers and risk that the notices may function as waivers or disclaimers to deprive consumers of their rights.	The OAG appreciates this comment of support and acknowledges the cautionary note. No change has been made in response to this comment. The comment concurred with the proposed regulations and the cautionary note is an observation rather than a recommendation to change the regulation, so no further response is required.	W284-4	000619
31.	Add language that all notices can be placed in a single privacy policy, so that consumers need only go to one centralized place.	No change has been made in response to this comment. The CCPA requires that consumers be given a notice at collection, notice of right to opt-out, and notice of financial incentive. These requirements are separate and apart from the CCPA's requirements for the disclosures in a privacy policy. See Civ. Code §§ 1798.100(b), 1798.105(b), 1798.120(b), 1798.130(a)(5), and 1798.135. Nothing in Civil Code § 1798.130 indicates that the online privacy policy constitutes notice at collection. Businesses have the discretion to also have all the information contained in the different notices in one place through the privacy policy. However, this does not absolve the business from complying with its statutory requirements to separately provide a notice at collection, notice of right to opt-out, and notice of financial incentive.	W277-15	000583
- **§ 999.304(b)**				
32.	Clarify whether any secondary company that receives personal information from a primary company that collected the personal information, would also have to provide the notice at the time that it received the customer information from the first company.	No change has been made in response to this comment. It is not necessary to include this language in this section because the regulations already provide that a notice of collection is only required by the entity collecting information from consumers. See § 999.305(d), (e). This regulation is meant to be a general overview of the notices required by the CCPA and these regulations and is not intended to go into that level of detail. No further clarification is necessary.	W271-2	000514

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§ 999.305. Notice at Collection of Personal Information				
- **§ 999.305 generally**				
33.	Comment seeks elaboration on the phrase "before the point" of collection, or how "a business could give notice only 'before the point' of collection and still satisfy all of the regulations."	No change has been made in response to this comment. The regulation has already been modified to state that timely notice is to be given "at or before the point of collection." As explained in the FSOR, the change was necessary to indicate the importance of providing timely notice to consumers and to encompass both temporal and physical proximity to the collection of personal information. FSOR, § 999.305. The change was also made for consistency with the language used in the CCPA. Civ. Code § 1798.100(b). No further clarification is necessary.	W260-1	000451
34.	Amend this section to only require a business that collections personal information via a device (such as a vehicle) to take reasonable steps to provide notice at collection and any required just-in-time notices. Reasonable steps include: (1) notice provided to a new owner via email, device updates, or upon device reset or reactivation; or (2) notice is provided in the privacy policy if reasonable notice is not technologically feasible or cannot be provided by the methods above.	No change has been made in response to this comment. The CCPA requires that consumers be given a notice at collection, notice of right to opt-out, and notice of financial incentive. These requirements are separate and apart from the CCPA's requirements for the disclosures in a privacy policy. See Civ. Code §§ 1798.100(b), 1798.105(b), 1798.120(b), 1798.130(a)(5), and 1798.135. Nothing in Civil Code § 1798.130 indicates that the online privacy policy constitutes notice at collection. Businesses have the discretion to also have all the information contained in the different notices in one place through the privacy policy. However, this does not absolve the business from complying with its statutory requirements to separately provide a notice at collection, notice of right to opt-out, and notice of financial incentive. In addition, the CCPA and the regulations are meant to apply to a wide range of factual situations and across industries.	W250-7	000385, 000390
- **§ 999.305(a)(3)**				
35.	Comment requests guidance on § 999.305(a)(3)(d), specifically on how to provide the notice of collection orally, such as over the telephone. In the alternative, requests an exemption that would eliminate the need for a notice at	No change has been made in response to this comment. The regulation is reasonably clear and should be understood from the plain meaning of the words. This modification is intended to provide an illustrative example based on how a business may collect personal information. As to the alternative suggested, the CCPA does not exempt the requirement to provide notice at or before the point of collection exemption for non-	W237-4 W260-3	000264-000265 000452

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	collection for non-written interactions.	written interactions.		
36.	Comments state that providing notice at collection orally over the phone or in person is burdensome and expensive on businesses. It would lead to a bad consumer experience. Businesses should have the option of directing a consumer over the phone to a website with the notice at collection or providing abbreviated oral notices.	No change has been made in response to this comment. Civil Code § 1798.100(b) requires notice at or before the collection of personal information regardless of how that information is collected. The regulations provide businesses with some discretion, so long as it meets threshold requirements, as to how to provide that notice. See § 999.305(a). As explained in the ISOR, the regulations take a performance-based approach and focus on the consumer's understanding of the notice, as opposed to prescriptive language. ISOR, p. 8. Section 999.305(a)(3)(d) is an illustrative example as to how a business may provide notice when it collects personal information over the telephone or in person. Directing a consumer over the phone to a place in which the notice can be found online is not prohibited by the regulation; however, whether this meets the requirement of these regulations is a fact-specific determination. The commenters should consult with an attorney who is aware of all pertinent facts and relevant compliance concerns.	W214-3 W248-23 W253-10 W254-1 W265-2 W270-5 W271-1 W277-6	000030 000369-000370 000413 000418 000483 000507 000513-000514 000577
37.	Comment states it is unclear what "readily available" means in § 999.305(a)(3). If it means giving notice in the same location and manner that the information is being collected, that is extremely difficult - if not impossible.	No change has been made in response to this comment. The regulation is reasonably clear. The plain meaning of the words is that the business should provide notice in a way that the consumer can access it readily. No further clarification is required.	W228-3	000171
38.	Comment notes a typographical error in § 999.305(a)(3)(c), specifically there's an extra "the" near the end of the sentence that should be deleted.	Accept. The error has been corrected.	W212-7 W233-8 W262-3	000011 000213 000460
39.	Comment is concerned that offline signage in stores may lead to excessive and confusing notices for consumers. Requests that businesses instead be allowed to post prominent signage directing consumers to	No change has been made in response to this comment. The example provided in § 999.305(a)(3)(c) acknowledges that businesses can provide signage that directs the consumer to where the notice can be found online.	W272-2	000519

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	where the notice can be found online.			
40.	Comment objects to § 999.305(a)(3)(a)'s purported requirement that a business provide a link to the notice of collection on the introductory page and all other pages where personal information is collected. Comments claim that this is inconsistent with the CCPA and provides no clear benefit to consumers.	No change has been made in response to this comment. The phrase "at or before the point of collection" makes the language in the regulation consistent with the language in Civil Code § 1798.100(b). In response to public comments, § 999.305(a)(3) provides illustrative examples of how a business may provide notice in different situations. As explained in the ISOR and FSOR, the regulations take a performance-based approach and focus on the consumer's understanding of the notice, as opposed to prescriptive language. ISOR, p. 8-9, 42-43; FSOR, § 999.305(a)(3). Whether a business has provided proper notice is ultimately a fact-specific determination. The example in this subsection is not inconsistent with the CCPA because the term "may" allows businesses discretion in determining the best way to communicate the required information within the CCPA's requirements and provides them with the flexibility to craft the notices and privacy policy in a way that the consumer understands them.	W217-4 W226-4 W270-2	000062 000139 000506
41.	Comments seek clarification of the requirement that a mobile app provides a notice of collection "via a link to the notice on the mobile application's download page and within the application, such as through the application's settings menu." Also, this requirement is burdensome. Comments suggest this requirement should only require one method of providing notice and not both. Also, comments show concern that businesses may have no control over whether an App Store will insert notice on a download page of an app.	No change has been made in response to this comment. In response to public comments, § 999.305(a)(3) provides illustrative examples of how a business may provide notice in different situations. As explained in the ISOR and FSOR, the regulations take a performance-based approach and focus on the consumer's understanding of the notice, as opposed to prescriptive language. ISOR, p. 8-9, 42-43; FSOR, § 999.305(a)(3). Whether a business has provided proper notice is ultimately a fact-specific determination. The OAG has made every effort to limit the burden of the regulations while implementing the CCPA. The OAG's review of the comments submitted did not suggest that providing notice within the application, as well as the app's download page, is burdensome. Six major mobile app platforms—Amazon, Apple, Google, Hewlett-Packard, Microsoft, and Research In Motion—already allow for consumers to review an app's privacy policy before downloading the application, and § 999.305(c) allows the notice to be given by linking to that section of the business's privacy policy.	W214-4 W231-7 W253-10 W270-4	000031 000196-000197 000413 000507

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42.	Comment suggests that the guiding example in § 999.305(a)(3)(a) concerning proper notice at collection be made mandatory and not simply optional. That is, commenter supports a requirement that a business provide a link to the notice of collection on the introductory page and all other pages where personal information is collected. Comment also suggests a new definition of "conspicuous link."	No change has been made in response to this comment. The OAG has not addressed the necessity of notices at collection on all websites collecting personal information at this time in an effort to prioritize drafting regulations that operationalize and assist in the immediate implementation of the law. With regard to the further definition of "conspicuous link," no further clarification is required because the meaning of "conspicuous" is reasonably clear based on the plain meaning of the word.	W284-5	000620
43.	Comment suggests two changes to § 999.305(a)(3)(b), including having a universal name for the notice or link, and that there should be language added prohibiting multiple clicks, so as to make the link easier to see and not buried within the settings, or application.	No change has been made in response to this comment. In response to public comments, § 999.305(a)(3) provides illustrative examples of how a business may provide notice in different situations. As explained in the ISOR and FSOR, the regulations take a performance-based approach and focus on the consumer's understanding of the notice, as opposed to prescriptive language. ISOR, p. 8-9, 42-43; FSOR, § 999.305(a)(3). Whether a business has provided proper notice is also a fact-specific determination.	W212-6	000011
- **§ 999.305(a)(4)**				
44.	Supports the provision.	The OAG appreciates this comment of support. No change has been made in response to this comment. The comment concurred with the proposed regulations, so no further response is required.	W212-8 W250-3 W282-1 W284-6	000011-000012 000284 000605-000606, 000610 000621
45.	Delete or revise the provision because it goes beyond the CCPA.	No change has been made in response to this comment. Civil Code § 1798.185(b)(2) provides the Attorney General with authority to adopt regulations as necessary to further the purposes of the CCPA. As explained in the FSOR, this provision is necessary to address business practices that defy consumers' reasonable expectations about how businesses collect personal information from consumers' mobile devices, particularly when those uses are not reasonably related to the	W222-3 W236-1 W238-3 W270-6	000107 000254-000255 000271 000507-000508

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		application's basic functionality. FSOR, § 999.305(a)(4). Delivering this type of notice to the consumer furthers the purpose of Civil Code § 1798.100(b).		
46.	Clarify when the collection is for purposes a consumer would not "reasonably expect." Some comments claim that it is impossible for a business to know what purposes any given consumer would "reasonably expect," and thus, this provision should be deleted or narrowed.	No change has been made in response to this comment. The regulation is reasonably clear and should be understood from the plain meaning of the words. The regulation provides an example of when a "just-in-time" notice would be necessary: a mobile application that is designed to operate a consumer's cellphone as a flashlight but requires geolocation information should provide notice because shining a bright light is not contingent on where a consumer is located. As explained in the ISOR and FSOR, the regulations take a performance-based approach and focus on the consumer's understanding of the notice, as opposed to prescriptive language. ISOR, pp. 8, 42-43; FSOR, § 999.305(a)(4). The regulation provides businesses with the discretion to determine if the business must provide the just-in-time notice and the information that must be included in the notice; the business is in the best position to determine the personal information that it collects and the purposes and/or uses for that information, as well as its consumers' reasonable expectations. To the extent the comment raises specific legal questions that require a fact-specific determination, 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.	W228-1 W231-8 W236-1 W238-3 W254-4 W270-6 W272-5 W274-2 W277-7 W289-4 W304-2	000170 000197 000254-000255 000271 000419-000420 000507-000508 000519 000544 000577-000578 000646 000762
47.	Clarify the meaning of "just-in-time," and whether a "just-in-time" notice is the only way to comply with the provision, it must be provided every time the app is used or only in the first instance of collection, it is part of the Civil Code § 1798.110(b) notice at collection requirement, and it can be triggered by a user-enabled setting.	No change has been made in response to this comment. The regulation is reasonably clear and should be understood from the plain meaning of the words. The just-in-time notice is a type of notice at collection that pertains specifically to mobile applications when they are collecting personal information that a consumer would not reasonably expect. Whether the notice can be triggered by a user-enabled settings or at every instance of collection requires a fact-specific determination. The regulation provides general guidance, as well as an example of a just-in-time notice.	W236-1 W254-4 W272-5	000254-000255 000419-000420 000519

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48.	Delete or revise the provision because it provides duplicative or unimportant information, is too prescriptive, and it is overly burdensome. Comments suggest only requiring a subset of information, or a link to the full terms because it is impractical to provide the summary given the screen size and character limits. Other comments propose deleting the just-in-time notice in its entirety and requiring the business to take reasonable steps to ensure that the consumer reasonably understands when unexpected information is collected.	No change has been made in response to this comment. As explained in the FSOR, this provision is necessary to address business practices that defy consumers' reasonable expectations about how businesses use personal information collected from mobile applications that consumers download, particularly when those uses are not reasonably related to the application's basic functionality. FSOR, § 999.305(a)(4). The regulation will make notices more conspicuous when a consumer's personal information is being collected for purposes not reasonably expected, which furthers the CCPA's purpose of increasing consumers' understanding of how their personal information is used. FSOR, § 999.305(a)(4). The requirement of a just-in-time notice already takes into account the limitations of providing a notice on a consumer's mobile device by only requiring a summary of personal information that the consumer would not reasonably expect to be collected. The regulation also provides an example of a "just-in-time" notice: a mobile application that is designed to operate a consumer's cellphone as a flashlight should provide notice that it also collects geolocation information.	W222-3 W226-5 W236-1 W238-3 W246-1 W253-10 W265-3 W269-7 W270-6 W277-7 W304-2	000107 000139, 000140 000254-000255 000271 000348-000349 000413 000483 000502-000503 000507-000508 000577-000578 000762
49.	Revise the provision to require the business to: (1) explain why the business thinks the activity might be unexpected; (2) the processing activity that triggered the just-in-time notice; or (2) headline the notice with a label "Information we collect that might surprise you." This prevents the business from burying this information in the notice.	No change has been made in response to this comment. As explained in the ISOR, the regulations take a performance-based approach and focus on the consumer's understanding of the notice, as opposed to prescriptive language. ISOR, p. 8. Prescribing this level of detail in the just-in-time notice may not be as effective as or less burdensome than the OAG's proposed regulation. In drafting these regulations, the OAG has considered the burden on businesses with transparency to consumers and determined that the regulation provides the appropriate balance between these interests by making notices more conspicuous in instances in which their personal information is being collected for purposes not reasonably expected while also providing clear guidance regarding when a business must provide a just-in-time notice on a consumer's mobile device. See FSOR, § 999.305.	W212-8 W265-3 W270-6	000011-000012 000483 000507-000508
50.	Revise the provision to provide more specificity regarding the purpose of the	No change has been made in response to this comment. The comment's recommendation may be inconsistent with the CCPA's legal framework.	W243-3	000335

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	notice and aspects of its functionality, such as whether the notice applies only to the app developer or to any third-party library the app developer incorporates. Suggests having platform providers implement and design the presentation of just-in-time privacy notices and their subsequent choices by providing a centralized interface to create a consistent user experience.	A business, including a mobile app developer, is responsible for providing a notice at collection, which includes information that is collected by a third-party library that the app developer incorporates. As explained in the ISOR, the regulation takes a performance-based approach. ISOR, p.8. Businesses are required to design and present the notice at collection, including when provided through a just-in-time notice, in a way that makes them easy to read and understandably by consumers. Id. The OAG has not addressed whether platform providers should implement and design the presentation of just-in-time notices at this time in an effort to prioritize drafting regulations that operationalize and assist in the immediate implementation of the law.		
51.	Comment provides examples of how just-in-time notices might appear as implemented in daily practice using the commenter's proffered Privacy Facts Interactive Notice paradigm.	No change has been made in response to this comment. The comment provides examples, which are interpreted to be an observation rather than a specific recommendation to modify the regulation. The regulations provide general guidance for CCPA compliance and are meant to be robust and applicable to many factual situations and across industries. Further analysis is required to determine whether to provide examples in the future.	W282-3	000607-000609
52.	Requests that this provision be delayed in order for businesses to implement it properly.	No change has been made in response to this comment. The OAG has considered and determined that delaying the implementation of these regulations is not more effective in carrying out the purpose and intent of the CCPA. Section 999.305(a)(4) was released on February 10, 2020 without any further modification in the version of the proposed rules made public on March 10, 2020. Thus, businesses have been aware that this requirement could be imposed as part of the OAG's regulations. To the extent that the regulations require incremental compliance, the OAG may exercise prosecutorial discretion if warranted, depending on the particular facts at issue. Prosecutorial discretion permits the OAG to choose which entities to prosecute, whether to prosecute, and when to prosecute. But see Civ. Code § 1798.185(c) (enforcement may not begin until July 1, 2020). Thus, any regulation that delays implementation of the regulations is not necessary.	W269-7	000502-000503

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- **§ 999.305(a)(5)**				
53.	Supports the modification to add "materially different."	The OAG appreciates this comment of support. No change has been made in response to this comment. The comment concurred with the proposed regulations, so no further response is required.	W279-1	000591
54.	Define "materially different" to mean "a purpose is materially different if a reasonable person would not reasonably expect that purpose to be consistent with the scope based on the nature and extend of the business' usual activities."	No change has been made in response to this comment. The OAG has not addressed this issue at this time in an effort to prioritize drafting regulations that operationalize and assist in the immediate implementation of the law. The term "materially different" is reasonably clear.	W248-21	000368-000369
55.	Replace "purpose" with "purposes." This will make the sentence grammatically correct.	No change has been made in response to this comment. The comment mistyped the provision and omitted the "a" prior to "purpose." The provision is grammatically correct.	W262-5	000461
- **§ 999.305(b)**				
56.	Revise the regulations to restore the requirement that the business disclose "for each category of personal information" the business or commercial purpose(s) for which it will be used. The deleted requirement was within the CCPA's delegation of authority, furthered the intent and purpose of the CCPA, was not any more burdensome than the burden already required by the CCPA, and did not make privacy policies too long.	No change has been made in response to this comment. The provision was amended to use language that is consistent with Civil Code § 1798.130(a)(5)(C). FSOR, § 999.305(b). The OAG has not included these requirements at this time in an effort to prioritize guidance that operationalizes and assists in the immediate implementation of the law.	W216-1 W227-1	000044, 000045-000046 000163-000165
57.	The OAG should scale back this provision or build in flexibility on how information is provided (e.g., meaningful information about the most important types of data processing rather than a long list). The provision: (1) is significantly specific; (2)	No change has been made in response to this comment. The comment does not provide sufficient specificity to the OAG to make any modifications to the text. The regulation is consistent with the language, structure, and intent of the CCPA. See Civ. Code § 1798.100(b). The OAG has made every effort to limit the burden of the regulations while implementing the CCPA.	W253-10	000413

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	prescriptive for a specific sector; (3) is burdensome.			
- **§ 999.305(d)**				
58.	Revise the provision to state "a business that does not collect information directly from consumers and is not a data broker as defined in Civil Code § 1798.99.80, subsection (d), does not need to provide a notice at collection" because the modified provision: (1) inadvertently omits guidance for businesses that are not data brokers and do not collect information directly from consumers; and (2) requires a significant number of such businesses to send a notice at collection.	Accept in part. The OAG has: (1) modified the regulations to insert a provision stating that a business that does not collect personal information directly from a consumer does not need to provide a notice at collection to the consumer if it does not sell the consumer's personal information; and (2) modified the provision to state that a data broker registered pursuant to Civil Code § 1798.99.80 et seq., does not need to provide a notice at collection to the consumer if certain conditions are met. The comment's proposed change is not more effective in carrying out the purpose of the CCPA because it would exempt entities that sell personal information from the CCPA's notice requirements. The CCPA prohibits third-party businesses from selling consumers' personal information unless the consumer is given explicit notice and an opportunity to opt-out of the sale of their information. Civ. Code § 1798.115(d).	W211-1 W308-3	000006 000778-000779
59.	Revise the provision to clarify that it applies to a business that (i) does not collect information directly from consumers and (ii) "sells personal information to third parties." Clarity is needed to ensure that businesses are not inappropriately categorized as data brokers if a business is collecting information indirectly.	No change has been made in response to this comment. In response to other comments, the OAG has added a provision stating that a business that does not collect personal information directly from a consumer does not need to provide a notice at collection to the consumer if it does not sell the consumer's personal information. See response #58. The regulation references Civil Code § 1798.99.80 et. seq., which defines and applies to a business that is a "data broker." Thus, the comment is now moot.	W221-6 W222-4 W236-2 W250-2	000099-000100 000107 000255-000256 000384, 000385, 000388-000389
60.	Revise the provision such that that when a data broker registers with the Attorney General pursuant to Civil Code § 1798.98.80 et seq., the regulation should reaffirm that the data broker's "internet homepage, or any web page it maintains	No change has been made in response to this comment. The comment's proposed change is unnecessarily duplicative of the statutorily mandated "Do Not Sell My Personal Information" link in Civil Code § 1798.135(a). In addition, this section provides guidance on how a data broker can comply with Civil Code § 1798.100(b)'s requirement to provide the notice to a consumer at or before the point of collection. The notice	W212-10	000013

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	to conduct business in California, [include] the 'Do Not Sell My Personal Information' in accordance with Civil Code § 1798.135(a)(1) and regulation 999.315(a), which links to instructions on how a consumer can submit a request to opt-out." This would provide an easy, standard way to access the "Do Not Sell My Info" rights of the CCPA.	requirement is separate and apart from the CCPA's requirement to provide the "Do Not Sell My Info" link and need not be repeated in this subsection.		
61.	Requests that the regulation be revised to explicitly state that the business does not need to provide nor "take steps to require that the original source of the information provided" a notice at collection to the consumer if the business has included in its registration submission a link to its online privacy policy.	No change has been made in response to this comment. The OAG has modified the provision in response to other comments, and thus, this comment is now moot. See response #58.	W221-6	000099-000100
62.	Requests that the provision be revised to explicitly state that "a business that satisfies the conditions in this section is deemed to satisfy the requirements of Civil Code section 1798.115(d)."	No change has been made in response to this comment. The OAG has modified the provision in response to other comments, and thus, this comment is now moot. See response #58.	W221-6 W229-2	000099-000100 000180
63.	Restore the prior exception that did not require notice at collection if a business did not collect information directly from consumers. This will reduce administrative burdens, especially when the business may not have contact information for the consumer's whose information was indirectly collected.	Accept in part. Section 999.305(d) has been revised to state that a business that does not collect personal information directly from a consumer does not need to provide a notice at collection to the consumer if it does not sell the consumer's personal information. See FSOR, § 999.305(d).	W238-2 W250-2	000270-000271 000384, 000385, 000388-000389
64.	Clarify the regulations because § 999.305(d) implies that a business that is	No change has been made in response to this comment. The OAG disagrees with the comment's interpretation of the regulations. Section	W241-1	000287

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	registered as a data broker must either include instructions on how a consumer may opt out of sale of their personal information in its data broker registration submission or provide a notice at collection even when the business does not collect information directly from consumers. Requiring a data broker to provide a notice at collection even where it does not collect information from consumers contradicts Section 999.305(a) and the CCPA, which requires collection from consumers. This is an apparent contradiction.	999.305(d) states that a business that does not collect personal information directly from a consumer does not need to provide a notice at collection to the consumer if the business does not sell the consumer's personal information. This regulation is necessary to clarify how Civil Code §§ 1798.100(b) and 1798.115(d) apply to businesses that do not collect personal information directly from the consumer. Such businesses are not required to provide a notice at collection because they cannot feasibly provide a notice "at or before the point of collection," as required by Civil Code § 1798.100(b); however, the subsection clarifies that they cannot sell any personal information that they receive based on Civil Code § 1798.115(d)'s prohibition on third-party businesses selling consumers' personal information unless the consumers were given explicit notice and an opportunity to opt-out of the sale of their information. To the extent a business does not collect personal information directly from the consumer but intends to sell the personal information, the business can comply with § 999.305(e) and register with the Attorney General as a data broker and include in its registration submission a link to its online privacy policy that includes instructions on how a consumer can submit a request to opt-out.		
65.	Expand the provision beyond data brokers, so that a business that does not collect information directly from consumer is exempt from providing notice of right to opt-out if the business includes instructions in its privacy policy on how to submit a request to opt-out.	No change has been made in response to this comment. In response to other comments, § 999.305(d) has been revised to state that a business that does not collect personal information directly from a consumer does not need to provide a notice at collection to the consumer if it does not sell the consumer's personal information. See response #58. Thus, this comment is now moot.	W270-7	000508
66.	Restore the exception for notice at collection in instances of indirect collection of publicly available data that is used for purposes reasonably expected by the consumer. An alternative approach would be to excuse notice at indirect collection in	No change has been made in response to this comment. In response to other comments, § 999.305(d) has been revised to state that a business that does not collect personal information directly from a consumer does not need to provide a notice at collection to the consumer if it does not sell the consumer's personal information. Thus, this comment is moot. See response #58.	W248-24	000370

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	instances of indirect collection of publicly available data for purposes reasonably expected by the customer.			
67.	Comment claims that the provision is not clear and suggests the following alternative language: "(1) A business that does not collect information directly from consumers must still provide a notice to the consumer at the time the business collects consumer information from a third party. This section does not apply to: (a) A business that is registered with the Attorney General as a Data Broker, pursuant to Civil Code section 1798.99.80 et seq. if the business included in its registration submission a link to its online privacy policy that includes instructions on how a consumer can submit a request to opt-out; or (b) A business that collects consumer information from a Data Broker who is registered with the Attorney General and provided the required instructions to consumers in compliance with subsection (a). (2) A business that is not required to provide notice to consumers at the time of collection under subsection (d)(1)(b), above, is subsequently required to provide notice to consumer of their right to opt-out in accordance with § 999.306, prior to	No change has been made in response to this comment. In response to other comments, the OAG has added a provision stating that a business that does not collect personal information directly from a consumer does not need to provide a notice at collection to the consumer if it does not sell the consumer's personal information. See response #58. The comment's first proposed edit—to require a business that does not collect information directly from consumers to still provide a notice to the consumer—would not be workable. Civil Code § 1798.100(b) requires businesses to, at or before the point of collection, inform consumers as to the categories of personal information to be collected and the purposes for which it will be used. Businesses that do not collect personal information from the consumer cannot feasibly provide this notice. The comment's proposed (1)(a) language is identical to the OAG's proposed language, and thus moot. The comment's proposed (1)(b) language is unnecessary because such a business is not required by Civil Code § 1798.115(d) to provide notice at collection. The comment's proposed (2) language—to require a notice prior to the resale of consumer personal information—is not necessary because such notice is already required by Civil Code § 1798.115(d).	W252-3	000406

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	the resale of consumer personal information."			
- **§ 999.305(e)**				
68.	Modify subsection further to exempt the collection of employment-related information from the section's notice requirements. As currently written, the subsection is inconsistent with Civil Code § 1798.145(h), which exempts employment-related information from all CCPA notice requirements except the Civil Code § 1798.100(b)'s notice at collection.	Accept in part. Modifications have been made to clarify that a business collecting employment-related information does not need to include the "Do No Sell My Information" link or a link to the business's privacy policy. The OAG disagrees that the remaining portions of the regulation, specifically subsections (a), (b)(1)-(2), and (c)-(e), are inconsistent with Civil Code § 1798.145(h). Subsections (a) and (b)(1)-(2) implement the requirements of Civil Code § 1798.100(b), while subsections (c)-(e) do not mandate any additional action related to the collection of employment-related information.	W280-3 W303-1	000595-000596 000758-000761
69.	Modify subsection to reflect that a business collecting employment-related information can provide a single notice to the employee which would satisfy the business's obligation to provide a notice at collection to each member of the employee's household. The current language is ambiguous.	No change has been made in response to this comment. Section 999.305(d) has been revised to state that a business that does not collect personal information directly from a consumer, which may include the scenario of an employer collecting information about an employee's family or household members, does not need to provide a notice at collection to the consumer if it does not sell the consumer's personal information. FSOR, § 999.305(d). Thus, this comment is now moot.	W285-2	000631
70.	Provide model notice for collection of employment-related information.	No change has been made in response to this comment. The OAG has not addressed this issue at this time in an effort to prioritize drafting regulations that operationalize and assist in the immediate implementation of the law. Further analysis is required to determine how to provide models, sample language, and/or templates.	W285-2	000631
71.	Delete this subsection because the regulation should reflect disclosure obligations that are current law and not memorialize language that may or may not be law in the future. Revisit the employee-related exemptions sunset on January 1, 2021.	No change has been made in response to this comment. As stated in the FSOR, when collecting employment-related information, businesses must still comply with Civil Code § 1798.100 (b), but they are not required to comply with Civil Code §§ 1798.115 and 1798.120. FSOR, § 999.305. Accordingly, this subsection is necessary to make the regulations consistent with the CCPA's amendment by AB 25 (Assem. Bill No. 25, approved by Governor, Oct. 11, 2019 (2019-2020 Reg. Sess.)).	W270-8	000508

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- **§ 999.305(f)**				
72.	Extend the sunset provision for employment-related information "to the greatest degree possible" while the California Legislature considers further action.	No change has been made in response to this comment. The proposed regulation implements Civil Code § 1798.145(n), which explicitly states that it will become inoperative on January 1, 2021. The OAG cannot implement regulations that alter or amend a statute or enlarge or impair its scope.	W240-2	000284
73.	Delete this subsection because the regulation should reflect disclosure obligations that are current law and not memorialize language that may or may not be law in the future. Revisit the employee-related exemptions sunset on January 1, 2021.	No change has been made in response to this comment. As stated in the FSOR, Civil Code § 1798.145(h) provides that businesses are to comply with Civil Code § 1798.100, though not Civil Code §§ 1798.115 and 1798.120, with regard to the collection of employment-related information. FSOR, § 999.305(f). Accordingly, this subsection is necessary to make the regulations consistent with the CCPA's amendment by AB 25 (Assem. Bill No. 25, approved by Governor, Oct. 11, 2019 (2019-2020 Reg. Sess.)). To address the sunset of these exemptions on January 1, 2021, the OAG has added § 999.305(g), which provides that subsection (f) shall become inoperative on January 1, 2021, unless the CCPA is amended otherwise.	W270-8	000508
§ 999.306. Notice of Right to Opt-Out of Sale of Personal Information				
74.	Revise regulations to mandate that the notice of right to opt-out be titled "Do Not Sell My Personal Information" or "Do Not Sell My Info" and eliminate all language suggesting that notice is separate from this phrase. The currently proposed regulations are confusing.	No change has been made in response to this comment. Civil Code § 1798.120(b) mandates that a business that sells personal information provide notice to consumers pursuant to § 1798.135(a), which requires that businesses post a link titled "Do Not Sell My Personal Information" that directs the consumer to a separate webpage that enables the consumer to opt-out. The regulation sets forth the rules and procedures business must follow in posting the notice to ensure that is contains all required information and is easily accessible and understandable to consumers. Nothing prohibits a business from titling the notice as the comment advises, but mandating a title may be too prescriptive. For example, some businesses may choose to title the notice with reference to the right to opt-out.	W212-11	000013-000014

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- **§ 999.306(a)(1)**				
75.	Supports deletion of language requiring businesses that do not currently sell personal information to commit to not doing so in the future.	The OAG appreciates this comment of support. No change has been made in response to this comment. The comment concurred with the proposed regulations, so no further response is required.	W245-7	000342
- **§ 999.306(b)(1)**				
76.	Add "shall be easily available to the average consumer, and does not require the consumer to click through multiple layers or screens to find it" to subsection. Opt-out notices in mobile applications may be too hard to find.	No change has been made in response to this comment. As explained in the ISOR, the regulations take a performance-based approach and focus on the consumer's understanding of the notice, as opposed to prescriptive language. ISOR, p. 8. Prescribing this level of detail is not necessary because the regulations set forth in subsection (a) that the notice has to be easy to read and understandable to consumers. Also, Civil Code § 1798.135 and § 999.306(b) both already require that the "Do Not Sell My Info" link be on the website homepage or on the download or landing page of the mobile application. Including the notice of right to opt-out within the application or through the app's settings menu is in addition to what is already required.	W212-11	000013-000014
77.	Revise provision to make clear that businesses may choose where to post the "Do Not Sell" link for mobile applications. The current regulation is unclear whether mobile applications must have the "Do Not Sell My Personal Information" link on both the download/landing pages and in the application's settings, or whether a business may choose one or the other. And download pages in app stores are not within a businesses' control.	No change has been made in response to this comment. The plain language of the provision and the CCPA make clear that the "Do Not Sell" link for mobile applications must be on the download or landing page of the mobile application. Civ. Code §§ 1798.135(a)(1), 1798.140(l) (definition of homepage); § 999.306(b)(1). Providing the opt-out link in an application's settings menu is optional, as demonstrated by the use of the words "may" and "[i]n addition." The comment's assertion that businesses are not in control of download pages is not valid. Six major mobile app platforms—Amazon, Apple, Google, Hewlett-Packard, Microsoft, and Research In Motion—already allow for consumers to review an app's privacy policy before downloading the application, and § 999.306(b)(1) allows the notice to be given through a link to that section of the business's privacy policy.	W222-6 W233-2	000107 000204, 000215
78.	Supports mobile applications being	The OAG appreciates this comment of support. No change has been	W250-3	000284

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	allowed to provide privacy disclosures through a link.	made in response to this comment. The comment concurred with the proposed regulations, so no further response is required.		
- **§ 999.306(c)**				
79.	Add "or their authorized agent" after "consumer" throughout subsection for clarity. Concerned about deletion of provision requiring businesses to inform consumers in the notice about any proof required when using authorized agents to opt-out.	No change has been made in response to this comment. The OAG disagrees that the proposed change is necessary for clarity. Sections 999.308(c)(5) and 999.315(g) adequately address consumers' use of authorized agents to opt-out. Modifying the regulation to this level of specificity would add complexity to the notice without providing identifiable benefits. Similarly, the deletion of subsections (4) and (5) were made in response to concerns that the notice required too much information, causing the notice to be lengthy and repetitive to the detriment of consumers.	W212-12	000014
- **§ 999.306(e)**				
80.	Supports addition of provision prohibiting businesses from selling data collected during the time period that the notice of opt-out is not posted.	The OAG appreciates this comment of support. No change has been made in response to this comment. The comment concurred with the proposed regulations, so no further response is required.	W212-13 W284-7	000014 000621-000622
81.	Clarify that prohibition on selling data collected during period that notice of opt-out is not posted only applies after the CCPA's effective date.	No change has been made in response to this comment. The comment is illogical: businesses would not be expected to comply with regulations that are not final or effective. Accordingly, the regulation's prohibition on selling personal information that was collected during a period that a notice to opt-out was not posted can only be read as applying to data collected after the CCPA's effective date and the date upon which the regulations are final.	W214-5 W245-8 W248-37	000031 000342 000375
82.	Modify or delete this subsection. The provision prohibiting businesses from selling personal information collected during a period that the notice of opt-out is not posted is inconsistent with the CCPA, which allows for new uses of personal information pursuant to notice. It is also	No change has been made in response to this comment. The comment's interpretation of the CCPA is inconsistent with language, structure, and intent of the CCPA. Civil Code § 1798.120(b) requires a business that sells consumers' personal information to provide notice of their right to opt-out. Accordingly, the converse must be true. If you don't provide notice as required, then you cannot sell the personal information collected during that time. This regulation prevents a business from	W274-3	000545

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	unclear when businesses can seek authorization from customer deemed to have opted out.	retroactively changing their policies to sell personal information collected during the period of time it assured consumers that it was not selling such information, unless the business obtains affirmative consent.		
83.	Clarify this subsection. It is unclear when businesses can seek authorization from consumers who will have been deemed to have opted out.	No change has been made in response to this comment. The comment appears to be referencing a provision of the regulations that has been deleted, and the comment is therefore moot.	W274-3	000545
- **§ 999.306(f)**				
84.	Delete the proposed regulation regarding the opt-out button because it has the potential to confuse consumers, omits important nuances businesses might need to convey, standardization could lead to consumers ignoring notifications, and businesses could be expose to liability due to consumers misunderstanding their choices.	Accept in part. The subsection has been deleted based, in part, on concerns that it may confuse consumers who believe it may be a functional toggle as opposed to merely a button or logo. The OAG does not agree with all the reasons provided in the comments, but has made this modification to further develop and evaluate a uniform opt-out logo or button for use by all businesses to promote consumer awareness of the opportunity to opt-out of the sale of personal information. Given the modification, these comments are now moot.	W221-7 W222-7 W238-4 W243-1 W248-36 W306-1	000100-000102 000107-000108 000271 000331-000334 000374-000375 000773
85.	Opt-out button should be modified. The proposed opt-out button is unclear and will confuse consumers. Alternative options would be to (1) treat the proposed button as an actual toggle or control that shows if the consumer has opted-out, (2) redesign the button so that it is clear that the button is a link; (3) redesign the button to make clear it is a non-interactive icon or logo; or (4) allow business to change the format of the opt-out button. The OAG should also (1) modify requirement that the opt-out button be the same size as other buttons on the website, because	No change has been made in response to this comment. The OAG has deleted the provision in response to other comments, and thus, this comment is now moot. See response #84.	W212-14 W214-6 W214-7 W216-3 W226-7 W229-3 W242-1 W243-1 W244-2 W248-36 W256-1 W260-4	000014 000031 000031-000032 000044, 000047-000049 000140-000141 000181 000290-000291 000331-000334 000337 000374-000375 000431, 000438-000439 000452

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	many websites do not have button; (2) clarify that toggle is not required to be used.		W270-9 W273-1 W295-1	000508 000528-000529 000721-000735
§ 999.307. Notice of Financial Incentive				
- **§ 999.307(a)(1)**				
86.	Replace the word "disclosure" with "collection." This would mirror the language used in Civil Code § 1798.125(b)(1).	Accept.	W212-17	000015
87.	Add language to clarify that promotional offers or discounts do not fall under the definition of "financial incentive" and thus do not require a notice.	No change has been made in response to this comment. The regulation's definition of financial incentive and the regulation describing when a notice is required are consistent with CCPA's provisions regarding financial incentives. Compare §§ 999.301(j) & 999.307(a) with Civ. Code § 1798.125(b). Modifying the regulations to account for this specific situation may be overly broad and would add complexity to the rules without providing identifiable benefits.	W302-1	000756
- **§ 999.307(b)**				
88.	Revise or strike the requirements in subsections (b)(2) and (b)(5) to provide the material terms of any financial incentive program, including "the value of the consumer's data" and "how the financial incentive or price or service difference is reasonably related to the value of the consumer's data," because businesses neither have a practical way nor the resources to calculate the value of a consumer's data. The provisions are also burdensome, disclosure could result in disclosure of competitively sensitive information, data doesn't have	No change has been made in response to this comment. The OAG has considered that precise calculations of the value of a consumer's data to the business may be difficult. For this reason, the regulations require only "a good-faith estimate." Specifically, § 999.337 provides several bases for businesses to consider in establishing a "reasonable and good faith method for calculating the value of the consumer's data," including "[a]ny other practical and reasonably reliable method of calculation used in good-faith." In order to ensure consumers are fully informed before they opt-in to programs offered by businesses that provide certain benefits in exchange for consumers' data, Civil Code § 1798.125(b)(3) requires businesses to provide consumers with a notice that "clearly describes the material terms of the financial incentive program." The value of the consumer's data to the business is a "material term" of any such program for several reasons. First, the defining feature of any price	W218-1 W222-8 W230-4 W238-5 W245-11 W248-5 W250-11 W262-8 W262-9 W266-3 W308-6	000067 000108 000190, 000191 000272-000273 000342-000343 000363 000385, 000393 000462 000463 000488-000489 000780

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	independent value, go beyond the CCPA, and could impact some practices like coupons.	or service difference, including a financial incentive, is the exchange of a consumer's data for benefits offered by the business. The value of the consumer's data to the business determines the business's decision whether and on what terms to offer such benefits and is therefore a "material term" that must be disclosed. Second, under the CCPA, a business may only offer a price or service difference, including a financial incentive, if it can demonstrate that such price or service difference is "reasonably related" to the value of the consumer's data. See Civ. Code § 1798.125; § 999.336(a) & (b). Because the price or service difference cannot be offered without a showing of its relationship to the value of the consumer's data, that value is material to any offer of a price or service difference, including a financial incentive, and must be disclosed. Third, unless a business discloses its estimate of the value of the consumer's data, consumers will not have the basic information they need to in order to make an informed decision to participate in a financial incentive program, including whether the program provides reasonable value in exchange for their data and whether the program is even permissible under the CCPA. For these reasons, the business's good-faith estimate of the value of a consumer's data (in addition to the value of the price or service difference or financial incentive) is a "material term" any financial incentive program and must be provided in the notice required by § 999.307. See also Civil Code § 1798.125(b)(3); § 999.336(a) & (b). Further, the comments do not provide evidence that disclosure of the method of calculation or the good-faith estimate of the value of the consumer's data would result in competitive harm. Thus, any potential competitive harm is speculative, and in any case, the potential for harm is further mitigated because all similarly situated competitors in California will be bound by the same disclosure requirements.		
89.	Correct typo: "price of service difference" should read "price or service difference."	Accept.	W241-2	000288

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§ 999.308. Privacy Policy				
- **§ 999.308 generally**				
90.	Supports how the regulations would permit companies to use existing formats for compliance with the CCPA. This makes new notices more understandable and use of existing and familiar formats is beneficial to both companies and consumers.	The OAG appreciates this comment of support. No change has been made in response to this comment. The comment concurred with the proposed regulations, so no further response is required.	W252-4	000407
- **§ 999.308(b)**				
91.	Supports mobile applications being allowed to provide privacy disclosures through a link.	The OAG appreciates this comment of support. No change has been made in response to this comment. The comment concurred with the proposed regulations, so no further response is required.	W250-3	000384
- **§ 999.308(c) generally**				
92.	Supports the revision to subsections (c)(1)(c) and (c)(2)(c) that adds "in general."	The OAG appreciates this comment of support. No change has been made in response to this comment. The comment concurred with the proposed regulations, so no further response is required.	W245-15 W279-2	000343 000591
93.	Revise subsections (c)(1)(c) and (c)(2)(c) so that the business is only required to disclose a link to the company's current process for verifying consumer requests in its privacy policy, instead of the entire process verbatim, so that the process can be updated much more quickly and easily in response to changing security concerns, whereas privacy policies cannot be as quickly updated.	No change has been made in response to this comment. The regulation has been revised to describe the process "in general", which addresses one comment's concern that a business need not describe the entire process verbatim. A general summary is sufficient. The provision pulls together in one place the statutory requirements for the policy, which are distributed throughout the CCPA, and other helpful information, making the privacy policy a useful resource for consumers and others interested in evaluating the effectiveness of the CCPA. The provision provides transparency to the public about the exercise of consumer privacy rights under the CCPA, informing consumers in advance how they may exercise their rights, even if the business is required to update the privacy policy more frequently than the required 12 months. The comments do not explain why a privacy policy cannot be quickly updated and/or cannot be as quickly updated as the webpage located at the link,	W226-8 W248-32	000141 000373

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		and the OAG has determined that this would not be so burdensome as to justify further modification. The regulation also does not prohibit a business from providing a link to a more detailed description of the business's verification processes.		
94.	Revise subsections (c)(1)(c) and (c)(2)(c) to minimize the impact of bad actors who can obtain operational insights based on the general description of the process used to verify consumer requests.	No change has been made in response to this comment. The comment does not provide sufficient specificity to the OAG to make any modifications to the text. In drafting the regulations, the OAG considered the level of information that should be provided in order to provide transparency to the public about the exercise of consumer privacy rights under the CCPA and inform consumers in advance how they may exercise their rights, while also minimizing the potential harm by bad actors. The regulations address the concerns raised.	W289-3	000646
- **§ 999.308(c)(1)**				
95.	Revise the regulations to require businesses to: (1) identify the categories of sources from which the personal information is collected; and (2) identify or disclose the business or commercial purpose for collecting or selling personal information. This would be consistent with Civil Code § 110(c)(2)-(3).	Accept. The provision has been modified.	W223-4 W227-5	000116 000364-000365
- **§ 999.308(c)(1)(c)**				
96.	Supports the modified regulation.	The OAG appreciates this comment of support. No change has been made in response to this comment. The comment concurred with the proposed regulations, so no further response is required.	W245-15	000343
- **§ 999.308(c)(1)(d)**				
97.	Supports the modified provision because it no longer requires businesses to link categories of personal information to sources and business purpose(s).	The OAG appreciates this comment of support. No change has been made in response to this comment. The comment concurred with the proposed regulations, so no further response is required.	W245-18	000344
98.	Revise the regulations to restore the	No change has been made in response to this comment. The provision	W216-1	000044-000046

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	requirement that the business disclose "for each category of personal information" (1) the categories of sources from which that information was collected; (2) the purpose for which the information was collected; and (3) the categories of third parties with whom the business shares personal information. The deleted requirement was within the CCPA's delegation of authority, furthered the intent and purpose of the CCPA in that it would allow consumers to better understand how their information is used so that consumers can better make decisions about their data, was not any more burdensome than the burden already required by the CCPA, and did not make privacy policies too long.	was amended to use language that is consistent with Civil Code § 1798.130(a)(5)(C). FSOR, § 999.308. The OAG has decided not to further modify the regulation to include these requirements at this time in an effort to prioritize guidance that operationalizes and assists in the immediate implementation of the law. The comment is noted.	W227-2 W227-6	000163-000165 000166-000167
99.	Comment states in verbatim: "While this section has been improved, it continues to require the disclosure of a very high level of detail relating to each category of personal information collected including, the categories of sources from which the information was collected, the business or commercial purpose(s) for which the information was collected, and the categories of third parties with whom the business shares personal information."	No change has been made to this comment. It is unclear what the comment is referring to because the regulation has been revised to no longer require, for each category of personal information, the disclosure of the categories of sources from which the information was collected, the business or commercial purpose(s) for which the information was collected, and the categories of third parties with whom it is share. Additional language was added subsequently that requires the business to identify the categories of sources from which personal information is generally collected and the business or commercial purpose for which it is collected, but this does not have to be specified for each category of personal information.	W289-6	000647
- **§ 999.308(c)(1)(e)**				
100.	Delete the requirement in subsection (c)(1)(e)(2) (requiring the business, for each category of personal information, to	No change has been made in response to this comment. The comment objects to the CCPA, not the proposed regulation, which is now § 999.308(c)(1)(g)(2). The CCPA requires this level of specificity. See Civ.	W228-4 W236-3 W238-6	000171 000256 000273

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	provide the categories of third parties to whom the information was disclosed or sold), or at the least delete the requirement for the categories of third parties to whom the personal information was disclosed (keeping only the categories of third parties to whom the personal information was sold or disclose categories of third parties to whom all categories of information (rather than *each*) may be disclosed or sold). As drafted, the proposed subsection is needlessly burdensome, the CCPA treats disclosure and sale differently, and the requirement will make the privacy policies complicated and less consumer-friendly.	Code §§ 1798.110(c)(4), 1798.115(c), 1798.130(a)(4)(B) [mandating that a business disclose the categories of third parties to whom it sold the consumer's personal information], (a)(4)(C) [mandating that a business disclose the categories of third parties to it disclosed the consumer's personal information], and 1798.130(a)(5).	W266-4 W272-3	000489 000519
101.	Revise subsection (c)(1)(e)(3) so that it applies only to a business that sells personal information: "State whether a business that sells personal information has actual knowledge that it sells the personal information of minors under 16 years of age." It is repetitive, as such businesses will already state that it does not sell personal information.	No change has been made in response to this comment. Modifying the regulations to account for this level of specificity would add complexity to the rules without providing identifiable benefits.	W222-10 W248-33	000109 000373-000374
102.	Revise this subsection so that it requires a business to state whether it permits minors under 16 years of age, or parents of children under 13 years of age, to opt-in to the sale of personal information and describe any mechanism for opting in.	Accept in part. The OAG has modified the regulations to include § 999.308(c)(9), which states that if a business has actual knowledge that it sell the personal information of minors under 16 years of age, a description of the processes required by sections 999.330 and 999.331.	W259-1	000449

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- **§ 999.308(c)(3)**				
103.	Revise this provision so that it does not apply to a business that is not required to provide a notice of right to opt-out under § 999.306(d) because it is confusing to consumers that a business does not need to provide a notice of right to opt-out yet must also explain the right to opt-out in its privacy policy.	No change has been made in response to this comment. The OAG has made every effort to limit the burden on businesses in drafting these regulations. Under § 999.306(d), a business does not need to provide a notice of right to opt-out if, among other things, the business states in its privacy policy that it does not sell personal information. Consistent with § 999.306(d), § 999.308(c)(3) requires a business to state whether or not the business sells personal information. Including this one disclosure in a privacy policy is not unduly burdensome on businesses and as stated in the ISOR, requiring this explicit statement provides transparency for consumers. See ISOR, p. 11. Section 999.308(c)(3) is necessary and relevant because it makes the privacy policy a useful resource for consumers and others interested in evaluating the effectiveness of the CCPA.	W211-2	000007
104.	Revise the provision to allow a business to also state whether it "shares or discloses" personal information because the word "sell" as broadly defined in the CCPA causes unnecessary anger and confusion for consumers.	No change has been made in response to this comment. The comment objects to the CCPA's definition of sale and disclosure requirements for the privacy policy. See Civ. Code §§ 1798.140(t), 1798.115(c), 1798.130(a)(5)(A). The regulations provide the business with discretion in determining the best way to communicate the required information and provides them with the flexibility to craft the notices and privacy policy in a way that the consumer understands them.	W262-10	000464
ARTICLE 3. BUSINESS PRACTICES FOR HANDLING CONSUMER REQUESTS				
§ 999.312. Methods for Submitting Requests to Know and Requests to Delete				
- **§ 999.312(a)**				
105.	Proposes an interpretation for the meaning of "a business that operates exclusively online." The comment proposes that businesses that "substantially" conduct all business online, but have offline customer support, should still be deemed exclusively online for this	No change has been made in response to this section. The OAG has not addressed whether to define the term "exclusively online" at this time in an effort to prioritize drafting regulations that operationalize and assist in the immediate implementation of the law. Further analysis is required to determine whether a regulation is necessary on this issue. Also, whether a business is operating "exclusively online" may be a fact-specific determination. The commenter should consult with an attorney	W236-4	000256

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	subsection. Maintaining a toll-free line would be burdensome.	who is aware of all pertinent facts and relevant compliance concerns.		
106.	Clarify the requirement in § 1798.130(a)(1)(A) and (a)(1)(B). The former allows certain businesses to only maintain an email submission method, and the latter requires that businesses with a website accept requests through the website.	No change has been made in response to this comment. There is no discrepancy with regard to these subsections that would require a regulation. Civil Code § 1798.130(a)(1)(A) applies to a business that "operates exclusively online and has a direct relationship with a consumer from whom it collects personal information," and Civil Code § 1798.130(a)(1)(B) applies to any business that maintains an internet website, a wider group of businesses. A business that falls within both scenarios can reasonably comply with both by providing their email address on their website.	W245-13	000343
107.	Permit businesses that do not operate exclusively online to only provide an email address for submissions of requests to know with respect to any consumers with whom that business engages only online.	No change has been made in response to this comment. Civil Code § 1798.130(a)(1) requires businesses to make available two or more designated methods for submitting requests to know and only excludes businesses that operate exclusively online from this requirement. The OAG cannot implement regulations that alter or amend a statute or enlarge or impair its scope.	W254-2	000418-000419
108.	Requests clarification that an interactive webform is one of the acceptable methods. This would streamline the request process for both businesses and consumers.	No change has been made in response to this comment. No change is necessary because the subsection does not prohibit any specific method and offers an expressly non-exhaustive list of options.	W262-11	000464-000465
109.	Supports the revision for businesses that operate exclusively online.	The OAG appreciates this comment of support. No change has been made in response to this comment.	W269-2	000501
110.	Delete or modify new language in regulation that allows certain businesses to only provide an email address for submitting requests to know.	No change has been made in response to this comment. The comment objects to the CCPA, not the regulation. The modifications to which this comment responds were made because Civil Code § 1798.130(a)(1) was amended to state that a business that operates exclusively online and has a direct relationship with a consumer from whom it collects personal information shall only be required to provide an email address for submitting requests to know.	W284-8 W297-1	000622 000745

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111.	Delete or modify language in regulation mandating a toll-free number be one method of submission of requests to know.	No change has been made in response to this comment. The comment objects to the CCPA, not the regulation. Civil Code § 1798.130(a)(1) mandates the toll-free number.	W277-11 W280-7 W304-3 W308-7	000580 000597 000762 000781
- **§ 999.312(b), (c)**				
112.	Along with amendment to § 999.312(a), § 999.312(b) should be similarly amended to state: a business that operates exclusively online and has a direct relationship with a consumer from whom it collects personal information shall only be required to provide an email address for submitting requests to delete. This would be easier consumers and online businesses.	No change has been made in response to this comment. Section 999.312(a) was modified because Civil Code § 1798.130(a)(1) requires businesses to make available two or more designated methods for submitting requests to know and only excludes businesses that operate exclusively online from this requirement. There is no similar exception in the CCPA for submitting requests to delete.	W236-5 W238-7 W254-2	000257 000273 000418-000419
113.	Amend § 999.312(b) and (c) to permit businesses to post a sign in physical locations that directs the consumer to the phone number and other methods used for submitting requests as a more secure alternative to paper forms.	No change has been made in response to this comment. Section 999.312(c) provides illustrative examples of how a business shall consider the methods by which it primarily interacts with consumers when determining which methods to provide for consumers to submit certain requests. The modified regulations do not mandate any particular manner in which this is done and provide businesses with discretion to select the specific method.	W272-4 W272-8	000519 000520
114.	Requests that § 999.312(c) be modified to further state that "a business shall not limit a consumer's options to a table or computer portal that allows the consumer to complete and submit an online form nor the business's toll-free number nor email address."	No change has been made in response to this comment. Section 999.312(c) provides illustrative examples of how a business shall consider the methods by which it primarily interacts with consumers when determining which methods to provide for consumers to submit certain requests. The modified regulations do not mandate any particular manner in which this is done and provide businesses with discretion to select the specific method, after considering how they primarily interact with consumers.	W297-2	000745
115.	Requests clarity of the word "consider" in § 999.312(c) as it is ambiguous and unclear	No change has been made in response to this comment. Section 999.312(c) provides illustrative examples of how a business shall	W241-4	000288

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	if enforcement will result if one of the examples mentioned is not utilized by the business.	consider the methods by which it primarily interacts with consumers when determining which methods to provide for consumers to submit certain requests. The modified regulations do not mandate any particular manner in which this is done and provide businesses with discretion to select the specific method. The term "consider" is also used in its plain meaning and the OAG disagrees that it is ambiguous.		
- **§ 999.312(d)**				
116.	Supports the two-step process being optional.	The OAG appreciates this comment of support. No change has been made in response to this comment.	W245-14	000343
§ 999.313. Responding to Requests to Know and Requests to Delete				
- **§ 999.313(a)**				
117.	Supports the modification to "business days."	The OAG appreciates this comment of support. No change has been made in response to this comment. The comment concurred with the proposed regulations, so no further response is required.	W284-9	000622
118.	Supports the modification to describe in general the business's verification process.	The OAG appreciates this comment of support. No change has been made in response to this comment. The comment concurred with the proposed regulations, so no further response is required.	W245-15	000343
119.	The modification to permit the confirmation to be made in the same manner as the request makes this requirement more workable, even though this provision is inconsistent with the CCPA and overly burdensome to businesses.	No change has been made in response to this comment. With respect to the comment that the regulation is now more workable, the OAG appreciates this comment of support. With respect to the comment that it is inconsistent with the CCPA and overly burdensome to businesses, Civil Code § 1798.185(a)(7) and (b)(2) provides the Attorney General with authority to establish rules and procedures to facilitate requests to know and requests to delete. In drafting these regulations, the OAG has made every effort to limit the burden of the regulations while still implementing the CCPA. Confirming receipt of a request within 10 business days and providing general information regarding the response process is necessary to help consumers understand the process and know when they should expect a complete response. It also benefits businesses by helping manage consumer expectations. The 10-day response is not unreasonable or unnecessarily costly given that it does	W252-5 W270-10 W280-8	000407 000508 000597

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		not require any individualized information. Responses can be prepared in advance and automated. See ISOR, p. 16.		
- § 999.313(b)				
120.	Supports the modification to "calendar days."	The OAG appreciates this comment of support. No change has been made in response to this comment. The comment concurred with the proposed regulations, so no further response is required.	W284-9	000622
121.	Supports the modification to permit a business to deny a request if the business cannot verify the consumer within the 45-day time period.	The OAG appreciates this comment of support. No change has been made in response to this comment. The comment concurred with the proposed regulations, so no further response is required.	W280-9	000597-000598
122.	Revise the provision to state: "If the business, acting reasonably and using a similar level of diligence and technology it uses to collect consumer information, cannot verify the consumer within 45-day time period, the business may deny the request."	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 because the proposed change is not necessary. Modifying the regulation to this level of specificity would add complexity without providing identifiable benefits.	W212-20	000016
123.	Clarify whether a business must wait the entire 45 days to notify consumers that the business cannot verify the consumer or if a business can notify the consumer as soon as the inability to verify is determined.	No change has been made in response to this comment. The regulation is reasonably clear and addresses the maximum time a business has to respond to a consumer's request. The regulations provide businesses with discretion to determine the best way to communicate the required information.	W272-18	000521
124.	Requests clarity that the 45-days does not begin until the business makes contact with the consumer and not from the date the request is received, in particular, from an authorized agent under § 999.326.	No change has been made in response to this comment. Civil Code § 1798.130(a)(2) explicitly states that the time to verify a consumer's request to know shall not extend the business's duty to respond within 45 days of receipt of the request. Where the business needs additional time to respond to a request, § 999.313(b) allows the business to extend the time period by another 45 days. Section 999.313(b) has also been amended to clarify that when a business cannot verify the consumer within the 45-day time period, the business may deny the request.	W228-22	000177

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- **Deleted § 999.313(c)(3)**				
125.	Supports the deletion of subsection 999.313(c)(3) because it was subjective and created liability risk if a consumer claims a business "should have known" of the disclosure risks.	The OAG appreciates this comment of support. No change has been made in response to this comment. The comment concurred with the proposed regulations, so no further response is required.	W245-17	000343-000344
126.	Restore the deleted § 999.313(c)(3) because: (1) it was tightly drafted; (2) it addressed the risk of "pretexting" requests for personal information (the practice of obtaining personal information under false pretenses); (3) it protected both consumers and businesses; (4) it prevented the disclosure of personal information to unauthorized parties; (5) it provided protection when verification is circumvented; and (6) the deletion could be interpreted as requiring businesses to disclose information in situations that may lead to consumer harm. Some comments also suggest revising the deleted language so that businesses are not required to put the consumer or other consumers at risk of harm, and so that the business has discretion as to whether or not to disclose the personal information.	No change has been made in response to this comment. As set forth in greater detail in the FSOR, the OAG deleted the provision because it was unnecessary in light of other protections within the regulations that prevent the disclosure of personal information to unauthorized parties. See FSOR, § 999.313(c)(3); see also FSOR, §§ 999.313(c)(4), (c)(6), (c)(7), 999.323, 999.324, 999.325, and 999.326. The regulations already address the concerns raised. Accordingly, it is not necessary to restore and/or revise the deleted language.	W214-8 W217-2 W222-16 W224-1 W226-16 W228-5 W229-5 W231-6 W236-6 W238-9 W238-10 W246-2 W248-12 W248-31 W249-5 W250-5 W253-7 W255-4 W269-4 W273-3 W274-5 W289-7 W308-9	000032 000061 000110 000120-000126 000147, 000148 000172 000183 000196 000257 000274 000275 000349-000350 000365 000372-000373 000380 000384, 000385-000386 000413 000425 000501 000530-000531 000545-000546 000647-000648 000781-000782
127.	Clarify that the originally proposed § 999.313(c)(3) was deleted because it was	No change has been made in response to this comment. As set forth in greater detail in the FSOR, the OAG deleted the provision because it was	W235-2	000249

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	not necessary as the regulations still allow a business to refuse consumer requests that create a risk to security or integrity of a business's systems.	unnecessary in light of the other protections within the regulations that prevent the disclosure of personal information to unauthorized parties. See FSOR, § 999.313(c)(3); see also FSOR, §§ 999.313(c)(4), (c)(6), (c)(7), 999.323, 999.324, 999.325, and 999.326.		
- New § 999.313(c)(3)				
128.	Supports § 999.313(c)(3).	The OAG appreciates this comment of support. No change has been made in response to this comment. The comment concurred with the proposed regulations, so no further response is required.	W245-17 W212-21 W237-7 W267-4	000343-000344 000016 000265 000494
129.	Expand the exception to searching for personal information in response to a request to know. Comments propose various revisions that expand the exception, including: (1) requiring the business to meet only one or some of the stated requirements; (2) not requiring that the business maintain the personal information solely for legal or compliance purposes so that they can use it for internal record-keeping purposes, analytics, or quality assurance; and (3) including personal information derived internally by the business or not associated with a consumer in the ordinary course of business. Comments claim that the requirements should be expanded because: ▪ It is overly restrictive because most businesses will be unable to meet all of the requirements. ▪ It is burdensome and costly for businesses to identify, compile, and	No change has been made in response to this comment. As explained in the FSOR, the regulation balances the goals and purposes of the CCPA with the burden of searching unstructured data for a consumer's personal information (i.e., the consumer's personal information was not maintained in a searchable or reasonably accessible format, such as a return address on a payer's check). FSOR, § 999.313(c). The exception is narrowly tailored to ensure that businesses do not abuse the exception to avoid their obligations under the CCPA. If the business is maintaining personal information for reasons other than legal or compliance purposes, as required by subsection (c)(3)(c), the personal information is not subject to this exception. This particular subsection applies a general fairness principle to ensure that a business who is unable to readily search for this personal information cannot profit or commercially benefit from that personal information. The exception is also intended to encourage data minimization principles; where a business is not required by law to maintain this information, the business can delete it to avoid the costs for searching for it.	W222-17 W226-17 W228-6 W228-7 W229-6 W236-7 W237-5 W238-10 W250-4 W279-5 W304-4 W308-10	000110-000111 000147-000149 000172 000172 000183-000184 000257-000258 000265 000274-000275 000385, 000387-000388 000592 000762-000763 000782

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	make accessible personal information that is not used in the ordinary course of business in response to a request to know, and the regulation should provide clearer outer lines as to what business must do in response to a request to know. ▪ Civil Code § 1798.185(a)(7) requires the Attorney General to take into account the burden on businesses when responding to requests to know.			
130.	Clarify how the subsections 999.313(c)(3)(a)-(d) work. If personal information is not maintained in a searchable or reasonably accessible format, how would the other conditions apply? When a business maintains personal information solely for legal or compliance purposes, it must maintain it in a searchable reasonably accessible format so that it can undertake its legal or compliance purposes; as a result, this condition would never be met and the exception would never apply.	No change has been made in response to this comment. As explained in the FSOR, the regulation balances the goals and purposes of the CCPA with the burden of searching unstructured data for a consumer's personal information (*i.e.*, the consumer's personal information was not maintained in a searchable or reasonably accessible format, such as a return address on a payer's check). FSOR, § 999.313(c). The exception is narrowly tailored to ensure that businesses do not abuse the exception to avoid their obligations under the CCPA. If the business is maintaining personal information for reasons other than legal or compliance purposes, as required by subsection (c)(3)(c), the personal information is not subject to this exception. This particular subsection applies a general fairness principle to ensure that a business that is unable to readily search for this personal information cannot profit or commercially benefit from that personal information. The exception is also intended to encourage data minimization principles; where a business is not required by law to maintain this information, the business can delete it to avoid the costs for searching for it. If personal information maintained for solely legal or compliance purposes is searchable and reasonably accessible, providing this information would not be overly burdensome.	W228-8 W238-10 W273-4	000172 000274-000276 000531-000533
131.	Revise the provision to include "or a	No change has been made in response to this comment. The CCPA and	W293-1	000714

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	service provider acting on behalf of the business."	proposed regulations are reasonably clear that service providers act at the direction of a business when a consumer submits a request to delete either to the business or to the service provider directly. See Civ. Code §§ 1798.105(c), 1798.140(w); § 999.314(e). Modifying the regulations to include specific language regarding a service provider would add complexity to the rules without providing identifiable benefits.		
132.	Delete this provision because it would still allow businesses to evade a consumer's right to know. For example, telephone companies would be allowed to refuse a consumer's request to know call detail records because such records are not searchable, are required by the FCC to be retained, and are not sold to third parties.	No change has been made in response to this comment. As explained in the FSOR, this provision is necessary to balance the goals and purposes of the CCPA with the burden of searching unstructured data for a consumer's personal information (i.e., the consumer's personal information was not maintained in a searchable or reasonably accessible format). FSOR, § 999.313(c). The exception is narrowly tailored to ensure that businesses do not abuse the exception to avoid their obligations under the CCPA.	W284-10	000623
133.	Provide examples of what is considered "searchable" or "reasonably accessible format."	No change was made in response to this comment. The regulation is reasonably clear and these terms have plain meanings. The regulation is meant to apply to a wide range of factual situations and across industries and whether personal information is searchable or reasonably accessible requires a fact-specific determination. The OAG does not believe additional guidance is necessary at this time and may be too limiting.	W237-6	000265
134.	Section 999.313(c)(3)(a) should be revised to apply where "the information is not directly or indirectly linked to such data in a searchable or reasonably accessible format." "Searchable or reasonably accessible format" is a technologically concerning standard as part of the basis for searching or accessing data is the computational cost of accessing it, which, generally goes down over time. This means that businesses will have to consistently re-review whether	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 regulation is narrowly tailored and focuses on whether "personal information" is maintained in a searchable or reasonably accessible format, not data. Information that is not reasonably capable of being associated with, or could reasonably be linked, directly or indirectly, with a particular consumer or household is not included in the definition of "personal information," and thus, not subject to a request to know. Civ. Code § 1798.140(o)(1). The CCPA does not require a business to reidentify or otherwise link information that is not maintained in a manner that would be considered personal information. See Civ. Code § 1798.145(k). The comment's proposed change is also not	W248-13	000365

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	information is searchable. The proposed revision places the focus is on whether the information is linked to an individual, which will not evolve over time.	as effective in carrying out the purpose of the CCPA because it could incentivize businesses to maintain personal information in a manner that is purposefully not searchable.		
135.	Expresses concern that the exception in § 999.313(c)(3) does not account for when a business does not store data in a manner that is linkable to a specific individual.	No change has been made in response to this comment. The regulation focuses on whether "personal information" is maintained in a searchable or reasonably accessible format, not data. Information that is not reasonably capable of being associated with, or could reasonably be linked, directly or indirectly, with a particular consumer or household is not included in the definition of "personal information," and thus, not subject to a request to know. Civ. Code § 1798.140(o)(1). The CCPA does not require a business to reidentify or otherwise link information that is not maintained in a manner that would be considered personal information. See Civ. Code § 1798.145(k).	W222-15 W248-30 W269-4	000110 000372 000501
136.	Revise § 999.313(c)(3)(c) to clarify that a business "does not use [personal information] for any further commercial purpose after its initial collection," since presumably a business would not collect personal information if it did not have a commercial purpose.	No change has been made in response to this comment. As explained in the FSOR, the provision balances the goals and purposes of the CCPA with the burden of searching unstructured data for a consumer's personal information (i.e., the consumer's personal information was not maintained in a searchable or reasonably accessible format, such as a return address on a payer's check). FSOR, § 999.313(c). The exception is narrowly tailored to ensure that businesses do not abuse the exception to avoid their obligations under the CCPA. Subsection (c)(3)(c) applies a general fairness principle to ensure that a business that is not able or willing to disclose this personal information to the consumer cannot profit or commercially benefit from that personal information. The exception is also intended to encourage data minimization principles; where a business is not required by law to maintain this information, the business can delete it to avoid the costs for searching for it. The comment's proposed language expands the exception in a manner not intended by the regulation. If a business is using the personal information for a commercial purpose, even if the original commercial purpose for which it was collected, the CCPA contemplates that this	W212-21	000016

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		personal information should be disclosed to the consumer. Civ. Code §§ 1798.100(a), 1798.110(a)(5).		
- § 999.313(c)(4)				
137.	Revise the provision to require the business to disclose to the consumer which particular types of information the business has collected but not disclose the specific information (for example, if a business collects a social security number it shall disclose that fact to the consumer without disclosing the specific social security number).	Accept. The provision has been modified to require the business to inform the consumer with sufficient particularity that it has collected specific types of information.	W284-11	000623-000624
138.	Delete the provision because a consumer should be able to receive a full response to their request to know.	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 because it does not address the potential risks associated with the disclosure of this sensitive information to unauthorized persons. As explained in the ISOR and FSOR, the provision balances the consumer's right to know with the harm that can result from the inappropriate disclosure of information and thereby addresses public concerns raised during the Attorney General's preliminary rulemaking activities. ISOR, p. 18; FSOR, § 999.313(c)(4). The provision also reduces the risk that a business will violate Civil Code § 1798.82 in the course of attempting to comply with the CCPA. *Id.*	W212-22	000016-000017
139.	Delete the insertion of unique biometric data. Consumers have the right to know what data is held about them so that they can make privacy decisions. What constitutes biometric data is still unclear so its inclusion is too broad and too vague to address security concerns. Businesses will be restricted from disclosure of information from pregnancy apps and	No change has been made in response to this comment. As explained in the FSOR, "unique biometric data generated from measurements or technical analysis of human characteristics" was added to reconcile the regulation with AB 1130, which added biometric data to the definition of "personal information" used in Civil Code § 1798.82. FSOR, § 999.313(c)(4). Including this category of personal information in the regulation reduces the risk that a business will violate Civil Code § 1798.82 in the course of attempting to comply with the CCPA. The OAG notes that this regulation does not use the term "biometric information,"	W212-22 W216-2	000016-000017 000044, 000046

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	wearable devices.	as defined in the CCPA, but the phrase used in Civil Code § 1798.82(h)(1)(F). In response to other comments, the regulation has been modified to clarify that a business shall inform the consumer with sufficient particularity that it has collected the type of information set forth in the regulation. This addresses the comment's concern by providing consumers with information to make privacy decisions while still protecting consumers from the harm that could result from the disclosure of sensitive personal information to unauthorized persons.		
140.	Specify that this provision only applies to unique biometric data that can itself identify the individual. As written, it could potentially prevent consumers from transferring exercise metrics and other non-identifiable health information that falls under the CCPA definition of "biometric data."	No change has been made in response to this comment. The CCPA defines "biometric information," not biometric data. See Civ. Code § 1798.140(b). As explained in the FSOR, this regulation uses the term "unique biometric data generated from measurements or technical analysis of human characteristics" to reconcile the regulation with AB 1130, which added biometric data to the definition of "personal information" used in Civil Code § 1798.82. FSOR, § 999.313(c)(4). It does not prohibit the disclosure of exercise metrics or other health information, but rather the unique biometric data that is generated from measurements or technical analysis of human characteristics.	W248-15	000366
141.	Comment supports the exclusion of biometric data, but also believes that additional data types should be excluded to allow businesses flexibility in mitigating tensions in responding to requests and the data breach statute.	No change was made in response to this comment. This comment supported the inclusion of biometric data, but the request to include other categories of exceptions was not specific enough to modify the regulations. Additionally, the exempt categories of information already included, would already mitigate businesses' obligations to avoid data breaches and the OAG is not aware of any other categories of information that would be protected from disclosure. The regulation balances the consumer's right to know with the harm that can result from the inappropriate disclosure of information. ISOR, p. 18. The provision also already reduces the risk that a business will violate another privacy law, such as Civil Code § 1798.82, in the course of attempting to comply with the CCPA. ISOR, p. 16.	W222-18	000111
142.	Amend this provision by adding at the end of the provision the language of deleted	No change has been made in response to this comment. As set forth in greater detail in the FSOR, the OAG deleted § 999.313(c)(3) because it	W233-3	000204-000205, 000223

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	§ 999.313(c)(3).	was unnecessary in light of other protections within the regulations that prevent the disclosure of personal information to unauthorized parties. See FSOR, § 999.313(c)(3); see also FSOR, §§ 999.313(c)(4), (c)(6), (c)(7), 999.323, 999.324, 999.325, and 999.326. The regulations already address the concerns raised. Accordingly, it is not necessary to add this language.		
- § 999.313(c)(5)				
143.	Fix the typographical error by replacing "doings" with "doing."	Accept. The error has been corrected.	W212-23 W233-9 W260-7 W262-14	000017 000223 000453 000466
144.	Include an acknowledgement that the CCPA permits non-disclosure when another exemption to the CCPA applies, like in the case of a privileged communication or where disclosure would violate an applicable law.	No change has been made in response to this comment. The comment's proposed change in not necessary. Modifying the regulation to add this language would add complexity to the rules without providing identifiable benefits.	W214-9	000032
- § 999.313(c)(10)				
145.	Supports the modified provision because it no longer requires businesses to link categories of personal information to sources and business purpose(s).	The OAG appreciates this comment of support. No change has been made in response to this comment. The comment concurred with the proposed regulations, so no further response is required.	W245-18	000344
146.	Revise the regulations to restore the requirement that the business disclose the required information "for each category of personal information the business has collected." The deleted requirement was within the CCPA's delegation of authority, was not any more burdensome than the burden already required by the CCPA, and did not make privacy policies too long.	No change has been made in response to this comment. The provision as amended now uses language that is consistent with the language of the CCPA. See Civ. Code §§ 1798.110(c)(1)-(4), 1798.130(a)(3)(B), 1798.130(a)(4)(A)-(B), and 1798.130(a)(5)(C)). The OAG has decided not to further modify the regulation to include these requirements at this time in an effort to prioritize guidance that operationalizes and assists in the immediate implementation of the law. The comment is noted.	W216-1 W227-3 W227-4 W227-7	000044, 000045-000046 000163-000165 000165-000166 000166-000167

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147.	Delete the requirement that the information in § 999.313(c)(10)(a) through (c)(10)(f) be broken out for each category of information collected because the requirement creates substantial additional burdens on businesses, especially if the consumer is receiving the actual information.	No change has been made in response to this comment. The comment misinterprets § 999.313(c)(10). It does not require all the information set forth in subsections (c)(10)(a) through (c)(10)(f) to be disclosed for each identified category of personal information. With respect to §§ 313(c)(10)(e) and (c)(10)(f), the disclosure of this information is required by the CCPA. See Civ. Code §§ 1798.115(a)(2), (a)(3), (b), and 1798.130(a)(4)(B), (C).	W222-13 W226-13	000110 000145
148.	Request that the OAG further refine this provision. For example, § 999.313(c)(10)(f) would appear to require a business to disclose every category of personal information shared with any party or a "service provider" under strict contractual guarantees.	No change has been made in response to this comment. The comment does not provide sufficient specificity to the OAG to make any modifications to the text. Section 999.313(c)(10)(f) is consistent with the requirements of the CCPA. See Civ. Code §§ 1798.115(a)(3), (b), and 1798.130(a)(4)(C). To the extent this comment seeks legal advice regarding the CCPA, the commenter should consult with an attorney who is aware of all pertinent facts and relevant compliance concerns.	W246-4 W271-3	000350 000514-000515
149.	Revise the provision to permit businesses not to provide each category of third parties to whom they disclosed a particular category of personal information when doing so would create a substantial, articulable risk of fraud or hinder the business's ability to comply with legal obligations, such as federal financial laws.	No change has been made in response to this comment. Civil Code § 1798.145(a) expressly states that obligations imposed by the CCPA shall not restrict a business's ability to comply with federal, state, or local laws or other legal obligations. Civil Code § 1798.196 also states that the CCPA shall not apply if it is preempted by or in conflict with federal law. As to the comment's concern about fraud, other protections within the regulations already address those concerns by preventing the disclosure of personal information to unauthorized parties. See §§ 999.313(c)(4), (c)(6), (c)(7), 999.323, 999.324, 999.325, and 999.326. Accordingly, it is not necessary to revise the regulation.	W249-3	000379
- § 999.313(d)(1)				
150.	Supports the deletion of the requirement that a request to delete that cannot be verified be treated as a request to opt-out.	The OAG appreciates this comment of support. No change has been made in response to this comment. The comment concurred with the proposed regulations, so no further response is required.	W280-9 W284-12	000597-000598 000624
151.	Supports the requirement that a business ask the consumer if they would like to opt-out if their request to delete was denied.	The OAG appreciates this comment of support. No change has been made in response to this comment. Although the OAG has moved this language from § 999.313(d)(1) to (d)(7), the comment concurred with	W284-12	000624

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		the substance of the proposed regulation, so no further response is required.		
152.	Move the requirement that a business ask the consumer if they would like to opt-out if the their request to delete was denied to (d)(2) or place as a separate section so that the requirement applies to all situations in which the request was denied, not just when the request could not be verified.	Accept. The OAG has moved this language from § 999.313(d)(1) to (d)(7) so that it applies in all situations when the request to delete is denied.	W212-24 W252-8	000017 000407
153.	The requirement that a business ask the consumer if they would like to opt-out of the sale of their personal information if it cannot verify the request to delete is inconsistent with the CCPA and lacks authority. It conflates two separate requests and requires businesses to combine two different request flows, which is burdensome. Asking if they would like to opt-out is still essentially an automatic opt-out of sale. Businesses should only act upon requests when consumers express a clear preference. Comments suggest requiring the business to direct the consumer to their privacy policy or notice of opt-out that explains how to exercise their privacy rights instead of having to affirmatively ask if they would like to opt-out.	No change has been made in response to this comment. The regulation is consistent with the language, structure and intent of the CCPA, which does not require requests to opt-out to be verified and allows the consumer to prevent the proliferation of their personal information in the marketplace even if the business is allowed to retain it. See Civ. Code §§ 1798.120, 1798.135. The OAG also has authority to draft this regulation pursuant to Civil Code § 1798.185(a)(7) and (b). The OAG disagrees that the regulation conflates two separate requests or results in an automatic opt-out. The regulation, now § 999.313(d)(7), clearly states that the business simply needs to ask the consumer if they would like to opt-out and provide the notice of opt-out, which includes the form by which the consumer can submit their request. The consumer still needs to affirmatively submit the request to opt-out.	W222-19 W226-19 W262-15 W289-8	000112 000149 000466 00648
154.	It is unreasonable to require businesses to offer opt-out rights to individuals whose identity could not be verified. Although requests to opt-out need not be verified, §	No change has been made in response to this comment. The regulation is consistent with the language, structure and intent of the CCPA, which does not require requests to opt-out to be verified and allows the consumer to prevent the proliferation of their personal information in	W245-19 W248-8 W270-11	000344 000364 000509

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	999.315(h) permits a business to deny an opt-out request if it has a reasonable, documented belief that an opt-out request is fraudulent. Businesses should only act upon requests when consumers express a clear preference.	the marketplace even if the business is allowed to retain it. See Civ. Code §§ 1798.120, 1798.135. The regulation, now § 999.313(d)(7), clearly states that the business simply needs to ask the consumer if they would like to opt-out and provide the notice of opt-out, which includes the form by which the consumer can submit their request. The consumer still needs to affirmatively submit the request to opt-out, expressing their clear preference. If the business has a good-faith, reasonable, and documented belief that the request to opt-out is fraudulent, the business can address it at that time.		
155.	Restore the provision to its original language because not requiring businesses to treat an unverified deletion request as an opt-out request creates an additional hurdle to jump through for consumers who are at bottom seeking to have their information out of a company and an online ecosystem.	No change has been made in response to this comment. As stated in the FSOR, the provision was modified because converting requests to delete into requests to opt-out may be inconsistent with consumer intent and the CCPA, and may trigger other requirements that may cause operational problems for the businesses. FSOR, § 999.313(d)(1). Instead, the regulations have been modified to include § 999.313(d)(7), which requires businesses to ask the consumer if they would like to opt-out of the sale of their personal information if they deny the consumer's request to delete.	W256-4	000431, 000440
- § 999.313(d)(2)(c)				
156.	Define "consumer information." It is unclear.	No change has been made in response to this comment. The regulation is reasonably clear and consistent with the language, structure, and intent of the CCPA. The modification was made to make the regulation consistent with language used in the CCPA. Civil Code § 1798.140(a) defines "aggregate consumer information," and Civil Code § 1798.145(a)(5) refers to "aggregate consumer information."	W262-16 W270-12	000466-000467 000509
157.	Opposes aggregating consumer information as a method of deleting personal information, and thinks there is a misplaced "the."	No changes made in response to this comment. The regulation as modified is consistent with the language, structure, and intent of the CCPA. As defined, "'personal information' does not include consumer information that is … aggregate consumer information." Civ. Code § 1798.140(o)(3). Civil Code § 1798.145(a)(5) states that "the obligations imposed on businesses by this title shall not restrict a business' ability to: collect, use, retain, sell, or disclose consumer information that is … in the	W212-25	000017-000018

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		aggregate consumer information." As a result, the CCPA does not apply to information that is not "personal information" and aggregate consumer information. In addition, the OAG uses the word "the" in this section to make the regulation readable; subsections 999.313(a), (b), and (c) all begin with verbs, whereas the defined term "aggregate consumer information" is a noun. Thus "aggregating the consumer information" is equivalent in its meaning to "aggregate consumer information."		
- **§ 999.313(d)(3)**				
158.	Supports this provision as amended.	The OAG appreciates this comment of support. No change has been made in response to this comment. The comment concurred with the proposed regulations, so no further response is required.	W212-26 W279-3 W289-9	000018 000591 000648
159.	Clarify that deletion of information in an archived or back-up system is only required when the information is restored and accessed or used for sale, disclosure, or commercial purpose. Restoring systems quickly is vital to prevent negative consequences for the business, its customers, and employees. To require a business to restore systems and reconcile with deletion records is an unnecessary obstacle to the resumption of normal operations.	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 because it allows a business to use consumer personal information stored in archived and back-up systems. The OAG has made every effort to limit the burden of the regulations while implementing the CCPA. In drafting these regulations, the OAG has considered the interests of consumers with the potentially burdensome costs, and technical feasibility, of deleting information from archived and backup systems that may never be restored to an active system or used for a sale, disclosure, or commercial purpose. ISOR, p. 26. Archived and back-up systems are not and should not be exempted from a business's deletion requirement, as a business could then negate the consumer's right to delete by using personal information stored in archived or back-up systems.	W214-10	000032
160.	This subsection should be amended to apply the exemption in § 999.313(c)(3)—that, in responding to a request to know, a business is not required to search for personal information is all the conditions of § 999.313(c)(3)(a)-(d) are met—to a request to delete, and also further exclude	No change has been made in response to this comment. The comment's proposed change to limit businesses' search obligations in order to respond to requests to delete is not as effective in carrying out the purpose and intent of the CCPA because it would allow businesses to maintain, use, or share data that they do not disclose to consumers in response to a request to delete, which is contrary to the purpose and intent of the CCPA. In addition, the comment's proposed change does	W222-15	000110

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	from a request to delete personal information that is not routinely linked to an individual consumer.	not fall within any enumerated exception provided for by the CCPA. Civil Code § 1798.105(d) sets forth when a business or a service provider shall not be required to comply with a consumer's request to delete. Civil Code § 1798.145(k) does not require a business to "reidentify or otherwise link information that is not maintained in a manner that would be considered personal information." However, to the extent personal information is not "routinely" linked to a consumer may be fact-specific and require consultation with an attorney.		
161.	Delete "restored to an active system" and insert "or within a reasonable period of time, not to exceed 1 year, that data is restored to an active system." Instantaneous compliance would be very difficult, if not impossible, to achieve.	No change has been made in response to this comment. The provision already allows a business to delay deleting from an archive or back-up system. The comment's proposed change is not more effective in carrying out the purpose and intent of the CCPA because it would allow a business to use personal information restored from an archive of back-up system business for up to a year and thus negate the consumer's right to delete during that time. Archived and back-up systems are not and should not be exempt from a business's deletion requirement under Civil Code § 1798.105(c), which requires a business that receives a verifiable consumer request to delete personal information to delete the consumer's personal information from its records.	W270-13	000509
162.	Revise the provision so that deletion of information in an archived or back-up system is required when the archived or backup system relating to that data is "restored to an active system for continued commercial use or used for a sale, disclosure, or commercial purpose." There may be routine reasons that data is restored for backup systems for disaster recovery, systems testing, business continuity, or change in location of the archive or backup system, without the data shifting to production status for	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 because it allows a business to use consumer personal information stored in archived and back-up systems. In drafting these regulations, the OAG has considered the interests of consumers with the potentially burdensome costs, and technical feasibility, of deleting information from archived and backup systems that may never be restored to an active system or used for a sale, disclosure, or commercial purpose. ISOR, p. 26. Archived and back-up systems are not and should not be exempted from a business's deletion requirement under Civil Code § 1798.105(c), as a business could then negate the consumer's right to delete by using personal information stored in archived or back-up systems. In requiring the archive or back-up system to be restored	W293-2	000714-000715

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	future use.	"to an active system," the regulation already addresses the concern raised.		
- **§ 999.313(d)(5)**				
163.	Requiring a business to disclose that it will maintain a record of a deletion request "as allowed by Civil Code § 1798.105, subdivision (d)" is unnecessary and lacks authority because the CCPA does not reference retention.	Accept in part. The OAG has modified the provision to correct the citation from Civil Code § 1798.105(d) to § 999.317(b). The rest of this comment is now moot.	W262-17	000467
164.	Revise the provision to place a retention limit on these records kept by a business because: (1) keeping a suppression record indefinitely is not a convincing reason to maintain the information, especially in light of data breaches; and (2) the very fact of having a record can reveal more about a person than they might like others to know.	No change has been made in response to this comment. The OAG has not addressed this issue at this time in an effort to prioritize drafting regulations that operationalize and assist in the immediate implementation of the law. The regulations also already address the concern regarding reasonable security procedures and practices in maintaining records. See § 999.317(b).	W219-8	000079
165.	Revise the last sentence so that a business may retain a record of the request for the purposes of "demonstrating compliance with the request to delete." Otherwise, the last sentence implies an obligation to ensure that a consumer's personal information remains deleted from the business's records.	No change has been made in response to this comment. The OAG disagrees with the commenter's interpretation of the regulation. The regulation permits, but does not require, a business to retain a record of the request for the purpose of ensuring that the consumer's personal information remains deleted from the business's records, such as in the form of a suppression list. The comment's proposed change is not more effective in carrying out the intent and purpose of the CCPA because it is contradicts § 999.317(g), which requires a business to maintain records of consumer requests made pursuant to the CCPA and how the business responded to said requests for at least 24 months.	W236-9 W250-10 W252-9	000258-000259 000385, 000392 000407
- **§ 999.313(d)(6)**				
166.	Delete § 999.313(d)(6)(a) because it is confusing and onerous. If a business	No change has been made in response to this comment. The regulation is reasonably clear and not onerous because it does not impose	W228-9	000172-000173

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	deletes information that does not fall into one or more exceptions, but keeps information it is permitted to retain under the CCPA, it has complied with the request. If a business after a review of searchable databases, determines that it does not hold personal information of the consumer in such databases, the business has not denied the request.	additional requirements beyond those already required by the CCPA. Civil Code § 1798.145(i)(2) requires a business that does not take action on a request to inform the consumer, without delay, and at least within the time period permitted, of the reasons for not taking action and any rights the consumer may have to appeal the decision to the business. Correspondingly, the § 999.313(d)(6) requires a business to inform the consumer when it has not complied with the consumer's request in whole or in part. If a consumer makes a request to delete and a business does not delete the consumer's information in its entirety, then the business is to explain why.		
167.	Delete § 999.313(d)(6)(a) because the modification still does not work in practice because a business that does not provide a specific basis for a denial because of a legal restriction would effectively be revealing that such a restriction exists. Instead, allow businesses to be more general in their explanation about the reason a request may have been denied.	No change has been made in response to this comment. The OAG disagrees that not providing a specific basis for a denial would reveal that such a restriction would exist. No other comments have raised similar concerns about such a possible interpretation. As explained in the ISOR and FSOR, this regulation is necessary to provide consumers transparency into the business's practices particularly when their statutory right is being denied, and provides them with an opportunity to cure or contest the denial. ISOR, p. 20; FSOR, § 999.313.	W266-5	000489
§ 999.314. Service Providers				
- § 999.314(a)				
168.	The comment supports the change to "business" from "person or entity."	The OAG appreciates this comment of support. No change has been made in response to this comment. The comment concurred with the proposed regulations, so no further response is required.	W212-28	000018
169.	Delete and/or amend this subsection because it is not clear and/or exceeds statutory authority because it expands the definition of "service provider." For example, the subsection raises the question of whether a government agency is considered "a person or organization" such that personal information a business	No change has been made in response to this comment. The CCPA created an unintended result in that service providers to non-businesses may have been treated as a regulated business, subjected to the full panoply of CCPA obligations unlike either a non-business or service provider to a business. Treating a "non-business service provider" as a business would not support the purpose and intent of CCPA, as it would expose otherwise exempt personal information to access and deletion requests or force service providers to create unique, burdensome	W232-1 W240-4	000200-000201 000284-000285

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	may be holding or processing on behalf of a government agency would come within the CCPA and the regulations.	systems for compliance. To address this problem, the OAG drafted this subsection to impose the CCPA's and proposed regulations' obligations for service providers on those providing services to non-businesses. FSOR, § 999.314.		
170.	Amend this subsection, which weakens the CCPA by shielding businesses handling government data from responding to consumers' requests to know or delete personal information collected by the government. The commenter posits that the CCPA "was ***always*** intended to cover businesses that ***processed*** government data—as that presented the only way to get a glimpse into what governments are doing in so many areas, FOIA notwithstanding." As a result, for example, the CCPA permitted a consumer to learn whether the local police department was using a company to monitor that consumer or whether the federal government was surveilling the consumer. This proposed regulation would do almost exactly the same as AB 1416, a bill the legislature rejected. The comment proposes that access and deletion requests could be limited to those where a consumer identifies a specific non-business.	No change has been made in response to this comment. The comment posits that the CCPA "was always intended to cover businesses that processed government data" but provides no information regarding the legislature's intent and no provision of the CCPA directly addresses processing personal information on behalf of a government entity. Nor does the existing text of the CCPA manifest an intent to allow consumers to access public information collected by a public or non-profit entity that is merely held or processed by a business on behalf of that public or non-profit entity. The CCPA neither allows consumers to submit requests to a public or non-profit entity, nor does it require said entities to disclose the businesses to whom they have shared personal information in a privacy policy. Thus, it is illogical to contend that the CCPA was "always intended" to allow requests to be submitted to such businesses. California law instead has a separate and distinct legal regime to access information held by public entities, including requirements and exceptions that differ from the CCPA. See, e.g., Gov. Code § 6250 et seq. In addition, California law does not provide a right to delete information held by a public entity, nor does it provide a right to access personal information held by non-profits. Moreover, Civil Code § 1798.145 states that the obligations imposed by the CCPA shall not restrict a business's ability to comply with federal, state, or local law, and Civil Code § 1798.196 states that the CCPA shall not apply if it is preempted by or in conflict with federal law. Accordingly, the OAG has exercised its discretion to treat those providing services to public and non-profit entities as CCPA-defined "service providers." Without this clarification, public and non-profit entities may not be able to employ service providers, which would either stifle the provision of public or charitable services or cause them to incur unnecessary public expense to	W212-29	000018-000020

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		perform operations internally. As explained in the ISOR, this regulation was drafted in response to public comments that highlighted how the absences of the rule would lead to unintended and absurd results. Indeed, "without this subdivision, entities that process personal information on behalf of non-profit and government agencies in accordance with a written contract may be required to comply with consumer requests even when those non-profits and government entities in ultimate control of the information are not required to do so." ISOR, p. 21. For example, service providers that store grades or other records for school districts would be required to disclose and/or delete those records in response to consumer requests because they would be treated as a "business" and not a "service provider." As another example, cloud storage providers would be required to disclose personal information maintained by an agency, despite the fact that such files may be expressly exempt from disclosure under the Public Records Act. Although the comment acknowledges that there are "substantial public policy questions that need to be resolved with respect to service providers to person or organizations that are not businesses," the comment's proposed alternative does not sufficiently address these concerns. Moreover, a business that qualifies as a service provider does not "escape the reach of the CCPA" because the business must have a contract with a non-profit or public entity that restricts any secondary retention or use of personal information outside of providing services to the specific entity that directed the collection of personal information on its behalf. In many circumstances, the restrictions imposed by the CCPA and regulations on service providers provide greater protections to consumers than if such entities were businesses. In addition, § 999.314(f) expressly provides that a service provider that is a business must comply with the CCPA and these regulations with regard to any personal information that it collects, maintains, or sells outside of its role as a service provider.		

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		Finally, the references to the fate of AB 1416 are unpersuasive. A later bill may not become law for a variety of reasons. Furthermore, the thrust of AB 1416 appears to have been to allow businesses to "[p]rovide a consumer's personal information to a government agency solely for the purposes of carrying out a government program," rather than a business providing services to a public or non-profit entity pursuant to a contract and in compliance with the restrictions set out in the CCPA and § 999.314(c).		
171.	Revise this subsection to exempt service providers to a non-business.	No change was made in response to this comment. The suggested language is overly broad, whereas the proposed regulation is consistent with the text, structure, and intent of the CCPA, which by its terms applies to businesses. The service provider may have separate obligations under the CCPA because it may also be a business. The regulation was modified in response to other comments so that only businesses, otherwise subject to CCPA, will be deemed to be a service provider under the applicable circumstances. To the extent that the business is servicing a non-business, this regulation substantially reduces the burden and unintended consequences to the business providing services to a non-business.	W274-9 W287-1	000546 000636-000637
172.	Amend § 999.314(a) and (b) to use a term "business" other than business. This is confusing because the CCPA defines the term business to mean something specific.	No change was made in response to this comment. Section 999.301 states that the regulations adopt the definitions set forth in Civil Code § 1798.140 and in § 999.301. "Business" is defined in Civil Code § 1798.140(c), and thus, any references to the term "business" in the regulations adopt this definition.	W236-10	000259
173.	Revise the last clause to insert "that business": "that business shall be deemed a service provider for purposes of the CCPA and these regulations." The subsection is not clear regarding which entity "shall be deemed a service provider for purposes of the CCPA and these regulations."	No change has been made in response to this comment. The subsection is grammatically correct and clear that the last clause applies to the "a business" at the beginning of the subsection.	W293-3	000715

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- § 999.314(b)				
174.	Proposes that the "entity" should be used instead of "second business." The phrase "second business" is confusing and alters the requirements or obligations for service providers that do not meet the CCPA definition of "business."	No change was made in response to this comment. No change is necessary because the CCPA defines the different corporate entities that may be a service provider in Civil Code § 1798.140(v). Section 999.314(b) incorporates those requirements by reference into the requirements and obligations of a service provider. As explained in the ISOR and FSOR, § 999.314(b) is intended to resolve an ambiguity within the CCPA where the definition of service provider presumes that the business always collects the personal information and discloses it to the service provider. ISOR, p. 21; FSOR, § 999.314(b). It clarifies that service providers can collect personal information directly from the consumer on the businesses' behalf and still fall within the definition of service provider.	W236-10 W257-2 W270-15	000259 000444 000519
175.	Requests modification of regulation to ensure that a business directed to collect personal information about a consumer by another business on its behalf may still be deemed a service provider.	Accept.	W286-1	000633
- § 999.314(c)				
176.	Proposes adding that service providers cannot also "collect" personal information, in addition to using, disclosing, or retaining it, unless allowed by § 999.314(c)(1)-(5). This proposed addition would be consistent with Civil Code § 1798.140(t)(2)(C)(ii) and would ensure that the personal information would be useless to the service provider except as set forth in the rest of § 999.314(c)(1)-(5).	No change was made in response to this comment. The proposed modification is not necessary because the limitations imposed on service providers in using, retaining, and disclosing personal information by this regulation, as well as Civil Code § 1798.140(t)(2)(C)(ii), sufficiently address the comment's concern. Service providers are already prohibited from retaining or using personal information except for the purposes set forth in § 999.314(c); adding "collect" is therefore not necessary. The proposed modification is superfluous.	W212-30	000020
177.	Add language to § 999.314(c) to make clear the service providers cannot combine data across clients, such as personal information received from a business and	No change was made in response to this comment. Civil Code § 1798.140(t) and (v) and § 999.314(c) already prohibit service providers from using personal information for their own commercial purposes and from making personal information collected from one client available to	W219-3	000072-000073

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	personal information received from its own interactions with consumers. Allowing companies to claim that they are service providers for everyone swallows the rules and lets third parties amass huge, cross-site data sets.	a different client for uses that are not on behalf of the first client. The comment's proposed change is not necessary, and may be overly broad, and the OAG has determined that the current regulation sufficiently addresses the comment's concern, while narrowly permitting some internal use.		
178.	Encourages the OAG to state in the FSOR that § 999.314(c) should be interpreted as meaning that "processing of the personal information as permitted in the written contract is a 'notified purpose' permitted under the statute's 'business purpose' definition."	No change was made in response to this comment. The OAG does not understand what this comment means and cannot agree to any such interpretation. The comment's proposed interpretation that any "notified purpose" would be permissible under § 999.314(c)(1) would be inconsistent with the language, structure, and intent of the CCPA because it would be overbroad in allowing a service provider to contract around the statutory restrictions that the notified purpose be reasonably necessary and proportionate, as well as the prohibition on the use of personal information for a commercial purpose other than providing the services specified in the contract. See ISOR, p. 22; FSOR, § 999.314.	W235-7	000251
179.	Comments claim that the proposed restrictions on service provider use or retention of personal information are narrower than what is permitted by the CCPA and unnecessarily restrictive.	No change was made in response to these comments. The OAG disagrees with the comment's interpretation of the CCPA. As explained in the ISOR and FSOR, the regulation is consistent with the language, structure, and intent of Civil Code § 1798.140(d), (f), (t), and (v), and necessary to ensure that the service provider relationship is not used to undermine the consumer's right to opt-out of the sale of their personal information. See ISOR, p. 22; FSOR, § 999.314.	W265-4 W270-14	000483 000509-000510
180.	Modify § 999.314(c) to allow service providers to use personal information to the same extent that the Federal Trade Commission's COPPA Rule allows sharing a minor's personal information for "support of internal operations." The comment appears to be concerned that § 999.314(c)(3)'s reference to "internal use" is narrower than the COPPA Rule's	No change was made in response to this comment. The comment appears to misinterpret § 999.314(c)(3), which pertains to restrictions on the use of personal information for the service provider's internal use, not the business's "internal use." The CCPA, as well as § 999.314(c)(1), explicitly allow a business to share personal information with a service provider who is supporting the internal operations of the business provided that it is for a business purpose and pursuant to a written contract. See Civ. Code § 1798.140(d), (v). Accordingly, there is no need to modify the regulation.	W276-1	000561-000563

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	definition of "support for internal operations."			
181.	The comment supports the modification of the regulation in § 999.314(c)(1).	The OAG appreciates this comment of support. No change has been made in response to this comment. The comment concurred with the proposed regulations, so no further response is required.	W280-5	000596-000597
182.	The comment argues that while § 999.314(c)(1) is a major improvement, the comment expresses concern that the OAG's "apparent refusal to clarify the definition of what constitutes a sale and what is 'other valuable consideration,'" and notes that "it would be useful to have the definitions of 'sale' and 'valuable consideration' clarified in the context of service providers."	No change was made in response to this comment. There is no need to clarify the definition of "sale" because it is defined by the statute. Civ. Code § 1798.140(t). Personal information provided to a service provider is not considered a "sale." Civ. Code § 1798.140(t)(2)(C). Additionally, subsection (c) allows service providers to use, retain, and disclose personal information in the course of providing services to the business, as long as they are complying with a contract that meets the CCPA's requirements. With regard to the meaning of "valuable consideration," the CCPA's use of the terms "valuable" and "consideration" are reasonably clear and should be understood by the plain meaning of the words.	W280-5	000596-000597
183.	Modify the regulation to allow service providers to "give required notice[s] to consumers" pursuant to the service provider contract.	No change was made in response to this comment. It is not necessary to modify the regulations because nothing in the CCPA or § 999.314 prohibits service providers from giving a consumer notice on behalf of a business. Modifying the regulation to include this language would add complexity to the rule without providing identifiable benefits.	W280-6	000597
184.	The comments propose or assume that service providers should be allowed to build consumer profiles or correct or augment data. Some comments note that this results in businesses using incorrect information and will not benefit consumers.	No change was made in response to these comments. Section 999.314(c) does not prohibit the building or modifying household or consumer profiles when providing services to the business that collected or directed the collection of the personal information pursuant to a written contract. As explained in the FSOR, the limitation in subsection (c)(3) is to protect consumers from businesses innovating services for the commercial benefit of the service provider by selling, which includes making available for monetary or other valuable consideration, consumer personal information to multiple businesses. FSOR, § 999.314(c). Making personal information available to other businesses would ignore a consumer's right to prevent the sale of their personal	W214-11 W228-11 W229-7 W233-4 W247-1 W257-1 W266-2 W267-5 W277-8	000033 000173 000184 000205-000206 000227 000353-000355 000444 000488 000495

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		information. Subsections (c)(1) and (c)(3), when read together, appropriately balance allowing service providers to provide robust, innovative services to the business with a direct relationship with the consumer, while at the same time protecting consumers from having their personal information functionally made available (*i.e.*, sold) to other businesses that had not collected the personal information.		
185.	Remove § 999.314(c)(3). This is a loophole that is not supported by the text of the CCPA and that service providers may exploit.	No change was made in response to this comment. The OAG disagrees with the comment's interpretation of the CCPA. As explained in the FSOR, the regulation is consistent with the language, structure, and intent of Civil Code §§ 1798.140(d), (f), (t), and (v), which provide that service providers may process personal information on behalf of a business that provided the personal information, but not for a separate commercial purpose. FSOR, § 999.314(c). Civil Code § 1798.140(d)(6) includes "[u]ndertaking internal research for technological development and demonstration" in the definition of "business purpose." Both the CCPA and the regulation supports allowing service providers to use the personal information to build and improve their services within specific limits. The limitations provided in this regulation address the comment's concern that service providers may exploit this exception.	W277-8 W284-13	000578-000579 000624-000625
186.	The terms "cleaning" and "augmenting" need to be clarified or deleted.	Accept in part. The term "cleaning" has been replaced by "correcting." As modified, the regulation is reasonably clear and should be understood from the plain meaning of the words.	W217-5 W221-8 W223-1 W248-35 W266-7 W273-5 W280-6	000062 000102 000115 000374 000490 000533-000535 000597
187.	Supports the clarification that service providers can use personal information obtained from a business to improve the quality of their services and products.	The OAG appreciates this comment of support. No change has been made in response to this comment. The comment concurred with the proposed regulations, so no further response is required.	W250-1	000384
188.	Supports the revision but is concerned that the phrase "…or cleaning or augmenting	No change has been made in response to this comment. The comment does not provide any information to support its claim that there will be	W251-1	000399-000400

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	data acquired from another source" will have unintended impacts on platform business models, where product improvement data is derived from multiple customers' use of the same platform. The language is over-inclusive in that it forbids augmenting data rather than only personal information. Comment also suggests that service providers be restricted from using personal information for re-identifying any previously de-identified information.	unintended impacts on platform business models. To the extent that the comment raises a concern about service providers re-identifying any previously de-identified information, the regulation already addresses this concern by prohibiting service providers from correcting or augmenting data acquired from another source. See FSOR, § 999.314. Accordingly, there is no need to modify this regulation.		
189.	Replace § 999.314(c)(1)-(5) with the text initially proposed that prohibited using personal information collected from one business when providing services to another. Service provider contracts could be drafted broadly to allow all sorts of uses not intended by the CCPA.	No change was made in response to this comment. As explained in the FSOR, subsection (c), as amended, is necessary to allow for the robust provision of services as the CCPA intended, while protecting consumers from businesses exploiting the service provider role to pool and share personal information. FSOR, § 999.314(c). The CCPA and the regulations already address the comment's concern about broadly drafted service provider contracts by requiring that the contract comply with the requirements in § 1798.140(v) and by prohibiting the service provider from retaining, using, or disclosing the personal information for a commercial purpose other than providing the services specified in the contract. Civ. Code § 1798.140(d), (f), (v); § 999.314(c)(1).	W256-6	000431, 000440-000441
190.	The comment requests delayed enforcement to allow for additional time to alter contracts to comply with the addition of subsection (c)(3), which may be more restrictive than the statutory definition of service provider.	No change has been made in response to this comment. Subsection (c)(3) is not more restrictive than the CCPA. Subsection (c)(3) is a reasonable interpretation of the various provisions in the CCPA that intend to protect consumers and limit how service providers can use, disclose, and retain personal information for purposes other than providing services to the business that collected or directed the collection of the personal information. With regard to the request for delayed enforcement, the OAG has considered and determined that delaying the implementation of these regulations is not more effective in carrying out the purpose and intent of the CCPA. The proposed rules,	W269-8	000503

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		including the provisions on service providers, were released on February 10, 2020, with some modifications on March 11, 2020. Thus, businesses have been aware that these requirements could be imposed as part of the OAG's regulations. To the extent that the regulations require incremental compliance, the OAG may exercise prosecutorial discretion if warranted, depending on the particular facts at issue. Prosecutorial discretion permits the OAG to choose which entities to prosecute, whether to prosecute, and when to prosecute. But see Civ. Code § 1798.185(c) (enforcement may not begin until July 1, 2020). Thus, any regulation that delays implementation of the regulations is not necessary.		
191.	The comment objects to the restriction against transportation or delivery service providers' use of shipping information for delivery planning and optimization or to correct addresses or augment other information.	No change has been made in response to this comment. No change is necessary because the comment notes that package shippers and similar entities may be businesses, not service providers, and the disclosure of personal information to them is at the direction of a consumer that provided the address information and therefore is not a sale under the CCPA. See Civ. Code § 1798.140(t)(2)(A). Under that situation, the CCPA prohibits the recipient from selling the information, but imposes no limitation on making internal improvements.	W290-2 W290-3	000654, 000656-000658 000658-000659
192.	The comment proposes modifying subsection (c)(3) to state that service providers can use a third party to help develop or improve services and expressly allow for using artificial intelligence or machine learning.	No change has been made in response to this comment. The comment does not provide any explanation or information to support the suggested modification to the regulation. As explained in the FSOR, § 999.314(c)(2) already allows service providers to retain and employ another service provider as a subcontractor provided that the subcontractor meets the requirements for a service provider under the CCPA and these regulations. FSOR, § 999.314(c). Thus, the proposed modification is not necessary.	W299-2	000751
193.	Modify this subsection so that service providers may retain, use, or disclose personal information to not only detect, but also investigate, data security incidents. Clarity may be needed so that	No change has been made in response to this comment. The phrase "detect security incidents" can reasonably be interpreted to include performing the necessary investigation to detect the security incident. The comment notes that investigation is part of the detection process.	W293-4	000715-000716

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	service providers may investigate security incidents.			
194.	The comment proposes that service providers should be granted the exception in Civil Code § 1798.145(a)(5), so service providers can collect and use de-identified and aggregated information.	No change has been made in response to this comment. Section 999.314(c) imposes limitations on service providers' use of "personal information," which is expressly defined to exclude de-identified or aggregate consumer information. Civ. Code § 1798.140(o)(3). Thus, the proposed modification is not necessary.	W251-2	000400
- § 999.314(d)				
195.	Comments propose that a service provider should not have an independent obligation apart from complying with instructions it receives from the business. Service providers do not have a direct relationship with the consumer.	No change has been made in response to this comment. As stated in the FSOR, subsection (d) was added to ensure that service providers retained by a business to sell personal information on behalf of that business must comply when informed by the business that the consumer has made a request to opt-out. FSOR, § 999.314(d). It was also added to clarify that a business cannot ignore requests to opt-out by employing a service provider to process the actual sale of personal information. It is not necessary to modify the regulation as proposed by the comments because the business may contractually allow service providers to directly act in response to a request from a consumer. Modifying the regulation to include this level of detail would add complexity to the rules without providing identifiable benefits.	W223-2 W251-3 W284-14	000115-000116 000400 000625
196.	Delete or modify subsection (d). Service providers cannot be prohibited from selling data because Civil Code § 1798.140(t)(2)(C) exempts them from the definition of sale.	No change has been made in response to this comment. The comment misinterprets this subsection. This subsection does not prohibit a business from sharing personal information with a service provider in compliance with Civil Code § 1798.140(t)(2)(C) but prohibits a service provider from selling personal information on behalf of a business after a consumer submits a request to opt-out. It is not necessary to modify the subsection.	W233-5	000206, 000227
197.	Tighten language in subsection (d): "If a consumer has opted out of the sale of their data, a company shall not share personal data with a service provider for the purpose of delivering cross-context	No change has been made in response to this comment. Civil Code § 1798.140(t)(2)(C) allows a business to share personal information with a service provider, without it being deemed a sale subject to a consumer's opt-out, so long as this sharing is necessary to perform a business purpose and certain legal requirements are also met. § 999.314(d) then	W219-2	000072

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	behavioral advertising. 'Cross-context behavioral advertising' means the targeting of advertising to a consumer based on the consumer's personal information obtained from the consumer's activity across businesses, distinctly-branded websites, applications, or services, other than the business, distinctly-branded website, application, or service with which the consumer intentionally interacts."	prohibits the service provider from selling that personal information if a consumer has opted out with the business that the service provider supports. § 999.314(c) also limits how a service provider may use, retain, or disclose that personal information. Depending on the fact-specific context, the comment's characterization of cross-contextual advertising may be prohibited by these and other provisions. Further modification of the regulation is unnecessary.		
- § 999.314(e)				
198.	This comment supports the modifications to this subsection.	The OAG appreciates this comment of support. No change has been made in response to this comment. The comment concurred with the proposed regulations, so no further response is required.	W212-31	000020
199.	Modify this subsection to prohibit service providers from responding to consumer requests on a business's behalf either entirely or at least without the business's express permission. Businesses need to be in control of consumer's personal information.	No change has been made in response to this comment. Nothing in this subsection prohibits businesses from requiring their service providers to act or not act on their behalf in response to a consumer request, which can be included in the terms of the contract that is required by CCPA as opposed to this regulation. Modifying the regulation to include this level of detail would add complexity to the rules without providing identifiable benefits.	W214-12 W248-34 W249-4 W289-11 W293-5	000033 000374 000379-000380 000648 000715-000716
200.	Modify this subsection to not require service providers to respond to consumer requests. Service providers are not in an appropriate position to give substantive information to consumers.	No change has been made in response to this request. Section 999.314(e) does not require a service provider to give the consumer any substantive information. It simply provides that a service provider inform the consumer that the request cannot be acted upon because it was a sent to a service provider. As explained in the FSOR, this minimal obligation to inform the consumer is necessary to let consumers know that their request was received. See FSOR, § 999.314(e).	W248-34	000374

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§ 999.315. Requests to Opt-Out				
- § 999.315(a)				
201.	Delete or modify language in regulation mandating a toll-free number be one method of submission of requests to know. Such numbers are costly.	No change has been made in response to this comment. Civil Code § 1798.130(a)(1) mandates the toll-free number. The cost is thus imposed by the CCPA, not this subsection. The comment proposes a regulation in conflict with the CCPA.	W277-11	000580-000081
202.	Require all businesses to respond to user-enabled global privacy controls ("Do Not Track") by moving that method from 315(a) to a new 315(b) because the controls are 1) less burdensome for consumers that want to opt-out, 2) beneficial for website operators and third-party companies as the consumers can directly notify both of their preferences, 3) compatible with existing technologies such as Do Not Track and headers, and 4) useful because they are device-specific rather than consumer-specific.	No change has been made in response to this comment. Section 999.315(d) requires a business that collects personal information from consumers online to treat user-enabled global privacy controls as a valid request to opt-out; to the extent the comment proposes a broader application (by inserting language into § 999.315(b)) to include businesses that have an online presence but do not collect personal information, this may be too burdensome. The OAG appreciates the comment of support, but notes that the regulations do not prescribe a particular mechanism or technology. Instead, the regulations are technology neutral in support of innovation in privacy services to facilitate consumers' exercise of their right to opt-out. The regulations do not prohibit a business from responding and respecting a user's "do not track" signal, which communicates via a setting in a user's browser that the user requests that third parties stop tracking online activity. The business has discretion to treat a "do not track" signal as a useful proxy for communicating a consumer's privacy choices to businesses and third parties.	W216-4	000049-000057
- § 999.315(c)				
203.	Support regulation for responding to concerns about business processes impairing consumer choices. Urges the OAG to monitor implementation.	The OAG appreciates this comment of support. No change has been made in response to this comment. The comment concurred with the proposed regulations, so no further response is required. The OAG notes the comment's concern about monitoring implementation.	W212-33 W242-2	000021 000291-000292
204.	Proposes new subsection: "Where a business has utilized a user-enabled privacy control, such as a privacy or device	No change has been made in response to this comment. The CCPA and the regulations require a business to provide two or more designated methods for submitting requests to opt-out. Civ. Code	W251-5	000401, 000403

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	setting, the business may instruct consumers who submit an opt-out request via other methods regarding how to modify the relevant setting. Continued operation of the prior privacy or device setting before the consumer changes the prior setting is not considered a subversion or impairment of the consumer's decision to opt out."	§ 1798.130(a)(1)(A); § 999.315(a). To allow a business to continue to sell the personal information of consumers who have submitted an opt-out request but before they have utilized their user-enabled control would be inconsistent with the CCPA and regulations. This proposed language is also unnecessary given the existing requirement that the business make the opt-out procedure easy for consumers, involving a minimal number of steps.		
205.	Remove the terms "easy" and "minimal," as they are too subjective and may encourage frivolous consumer challenges.	No change has been made in response to this comment. As discussed in the FSOR, the regulation is necessary to effectuate the purpose of the CCPA, namely that consumers can promptly and simply opt-out of the sale of their personal information. FSOR, § 999.315(c). This performance-based regulation is reasonably clear and should be understood from the plain meaning of the words.	W262-19 W265-5 W270-16	000468 000483 000510
206.	Supports the regulation clarifying that opt-outs should be easy for consumers to execute. Recommends adding language to require a business to notify any third parties that collect PI on the business's platform, service or physical location, that the consumer has opted-out.	The OAG appreciates this comment of support. No change has been made in response to this comment. The comment concurred with the proposed regulations, so no further response is required. Regarding the proposal on notification of third parties, § 999.315(f) already addresses the obligations a business has with regard to notifying third parties of the consumer's request to opt-out. See FSOR, § 999.315(f).	W284-15	000625-26
- § 999.315(d)				
207.	Modify the subsection to treat the existing "do not track" browser setting as a "do not sell" signal. This infrastructure is already built and in use by millions of consumers.	No change was made in response to this comment. The regulations do not prescribe a particular mechanism or technology but is technology neutral in support of innovation in privacy services to facilitate consumers' exercise of their right to opt-out. FSOR, § 999.315(d). The regulations do not prohibit a business from responding and respecting a user's "do not track" signal, which communicates via a setting in a user's browser that the user requests that third parties stop tracking online activity. The business has discretion to treat a "do not track" signal as a useful proxy for communicating a consumer's privacy choices to	W219-5 W244-3 W256-2	000076-000077 000337 000434

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		businesses and third parties.		
208.	The comment argues that any global privacy setting should require a consumer to affirmatively opt-in instead of being on by default. A default setting "does not promote consumer choice."	No change has been made in response to these comments. As stated in the FSOR, consumers affirmatively choose products or services that include built-in privacy-protective features because these products or services are designed with privacy in mind. The selection of privacy-by-design products or services is an affirmative step to enable the opt-out mechanism. Additional steps are not necessary, even if this means that a consumer relies on a privacy-by-default opt-out. See FSOR, § 999.315(d).	W221-3	000095
209.	Provide examples of a global privacy setting and/or definition of that phrase. There is a variety of browsers and signals already available, including different versions of the "do not track" signal.	No change has been made in response to these comments. The regulation provides some general illustrative examples (browser plugin, device setting) and has been modified to clarify that its intent is to be forward-looking by stating that a privacy control "*developed* in accordance with these regulations shall clearly communicate or signal that a consumer intends to opt-out of the sale of personal information." The regulations do not prohibit a business from responding and respecting a user's "do not track" signal, which communicates via a setting in a user's browser that the user requests that third parties stop tracking online activity. The business has discretion to treat a "do not track" signal as a useful proxy for communicating a consumer's privacy choices to businesses and third parties.	W231-1	000193-000194
210.	Modify or delete requirement to accept a global privacy setting as a request to opt out because: • It is beyond the authority of the statute, in that the CCPA protects personal information reasonably linked to a particular person or household and not a device. • It reduces consumer choice about which sites to opt-out of. • It is difficult to implement technically.	No change has been made in response to these comments. The comment does not provide evidence or support for its assertion that a global privacy setting is not aligned with the CCPA's complex and broad definition of "personal information." Civil Code § 1798.185(a)(4) authorizes the OAG to establish rules and procedures to facilitate the submission of and compliance with opt-out requests. Civil Code § 1798.120(a) grants consumers the right to opt-out of the sale of their personal information "at any time." As explained in the ISOR and FSOR, this regulation is intended to encourage innovation and the development of technological solutions to facilitate and govern the submission of requests to opt-out. ISOR, p. 24; FSOR, § 999.315(d). Given the ease and	W236-11 W245-21 W248-2 W251-4 W260-5 W262-20 W266-8 W272-19 W273-7 W275-2 W277-3	000259-000260 000345 000361 000400-000403 000452-000453 000468-000469 000490 000521 000535-000537 000556-000558 000573-000575

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	• There is a lack of standardizations in signals, device settings, browsers, and plugins. • Consumers may not know which "user-enabled privacy controls" are adequate to make an opt-out request. • It is unnecessary if businesses have a "do not sell" link.	frequency by which personal information is collected and sold when a consumer visits a website, consumers should have a similarly easy and global ability to opt-out. Further, the technological concerns would be present, even without the proposed regulations: a consumer who clicked on the "Do Not Sell" link using one device but visits the same website using a different device may have to click the "Do Not Sell" again to ensure a complete opt-out of the sale of her personal information. This challenge would persist if a consumer accessed by a proxy or VPN, as well. Concerns regarding the lack of standardization or difficulty in the technical implementation are adequately addressed by the modifications requiring that the privacy control "clearly communicate or signal that a consumer intends to opt-out of the sale of personal information." The OAG notes that this regulation is forward-looking as it states the privacy control be "*developed* in accordance with these regulations." With regard to reducing consumer choice, the comments do not provide sufficient information to support a modification to the regulation. The OAG also disagrees that the privacy control does not respect consumer choice; to the contrary, this regulation offers consumers a global choice to opt-out of the sale of personal information, as opposed to going website-by-website to make individual requests with each business. As noted in response to other comments and public comments submitted to the OAG, the consumer exercises their choice by affirmatively using the privacy control. For that reason, the OAG deleted the language in subsection (d)(1) requiring the consumer affirmatively select their choice to opt-out. See response # 213.	W280-2 W304-5 W278-1 W289-12	000595 000763 000588 000649
211.	Delay enforcement. The comment claims more time is needed to implement complex technical changes.	No change has been made in response to this comment. The OAG may exercise prosecutorial discretion if warranted, depending on the particular facts at issue. Prosecutorial discretion permits the OAG to choose which entities to prosecute, whether to prosecute, and when to prosecute. Accordingly, any regulation that delays implementation of the regulations is not necessary.	W253-2	000411

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- § 999.315(d)(1)				
212.	Remove the word "the" before "opt-out" in this subsection.	Accept.	W212-34 W233-10 W262-21 W270-23	000021 000228 000469 000511
213.	Remove the second sentence of this subsection requiring a consumer to affirmatively select their choice to opt out and prohibiting designing the control with any pre-selected setting.	Accept.	W256-2 W296-1	000431, 000434 000743-000744
214.	Comment warns that the provision places too much control in developers' hands and does not respect consumer choice. Comment is also concerned that the provision will lead to dominance by a few advertisers and reduce free content online. Revise the subsection to require that any global privacy setting must involve affirmative selection of the right to opt-out.	No change has been made in response to this comment. The OAG disagrees that the regulation places too much control in developers' hands, and the comment provides no information in support of this claim. As explained in the ISOR and FSOR, this regulation is intended to encourage innovation and the development of technological solutions to facilitate and govern the submission of requests to opt-out. ISOR, p. 24; FSOR, § 999.315(d). Given the ease and frequency by which personal information is collected and sold when a consumer visits a website, consumers should have a similarly easy and global ability to opt-out. The regulation is forward-looking and provides clear guidance that any privacy control developed clearly communicate or signal that a consumer intends to opt-out of the sale of personal information. Consumers exercise their choice by affirmatively choosing to use the global privacy control. The OAG also disagrees that the privacy control does not respect consumer choice; to the contrary, this regulation offers consumers a global choice to opt-out of the sale of personal information, as opposed to going website-by-website to make individual requests with each business. The consumer exercises their choice by affirmatively choosing the privacy control, including when utilizing privacy-by-design products or services. Further, the provision provides no information to support its contention that it will result in a few advertisers dominating the market and reduce free content online; advertisers can provide	W248-3	000361-000362

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		services that do not rely on the sale of personal information, such as by providing contextual advertisement and not targeted advertisements.		
215.	Proposes that the Attorney General place the burden on browser developers to update their technology in a way that facilitates automated compliance with "global privacy settings." Advocates that businesses should be immune from liability if a global privacy control fails to allow for automated compliance. Browser makers may fail to create a standardized global privacy control that allows for automated compliance by website publishers and compliance may be too costly.	No change has been made in response to this comment. As explained in the ISOR and FSOR, this regulation is intended to encourage innovation and the development of technological solutions to facilitate and govern the submission of requests to opt-out. ISOR, p. 24; FSOR, § 999.315(d). A setting developed by browser developers is just one type of user-enabled global privacy control. The regulations do not prescribe a particular mechanism or technology but are technology neutral because they are forward-looking, providing clear guidance that any privacy control developed clearly communicate or signal that a consumer intends to opt-out of the sale of personal information. The comment's proposal to give businesses immunity from liability is too broad. Compliance with the CCPA and the regulations is a fact-specific determination.	W231-2	000194
216.	Supports the modification that the user-enabled global privacy control clearly communicate that the consumer intend to opt-out of the sale of personal information, and that privacy control require the consumer to affirmatively select their choice to opt-out. Comment suggests that the Attorney General never intended to force businesses to honor do-not-track signals as opt-out requests and that the requirement for affirmative choice implies that the controls should apply only to that particular browser or device.	The OAG 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. However, in response to other comments, the OAG deleted the requirement that the consumer affirmatively selects their choice to opt-out. Consumers affirmatively choose products or services that include built-in privacy-protective features because these products or services are designed with privacy in mind. By choosing to use privacy-by-design products or services, consumers are affirmatively exercising their right to opt-out. Additional steps are not necessary, even if this means that a consumer relies on a privacy-by-default opt-out. See response #214. To the extent that this comment seeks confirmation of its interpretation regarding the OAG's intent, the OAG's intent is set forth in the FSOR. See FSOR, § 999.315(d). This regulation is intended to encourage innovation and the development of technological solutions to facilitate and govern the submission of requests to opt-out. The OAG notes that the regulations do not prohibit a business from responding and respecting a user's "do	W235-3	000249

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		not track" signal, which communicates via a setting in a user's browser that the user requests that third parties stop tracking online activity. The business has discretion to treat a "do not track" signal as a useful proxy for communicating a consumer's privacy choices to businesses and third parties. However, it is not required.		
217.	Revise the subsection to specify that the default setting is allowing the sale of data because the language that the privacy control "shall not be designed with any pre-selected settings" is confusing.	No change has been made in response to this comment. In response to other comments, the language that the comment found confusing has been deleted. See response #213. Accordingly, this comment is now moot.	W238-12	000276
- **§ 999.315(d)(2)**				
218.	Modify the subsection so that any conflict between a global privacy control and the choice made with a specific website or app be resolved in favor of the specific choice because the global privacy control would 1) frustrate consumers, 2) be burdensome to businesses, and 3) is outside the scope of the CCPA.	No change has been made in response to this comment. The comment's proposed language is not more effective in carrying out the purpose and intent of the CCPA because it gives businesses too much discretion to ignore or subvert a consumer's global opt-out. As explained in the ISOR and FSOR, this regulation is necessary because, without it, businesses are likely to reject or ignore tools that empower consumers to effectuate their right to opt-out, especially if the rule permits discretionary compliance. ISOR, p. 24; FSOR, § 999.315(d). The comment is also inconsistent with Civil Code § 1798.120(d) and § 1798.135(a)(5)'s mandate that the consumer's decision to opt-out be respected for at least 12 months. The OAG disagrees that the regulation does not foster consumer choice; to the contrary, § 999.315(d) offers consumers a global choice to opt-out of the sale of personal information, as opposed to going website-by-website to make individual requests with each business. Because the regulation provides clear guidance regarding what the privacy control is to communicate, and does not prescribe a particular mechanism or technology, the regulation fosters the development of multiple technological solutions and actually gives consumers more choices. If the global privacy setting experience frustrates the consumer, as the comments suggest, the consumer can disable their user-enabled control and return to utilizing the "Do Not Sell	W221-4 W231-3 W255-1 W269-5	000095-000097 000194-000195 000423-000424 000502

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		My Personal Information" link. Indeed, this regulation actually encourages technology vendors to work with businesses to build global privacy controls that can be customized per website or business. Nothing in the CCPA suggests that the "Do Not Sell My Personal Information" link is the only mechanism by which a consumer may opt out. Indeed, Civil Code § 1798.185(a)(4) explicitly provides the Attorney General with the authority to establish rules that facilitate the submission and compliance of requests to opt-out.		
219.	Clarify what signals a business is required to respond to. Comment lists several existing standards/mechanisms and suggests that some of these standards/mechanisms would prevent a business from complying with the consumer's choice due to the technology involved.	No change has been made in response to this comment. As explained in the ISOR and FSOR, this regulation is intended to encourage innovation and the development of technological solutions to facilitate and govern the submission of requests to opt-out. ISOR, p. 24; FSOR, § 999.315(d). Given the ease and frequency by which personal information is collected and sold when a consumer visits a website, consumers should have a similarly easy and global ability to opt-out. The regulation is forward-looking and provides clear guidance that any privacy control developed clearly communicate or signal that a consumer intends to opt-out of the sale of personal information. Whether it is necessary for the OAG to specifically identify controls that constitute valid opt-out mechanisms requires further analysis.	W269-5	000502
220.	The comment warns that advising consumers they need to opt-in may conflict with the requirement to respect an opt-out for at least 12 months from Civil Code § 1798.130(a)(5).	No change has been made in response to this comment. There is no conflict between Civil Code § 1798.130(a)(5) and this regulation. Civil Code § 1798.130(a)(5) requires a business to respect a consumer's choice that has already been made. This subsection clarifies that where a consumer's choice is not clear, the business may clarify the potential inconsistency.	W273-9	000537-000539
- § 999.315(f)				
221.	Proposes changing the 15 day business day requirement to comply with a request to opt-out. Some comments suggest 1 business day, while others suggest 45 days.	No change has been made in response to this comment. As explained in the FSOR, this regulation appropriately balances the right of consumers to opt out at any time, with the burden on businesses to process the request. FSOR, § 999.315(f). The CCPA applies to a wide range of industries and factual situations. Many businesses commented on the	W212-36 W228-12	000021-000022 000173

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		initial draft of these regulations identifying the burden they faced in complying with requests to opt-out within 15 calendar days or even less time. Accordingly, the OAG modified the regulation to provide for 15 business days. Further, the OAG believes 45 days would be too long, and considered consumers' concerns about the further proliferation of their personal information by requiring the businesses to instruct any third parties to whom they sold the consumer's personal information after receiving the request, but before complying with it, that they should not sell the information. This modification allows the consumer's opt-out request to functionally operate as if it had been complied with as soon as it was received.		
222.	Delete the subsection, or modify or it so that businesses are not required to forward opt-out requests to other businesses if they sell data after receiving a request to opt out, but before implementing it. This is difficult technically and burdensome, and the CCPA does not require businesses to take additional steps in contacting third parties and instructing them to cease selling the consumer's personal information.	No change has been made in response to this subsection. The OAG has made every effort to limit the burden of the regulations while implementing the CCPA. As explained in the FSOR, this regulation appropriately balances the right of consumers to opt-out at any time, with the burden on businesses to process the request. FSOR, § 999.315(f). It recognizes that businesses may need time to comply with the request but accounts for consumers' concerns about the further proliferation of their personal information. The regulation also addresses public comments received that the originally proposed language was unworkable.	W221-5 W228-13 W255-2 W264-3	000097-000098 000174 000424 000479
223.	Modify the subsection to require business to forward opt-out requests to all third parties to whom it has sold data, if they have the information to do so.	No change has been made in response to this request. As explained in the FSOR, this regulation appropriately balances the right of consumers to opt out at any time with the burden on businesses to inform third parties to whom they have sold the data of the consumer's choice. FSOR, § 999.315(f). The regulation addresses public comments received that the originally proposed language was unworkable and may exceed the scope of the CCPA.	W219-7	000079
224.	Extend the time to respond to a request to opt-out to 45 days to match a request to know or delete.	No change has been made in response to this request. As explained in the FSOR, 15 business days appropriately balances the rights of consumers and the burdens on businesses. FSOR, § 999.315(f).	W228-12	000173

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- § 999.315(g)				
225.	Supports the change.	The OAG appreciates this comment of support. No change has been made in response to this comment.	W212-37	000022
§ 999.316. Requests to Opt-In After Opting Out of the Sale of Personal Information				
- § 999.316(b)				
226.	Comment asks that the OAG provide further notice/information when a consumer must opt-in to the sale of information to complete a transaction. Proposes that the regulation be modified to add that the business must provide a "detailed explanation of how and why the transaction, product or service requires the sale of their personal information . . ."	No change has been made in response to this comment. Prescribing this level of detail may not be as effective as or less burdensome than the OAG's proposed regulation. In drafting these regulations, the OAG considered the burden on businesses with transparency to consumers and the potential for notice fatigue. Modifying the regulation to require this level of detail would add complexity to the rule without providing identifiable benefits.	W212-39	000022
227.	Comments claim that this section is inconsistent with Civil Code § 1798.140(t)(2)(A), which provides that situations where a consumer intentionally uses a business to interact with a third party are not considered a sale, and § 999.314(c)(1), which allows service providers to use personal information to perform services specified in the written contract.	No change has been made in response to this comment. This provision does not conflict with either § 999.314(c)(1) or Civil Code § 1798.140(t)(2)(A). Personal information provided to a service provider is not considered a "sale," and thus not subject to a request to opt-out. See Civ. Code § 1798.140(t)(2)(C), § 999.314. Civil Code § 1798.140(t)(2)(A)'s exception to the definition of "sale" is very narrow. It requires the consumer's intentional disclosure or interaction with the third party and only applies when the third party does not also sell the personal information. This regulation applies to broader situations and provides guidance on how a business may comply with Civil Code § 1798.135(a)(5)'s requirement that a business respect the consumer's opt-out for at least 12 months before requesting that they authorize the sale of the consumer's personal information. Civil Code § 1798.135(a)(5) is silent on situations where a consumer-initiated transaction requires the sale of personal information, and thus, this regulation allows consumers and businesses flexibility to complete the transaction.	W233-7 W280-10	000207, 000229-000230 000598

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§ 999.317. Training; Record-Keeping				
- § 999.317(b)				
228.	Eliminate the 24-month retention period because: (1) it is too vague, (2) it is too long, (3) it is unnecessary, and/or it is not authorized by statute. The modified language adding a reasonable security requirement is incompatible with the 24 month retention requirement because businesses may be forced to keep records longer than they otherwise would under their data minimization and security policies.	No change has been made in response to this comment. The OAG has determined both that it is necessary to require businesses to implement and maintain reasonable security procedures and practices in maintaining these records (see FSOR, § 999.317) and that the 24-month timeframe balances the principle of data minimization with the need to maintain records to prove compliance and is reasonably necessary to demonstrate compliance with the CCPA and to assist in the enforcement of the law (see ISOR, p. 27). Moreover, § 999.317(c) limits the amount of personal information that needs to be maintained.	W229-10 W230-7 W262-23 W266-9	000186 000190 000469 000490
229.	Modify the regulation to also require service providers to maintain the required records and reasonable security procedures and practices.	No change has been made in response to this comment. The proposed change will create duplicative records as a business and its service providers will be maintaining records for the same requests. This duplication of records would also undercut the principle of data minimization.	W293-6	000716
- § 999.317(e)				
230.	Allow businesses to share information maintained for record-keeping purposes under certain circumstances. Comments claim that businesses should be allowed to share information with third parties to comply with a legal obligation or investigation, when permitted by law, when an exception to the CCPA applies, with service providers, for security and anti-fraud purposes, and all situations except for commercial or marketing purposes. Comments claim that the modified proposed regulation is	Accept in part. The regulation has been modified to allow businesses to share information maintained for record-keeping purposes with a third party "as necessary to comply with a legal obligation." This addresses the comments regarding when the business shares the information to comply with a legal obligation or lawful investigation, and may also implicate some sharing for security or anti-fraud purposes. The comments' other proposed exceptions are not as effective in carrying out the purpose and intent of the CCPA. As stated in the ISOR, the record-keeping requirements balance the need to maintain records to show compliance with the CCPA and the principle of data minimization, and § 999.317(e) is necessary to prevent businesses from using the regulations' record-keeping obligations as an excuse to use personal information for other purposes. ISOR, p. 27. The proposed exceptions to	W214-13 W228-15 W249-6 W268-1 W270-17 W293-7 W304-7	000033 000174 000380-000381 000497-000498 000510 000716 000764

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	unnecessarily restrictive, would prohibit sharing information with regulators and others who request the information through a lawful process, and would prevent businesses from using service providers, external auditors, and consultants to advise on compliance matters.	share when permitted by law and in all situations other than for commercial or marketing purposes are overly broad and would allow businesses to use and sell information that is intended solely for CCPA compliance purposes. With regard to sharing information with service providers, auditors, and consultants, Civil Code § 1798.140(w) states the conditions under a business may share information covered by § 999.317(e) with these entities; if these conditions are met, the entities are not considered third parties and thus do not fall within the prohibition against sharing information maintained for record-keeping purposes with third parties.		
- § 999.317(g)				
231.	Lower the 10 million threshold in this subsection. Comments claim that the modified threshold would decrease transparency and exclude virtually all businesses whose entire business model is premised on collecting and selling personal information, such as biometrics firms, attribution firms, data analytics firms, and facial imaging, recognition, and image matching firms and insurers, as well as businesses that specialize in intelligence gathering, covert operations, data harvesting, and untraceable equipment interference. One comment proposed a threshold of 3 million consumers, and another proposed applying the requirements of § 999.317(g) to businesses that have annual gross revenues over $25 million or that derive 50% or more of their annual revenues from selling consumers' personal information.	No change has been made in response to this comment. In drafting the regulation, the OAG balanced the burden and the benefits of compilation and reporting by limiting the requirements to those businesses that handle a large amount of personal information. Upon consideration of previous comments, the threshold was modified to 10 million consumers, which amounts to approximately 25% of California's total population, to alleviate the burden on smaller businesses.	W256-5 W297-6	000431, 000441 000746-000747

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232.	The 10 million threshold is arbitrary and appears to have no basis.	No change has been made in response to this comment. The OAG disagrees that the threshold is arbitrary and has no basis. In drafting the regulation, the OAG balanced the burden and the benefits of compilation and reporting by limiting the requirements to those businesses that handle a large amount of personal information. Upon consideration of previous comments, the threshold was modified to 10 million consumers, which amounts to approximately 25% of California's total population, to alleviate the burden on smaller businesses.	W289-13	000649-000650
233.	The metric reporting requirement should be eliminated or such reports should only go to the Attorney General because (1) the reporting requirement is vague, (2) it is not authorized by statute, (3) the OAG did not provide adequate justification or description of alternatives, and/or (4) there is no discernable benefit to consumers and potential harm to companies, such as providing information to competitors.	No change has been made in response to these comment. The OAG balanced the burden and the benefits of compilation and reporting by limiting the requirements to those businesses that handle a large amount of personal information. As stated in the ISOR and FSOR, the compilation and reporting requirements are necessary to inform the Attorney General, policymakers, academics, and members of the public about businesses' compliance with the CCPA. The metrics will: assist in determining whether response times to CCPA requests comply with the 45-day timeframe required by the CCPA; provide insight into whether consumers are receiving timely responses; assist in determining whether consumer requests are systematically being denied; provide transparency; and assist in determining whether consumer education regarding CCPA rights and requests are needed and/or whether statutory or regulatory amendments are warranted. FSOR, § 999.317(g). As further stated in the FSOR, the compilation and reporting metrics further the purpose of the CCPA to empower consumers by giving them control over their personal information. The OAG considered the burden on businesses by limiting the requirement to those businesses that handle a large amount of personal information, specifically the personal information of approximately 25% of California's total population. Further, the comments do not show that disclosure of these metrics would result in competitive harm. Thus, any potential competitive harm is speculative, and in any case, the potential for harm is further mitigated because all similarly situated competitors in California will be bound by	W226-25 W226-26 W226-27 W228-16 W231-5 W235-1 W238-14 W248-25 W249-2 W250-14 W260-6 W266-10 W270-18 W272-12 W274-11 W277-13 W277-14	000154 000154-000155 000154-000155 000175 000195-000196 000248 000277 000370 000378-000379 000394-000395 000453 000490 000510 000520 000547 000582 000582-000583

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		the same disclosure requirements.		
234.	The modified proposed regulations create new reporting requirements that make them even more onerous, and the costs and burden associated with the requirements in § 999.317(g) outweigh any potential consumer benefit. The costs and burden associated with the requirements should be simplified rather than expanded.	No change has been made in response to this comment. The OAG balanced the burden and the benefits of compilation and reporting by limiting the requirements to those businesses that handle a large amount of personal information. As stated in the ISOR, the compilation and reporting requirements are necessary to inform the Attorney General, policymakers, academics, and members of the public about businesses' compliance with the CCPA and considers the burden on businesses by limiting the requirement to those businesses that handle a large amount of personal information, specifically the personal information of approximately 25% of California's total population.	W253-4	000411
235.	Eliminate the reporting of metrics, which are not meaningful to consumers and while itemizing the reasons for denials may be a slight amelioration, doing so requires significant expense and many businesses may not be in a position to do so.	No change has been made in response to this comment because it is not directed at the 15-day modified text. The modified provision allows but does not require businesses to identify the grounds for denials. As stated in the ISOR and FSOR, the compilation and reporting requirements are necessary to inform the Attorney General, policymakers, academics, and members of the public about businesses' compliance with the CCPA and considers the burden on businesses by limiting the requirement to those businesses that handle a large amount of personal information. ISOR, p. 28; FSOR, § 999.317(g).	W289-13	000649-000650
236.	Eliminate the July 1 deadline for updating metrics. Comments stated that a calendar deadline is unnecessary and arbitrary and that it should suffice for businesses to post the metrics annually.	No change has been made in response to this comment. Upon consideration of previous comments, which requested clarification about the timeframe for reporting, the July 1 deadline was added to provide businesses with certainty and adequate time to process and report the required information. Businesses are required to compile and report information for the prior calendar year, and the July 1 deadline thus provides businesses six months to compile and report the required information.	W265-7 W270-19	000484 000510
237.	Delay the obligation to disclose metrics until July 1, 2021. Comments claim that otherwise, businesses will not have time to comply the necessary records and will not	No change has been made in response to this comment. The proposed change is unnecessary because the regulations are reasonably clear that businesses subject to § 999.317(g) in 2020 will need to disclose the metrics by July 1, 2021.	W214-14 W226-27	000033 000154-000155

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	have a full year's worth of data to report.			
§ 999.318. Household Requests				
- § 999.318(a)				
238.	Fix a typographical error; "deleted" should be "delete."	Accept. The term has been corrected to "delete."	W212-40 W233-11 W260-8 W262-24	000022 000231 000453 000470
239.	Comments state that requiring businesses to adhere to household verification regulations is overly burdensome and it is unclear how it would be executed in practice. Comments request deletion of "household" from the definition of personal information. Furthermore, verifying all members of a household may be "practically impossible."	No change has been made in response to this comment. The CCPA defines "personal information" to include "household." Civ. Code § 1798.140(o), and thus the regulations cannot change the statutory definition. The OAG has made every effort to limit the burden of the regulations while implementing the CCPA. If members of a household cannot be verified in accordance with these regulations, a business may deny the request or exercise its discretion to make further inquiries with the requestor.	W228-17 W262-25 W265-8 W267-3 W270-20	000175 000470 000484 000494 000510-000511
- § 999.318(c)				
240.	Clarify that a single request from a verified parent or guardian is sufficient to verify and act on requests covering every child under 13 in the household.	No change has been made in response to this comment. The OAG did not include this requirement at this time in an effort to prioritize guidance that operationalizes and assists in the immediate implementation of the law. Further analysis is required to determine whether a regulation is necessary on this issue.	W276-4	000562, 000564
ARTICLE 4. VERIFICATION				
§ 999.323. General Rules Regarding Verification				
- § 999.323(d)				
241.	Supports the added provision which prohibits charging consumers for verification.	The OAG appreciates this comment of support. No change has been made in response to this comment. The comment concurred with the proposed regulations, so no further response is required.	W212-41 W284-16	000023 000626
242.	Modify the regulation to state that businesses are not allowed to charge an authorized agent for verification.	Accept. The regulation has been modified to include that businesses shall not require authorized agents to pay a fee.	W212-41	000023

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243.	Seeks modification that businesses can charge consumers and authorized agents for identity verification. Comments assert that verification is costly and inconsistent with the CCPA.	No change has been made in response to this comment. The CCPA expressly provides that a consumer may authorize another person to make requests to know on their behalf, and that the business shall respond "free of charge to the consumer." See Civ. Code §§ 1798.100(d), 1798.130(a)(2), 1798.140(y), 1798.185(a)(7). Requiring the consumer, or their agent, to pay for identity verification would be inconsistent with these provisions of the CCPA. The OAG has made every effort to limit the burden of the regulations while implementing the CCPA. The regulations provide businesses with discretion and flexibility to select a workable and cost-effective method. The OAG notes that notarization is not the only way to verify the requestor.	W211-4 W217-7 W228-19 W253-11 W254-5 W265-9 W270-21 W272-20 W274-12 W289-14	000008 000063 000176 000414 000420 000484-000485 000511 000521 000547-000548 000650-000651
§ 999.325. Verification of Non-Accountholders				
- **§ 999.325(e)**				
244.	Comments applauds the clarity in this section, especially the example in § 999.325(e)(2).	The OAG appreciates this comment of support. No change has been made in response to this comment. The comment concurred with the proposed regulations, so no further response is required.	W212-42	000023
245.	Clarify the examples of verification in § 999.325. Specifically, the comments seek guidance on how the same examples would apply to authorized agents, certain retail situations, and whether businesses are required to collect even further information from consumers for verification.	No change has been made in response to this comment. It is not necessary to clarify the examples because §§ 999.323 through 999.326 already provide sufficient guidance on how to verify consumer requests. Specifically, § 999.326(a) sets forth what businesses may require when a consumer uses an authorized agent to submit a request to know or delete, and § 999.323(b) and (c) provide that businesses should match identifying information with personal information already maintained by the business and generally avoid requesting additional information. The regulations provide general guidance for CCPA compliance and the illustrative examples are not intended to address every specific factual situation.	W234-3 W272-21 W277-12 W280-11	000246 000521 000581-000582 000598
- **§ 999.325(f)**				
246.	Modify to require a business to "use[] commercially reasonable efforts" before stating it is unable to verify the consumer's	No change has been made in response to this comment. In drafting these regulations, the OAG weighed various factors, including the risk of harm to the consumer by the unauthorized disclosure of information, the	W212-43	000023

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	identity.	burden on businesses, and the consumer's rights under the CCPA, and determined that Article 4 set forth the appropriate balance of these interests. Modifying the regulation to include this language would add complexity to the rules without providing identifiable benefits.		
- **§ 999.325(g)**				
247.	Expresses concern that businesses must "explain why it has no reasonable verification method in its privacy policy" in some cases. Such an explanation would expose a business to fraud by disclosing a business's verification process.	No change has been made in response to this comment. As explained in the ISOR, this regulation is necessary to provide transparency of the businesses' processes and inform the Attorney General and other members of the public where verification is an impediment to a consumer's ability to exercise their rights. ISOR, p. 33.	W274-13	000548
§ 999.326. Authorized Agent				
- **§ 999.326 generally**				
248.	Restrict the use of authorized agents, because the CCPA only specifically includes the ability to authorize another person to exercise the right to opt-out of sale. The difficulty of authenticating the agent's identity and authorization from the consumer create significant risks for consumers and will burden businesses.	No change has been made in response to this comment. The CCPA includes the ability to use an authorized agent for more than to merely exercise the right to opt-out of sale. See Civ. Code §§ 1798.135(a)(1), (c), 1798.140(y), 1798.185(a)(7). The comment's proposed change is not more effective in carrying out the purpose and intent of the CCPA. In drafting these regulations, the OAG weighed the risk of fraud and misuse of consumer information and the burden to the business with the consumer's statutory right to use an authorized agent as required by the law.	W226-31	000156
249.	Require businesses to communicate with authorized agents through a dedicated communication channel. This would make it more efficient for authorized agents to make requests on behalf of multiple consumers.	No change has been made in response to this comment. The OAG did not include this requirement at this time in an effort to prioritize guidance that operationalizes and assists in the immediate implementation of the law. Further analysis is required to determine whether a regulation is necessary on this issue.	W234-1	000244
250.	Provide greater specificity as to how authentication of authorized agents should progress including providing more	No change has been made in response to this comment. The regulation, as amended, provides the necessary guidance for agent authorization. The regulation is meant to apply to a wide-range of factual situations and	W226-30	000156

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	substantial guidance on the minimum evidence required.	across industries and gives the business discretion within the bounds of the regulation regarding what they can require the agent to provide to demonstrate their authority to act on the consumer's behalf.		
251.	Provide a safe harbor for businesses regarding authentication of authorized agents.	No change has been made in response to this comment. Compliance with the CCPA and the regulations is a fact-specific determination. The proposed safe harbor may be too broad and may not effectuate the purpose of the CCPA. In addition, the CCPA does not provide for a safe harbor in any enumerated exception.	W226-30	000156
252.	The regulations still do not provide any information related to the process of verifying authorized agents. The burden to validate authorized agents is that of the Secretary of State. Will the Secretary of State post a list on its website for a businesses to verify the Secretary of State's validation?	No change has been made in response to this comment. In response to other comments, the definition of "authorized agent" has been modified to clarify that a business entity acting as an authorized agent must be registered with the Secretary of State "to conduct business in California," as required of all business entities operating in the State. There is no separate CCPA-specific registry required and the Secretary of State has no burden to validate authorized agents. The regulation, as amended, provides the necessary guidance to businesses for agent authorization. Businesses have discretion within the bounds of the regulation regarding what they can require the agent to provide to demonstrate their authority to act on the consumer's behalf, and when they may deny a request. See FSOR, § 999.326.	W270-22	000511
- **§ 999.326(a)**				
253.	Clarify if a business is required to ask consumers to follow all three subsections (Sections 999.326(a)(1)-(3)) or if it is sufficient to require the consumer to use anyone of the methods set forth to verify authorization of an agent-made request.	No change has been made in response to this comment. The regulation is reasonably clear given the punctuation and lack of conjunction. Businesses have discretion within the bounds of the regulation regarding what they can require the agent to provide to demonstrate their authority to act on the consumer's behalf. See FSOR, § 999.326.	W231-9 W305-2 W305-3	000197 000766 000766
254.	Revise regulation so that the specified requirements can be exercised only if the authorized agent has not provided reasonable proof of the consumer's identity or not provided proof of the	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. In drafting these regulations, the OAG weighed the risk of fraud and misuse of consumer information and the burden to the business with the consumer's statutory right to use an authorized agent	W234-2	000245-000246

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	signed mandate. Consumers use an authorized agent to avoid having to manage data requests themselves; allowing businesses to require consumers to verify their own identity directly or directly confirm permission may allow businesses to impose onerous measures.	as required by the law. The OAG determined that requiring the consumer to verify their identity directly with the business allows businesses to utilize their existing verification processes and complies with general privacy principles to not share one's security credentials (login ID and passwords) with others. ISOR, p. 33. Authorized agents will serve to facilitate requests and responses, but they themselves will not be allowed to collect or amass consumers' sensitive information for the purposes of verification. ISOR, p. 33. The OAG determined that requiring the consumer to directly confirm with the business that they provided the authorized agent permission to submit the requests allows businesses to authenticate the signed permission. FSOR, § 999.326. Businesses have discretion to determine whether this requirement is warranted based on the factors set forth in §§ 999.323(b), 999.324, and 999.325 of these regulations.		
255.	Modify to permit businesses to make specified requests to the consumer through authorized agents because a business may not be able to directly contact the consumer as the only contact the business has is with the authorized agent. Businesses should also be expressly empowered to deny requests from authorized agents when a consumer fails to meet these verification standards.	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. In drafting these regulations, the OAG weighed the risk of fraud and misuse of consumer information and the burden to the business with the consumer's statutory right to use an authorized agent as required by the law. The OAG determined that requiring the consumer to verify their identity directly with the business allows businesses to utilize their existing verification processes and complies with general privacy principles to not share one's security credentials (login ID and passwords) with others. ISOR, p. 33. Authorized agents will serve to facilitate requests and responses, but they themselves will not be allowed to collect or amass consumers' sensitive information for the purposes of verification. ISOR, p. 33. The OAG determined that requiring the consumer to directly confirm with the business that they provided the authorized agent permission to submit the requests allows businesses to authenticate the signed permission. FSOR, § 999.326. Businesses have discretion to determine whether this requirement is warranted based on the factors set forth in §§ 999.323(b), 999.324, and	W273-11	000539-000540

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		999.325 of these regulations.		
- **§ 999.326(a)(1)**				
256.	Delete "written" and/or clarify what is meant by "written and signed."	Accept in part. The OAG has revised the regulation to delete "written." As to what is meant by "signed," § 999.301(u) defines the term. No further clarification is needed.	W212-44 W228-21	000023 000177
257.	Revise regulation to require a higher bar for verification of an authorized agent when requesting specific pieces of evidence, such as requiring "notarized permission … if the request is for specific pieces of information."	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. With regard to the higher bar for verification when requesting specific pieces of personal information, § 999.326 addresses security concerns by allowing businesses to require consumers to verify their identity directly with the business and/or confirm with the business that they provided the authorized agent with permission to submit the request.	W211-3	000007-000008
258.	Revise regulation to require a notarization process because signatures can be forged.	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. The CCPA expressly provides that a consumer may authorize another person to make requests to know on their behalf, and that the business shall respond "free of charge to the consumer." See Civ. Code §§ 1798.100(d), 1798.130(a)(2), 1798.140(y), 1798.185(a)(7). Requiring the consumer, or their agent, to pay for notarization would be inconsistent with these provisions of the CCPA. However, § 999.323(d) allows a business to require notarization if the business compensates the consumer for the cost. Section 999.326 already addresses security concerns by allowing businesses to require consumers to verify their identity directly with the business and/or confirm with the business that they provided the authorized agent with permission to submit the request.	W272-16 W272-23	000521 000522
- **§ 999.326(a)(3)**				
259.	Delete this requirement because it is duplicative and onerous to the consumer, and would inhibit consumers from making	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. In drafting these regulations, the OAG weighed the	W213-3	000026

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	privacy requests to every business they want to contact.	risk of fraud and misuse of consumer information and the burden to the business with the consumer's statutory right to use an authorized agent as required by the law. Allowing a business to confirm with the consumer that they provided the authorized agent permission to submit the request may lessen the potential privacy and security risks of improper access to the consumer's information. Businesses have discretion to determine whether this requirement is warranted based on the factors set forth in §§ 999.323(b), 999.324, and 999.325 of these regulations.		
260.	Revise the regulation to model Civil Code § 1798.185(a)(7) and ensure that "such confirmation process should not create undue administrative burdens on the consumer to prove their permission."	No change has been made in response to this comment. In drafting these regulations, the OAG weighed various factors, including the risk of harm to the consumer by the unauthorized disclosure of information, the burden on businesses, and the consumer's rights under the CCPA, and determined that Article 4 set forth the appropriate balance of these interests. Modifying the regulation to include this language would add complexity to the rules without providing identifiable benefits.	W212-45	000023
- **§ 999.326(d)**				
261.	Revise regulation to explicitly permit a business to deny a request from an authorized agent if the business suspects the requestor fails to "implement and maintain reasonable security procedures and practices."	No change has been made in response to this comment. The CCPA provides consumers the ability to authorize another person to make requests to businesses on their behalf. See Civ. Code §§ 1798.135(a)(1), (c), 1798.140(y), 1798.185(a)(7). In drafting this regulation, the OAG weighed the risk of fraud and misuse of consumer information with the consumer's statutory right to use an authorized agent as required by law. Section 999.326 mitigates the risk of fraud while preserving the consumer's right to use an authorized agent to exercise their rights. The comment's proposed change is not more effective in carrying out the purpose and intent of the CCPA. Nothing prohibits a business from directly informing a consumer that an authorized agent's security practices are of concern before responding to a consumer's request.	W255-3	000425
- **§ 999.326(e)**				
262.	Supports this provision.	The OAG appreciates this comment of support. No change has been	W212-46	000023

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		made in response to this comment. The comment concurred with the proposed regulations, so no further response is required.		
263.	Revise this regulation to add executors as authorized agents and to exempt an authorized agent who manages a deceased consumer's estate.	No change has been made in response to this comment. The proposed change is not necessary because the authority of an executor to exercise rights on behalf of the decedent's estate is governed by the Probate Code. Modifying the modifications to address decedent's estates would add complexity to the rules without providing identifiable benefits.	W225-1 W225-2	000129 000129
ARTICLE 5. SPECIAL RULES REGARDING MINORS				
§ 999.330. Minors Under 13 Years of Age				
264.	Duplicative to say in § 999.330(a)(2)(a) that "signed" includes "physically and electronically" because "signed" is already defined to include both physical and electronic signatures.	No change has been made in response to this comment. Removing the phrase is not necessary because the meaning does not change. Moreover, the phrase was added to address an earlier comment seeking clarification on whether the signature included both physical and electronic signatures.	W212-47	000023
265.	Delete the phrase "at a later date" in § 999.330(b) because comment was concerned it could allow businesses to circumvent the regulation.	Accept.	W212-48	000023
266.	Clarify that "only parents or guardians may make a request to access or delete the personal information of a child under the age of 13," not authorized agents.	Accept.	W276-3	000562, 000564
§ 999.331. Minors 13 to 16 Years of Age				
267.	Supports modifications clarifying the provision.	The OAG appreciates this comment of support. No change has been made in response to this comment. The comment concurred with the proposed regulations, so no further response is required.	W289-15	000651
ARTICLE 6. NON-DISCRIMINATION				
§ 999.336. Discriminatory Practices				
- **§ 999.336 generally**				
268.	Clarify that that a financial incentive or price or service difference is "related to	No change has been made in response to this comment. These regulations already set forth when a notice of financial incentive is	W272-6	000519

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	the disclosure, deletion, or sale of personal information" only when the incentive or price or service difference is provided in exchange for the consumer's exercise of a right conferred by the CCPA or the Attorney General regulations and not otherwise; specifically, clarify that certain discounts provided in "loyalty programs" are not "related to the disclosure, deletion, or sale of personal information."	required in § 999.307. Whether certain price or service differences or financial incentives are "related to the disclosure, deletion, or sale of personal information" raises specific legal questions that require a fact-specific determination. The regulation provides general guidance for CCPA compliance.		
269.	Comment contends "this entire section is farcical." Commenter does not understand how a business can be expected to delete consumer information or cease to make commercial use of it and then be able to maintain an ongoing business relationship with that consumer. With respect to example (d)(4), commenter cannot comprehend how online retailers can process a transaction or purchase without collecting an email address. The commenter finds it "disturbing that the 'illustrative examples' proposed evidence such a lack of common sense."	No change has been made in response to this comment. The comment does not provide sufficient specificity to the OAG to make any modifications to the text. With respect to the commenter's understanding of example 4, the commenter is mistaken. The example indicates that a business must continue to offer coupons delivered via browser pop-up even after a consumer requests to delete "all personal information that the bookseller has collected about them, including their email address and their browsing and purchasing history." The example does not address whether a business could subsequently request an email address specifically connected to and for the purpose of processing a future transaction.	W304-8	000764-000765
- **§ 999.336(b)**				
270.	Supports § 999.336(b).	The OAG appreciates this comment of support. No change has been made in response to this comment. The comment concurred with the proposed regulations, so no further response is required.	W212-49	000024
271.	Eliminate requirement to quantify financial incentives and value of consumer data. Clarify or remove the rules' ambiguous terms requiring businesses to ensure that	No change has been made in response to this comment. Under Civil Code § 1798.125, any price or service difference, including a financial incentive, must be reasonably related to the value of the consumer's data to the business. To the extent the comment requests removal of	W253-5 W275-3 W277-2	000412 000558 000572-000573

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	financial incentives are reasonably related to the value of a consumer's data. Clarify or remove the requirement to disclose an estimate of the value of the consumer's data as well as the method of calculating such value in a notice of financial incentive.	this requirement, the request is incompatible with the CCPA. To the extent the comment seeks guidance on estimating the value of the consumer's data, in order to facilitate businesses' calculation of a reasonable good-faith estimate of the value of a consumer's data, § 999.337 provides descriptions of multiple factors and methods for businesses to consider. The OAG has considered that precise calculations of the value of a consumer's data to the business may be difficult. For this reason, the regulations require only "a good-faith estimate." Specifically, § 999.337 provides that, in addition to several specified considerations, a business may consider "[a]ny other practical and reasonably reliable method of calculation used in good-faith." Requirements to disclose the value of the consumer's data and the method of calculating it have not been changed because they are material terms requiring disclosure in the notice of financial incentive under the CCPA. In order to ensure consumers are fully informed before they opt in to programs offered by businesses that provide certain benefits in exchange for consumers' data, Civil Code § 1798.125(b)(3) requires businesses to provide consumers with a notice that "clearly describes the material terms of the financial incentive program." The value of the consumer's data to the business and a description of the method used to calculate it are "material terms" of any such program for several reasons. First, the defining feature of any price or service difference, including a financial incentive, governed by Civil Code § 1798.125 is the exchange of a consumer's data for benefits offered by the business. The value of the consumer's data to the business, and the method used to calculate that value, determine the business's decision whether and on what terms to offer such benefits and are therefore "material terms" that must be disclosed. Second, under the CCPA, a business may only offer a price or service difference, including a financial incentive, if it can demonstrate that such price or service difference is "reasonably related" to the value of the consumer's data. See Civ. Code § 1798.125; § 999.336(a) & (b). Because the price or service difference		

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		cannot be offered without a showing of its relationship to the value of the consumer's data, that value and its method of calculation are material to any offer of a price or service difference, including a financial incentive, and must be disclosed. Third, unless a business discloses its estimate of the value of the consumer's data and a description of how the business calculated that value, consumers will not have the basic information they need to in order to make an informed decision to participate in a financial incentive program, including whether the program provides reasonable value in exchange for their data and whether the program is even permissible under the CCPA. For these reasons, the business's good-faith estimate of the value of a consumer's data and a description of the method used to calculate it (in addition to the value of the price or service difference or financial incentive) is a "material term" any financial incentive program and must be provided in the notice required by § 999.307. See also Civil Code § 1798.125(b)(3); § 999.336(a) & (b).		
272.	Supports modification of regulation clarifying that a business may not offer financial incentives if it cannot calculate a good-faith estimate of the value of a consumer's data or show the financial incentive or price or service difference is reasonably related to the value of the consumer's data.	The OAG appreciates this comment of support. No change has been made in response to this comment. The comment concurred with the proposed regulations, so no further response is required.	W284-17	000627
- **§ 999.336(d)**				
273.	Expand Example 3 to clarify that the operative metric is the value to the business of selling the consumer's data.	No change has been made in response to this comment. The OAG considered the proposed edit to Example 3 and does not believe the change necessary in order for the example to provide guidance to the public.	W212-50	000024
- **§ 999.336(g)**				
274.	Include reference to compliance with	Accept. The regulation has been modified to include state laws.	W265-10	000485

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	"state law."			
275.	Support revision clarifying that a difference as the result of federal law compliance is nondiscriminatory.	The OAG appreciates this comment of support. No change has been made in response to this comment. The comment concurred with the proposed regulations, so no further response is required.	W276-6	000562
§ 999.337. Calculating the Value of Consumer Data				
- **§ 999.337 generally**				
276.	Comments about how to value consumer data, including deleting entire section because it is not authorized by statute, no universal method exists for making the calculation, and some businesses do not have resources to invest in the process of determining the value of data.	No change has been made in response to this comment. In drafting these regulations, the OAG has considered that precise calculations of the value of a consumer's data to the business may be difficult. For this reason, the regulations require only "a good-faith estimate." The OAG considered requiring a specific calculation method, but in order to minimize the burden on businesses, the OAG provided several bases for businesses to consider in establishing a "reasonable and good faith method for calculating the value of the consumer's data," including "[a]ny other practical and reasonably reliable method of calculation used in good-faith." As a result, § 999.337 provides sufficient flexibility to businesses to estimate the value of the consumer's data. In order to ensure consumers are fully informed before they opt-in to programs offered by businesses that provide certain benefits in exchange for consumers' data, Civil Code § 1798.125(b)(3) requires businesses to provide consumers with a notice that "clearly describes the material terms of the financial incentive program." The value of the consumer's data to the business is a "material term" of any such program for several reasons. First, the defining feature of any price or service difference, including a financial incentive, is the exchange of a consumer's data for benefits offered by the business. The value of the consumer's data to the business determines the business's decision whether and on what terms to offer such benefits and is therefore a "material term" that must be disclosed. Second, under the CCPA, a business may only offer a price or service difference, including a financial incentive, if it can demonstrate that such price or service difference is "reasonably related" to the value of the consumer's data. See Civ. Code § 1798.125; § 999.336(a) &	W218-1 W222-9 W226-3 W226-34 W230-4 W238-5 W248-5 W253-5 W273-2 W308-6	000067 000109, 000113 000139, 000158-000159 000158 000190, 000191 000272-000273 000363 000412 000529-000530 000780

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		(b). Because the price or service difference cannot be offered without a showing of its relationship to the value of the consumer's data, that value is material to any offer of a price or service difference, including a financial incentive, and must be disclosed. Third, unless a business discloses its estimate of the value of the consumer's data, consumers will not have the basic information they need to in order to make an informed decision to participate in a financial incentive program, including whether the program provides reasonable value in exchange for their data and whether the program is even permissible under the CCPA. For these reasons, the business's good-faith estimate of the value of a consumer's data (in addition to the value of the price or service difference or financial incentive) is a "material term" any financial incentive program and must be provided in the notice required by § 999.307. See also Civ. Code § 1798.125(b)(3); § 999.336(a) & (b).		
- **§ 999.337(a)**				
277.	Modify the subsection to remove "retention" because that word is not used in the statute. The comment does not explain why inclusion of the word retention poses any concern.	No change has been made in response to this comment. The term "retention" remains in this section because Civil Code § 1798.125(b)(1) discusses financial incentives related to the "deletion" of a consumer's data, and "retention" as used here is simply the opposite of deletion and is the appropriate word in the grammatical context of the regulation. The word "retention" appears in § 999.337(a)(4), (5), and (7) because these three sections describe the revenue, expenses, and profit arising from businesses' use of consumers' data. The word "retention" makes sense in this context, while its opposite "deletion" would not. For example, the rules would be less clear and potentially confusing if they suggested businesses consider the "revenue generated by the business from … [deletion] of consumers' personal information[.]" By contrast, there may be many situations in which "retention" of data may result in revenue for a business.	W245-10	000342
- **§ 999.337(b)**				
278.	Revise "Natural persons" to say "natural United States residents" to prevent	Accept in part. The provision has been modified to state, "For the purpose of calculating the value of consumer data, a business may	W212-51	000024

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	businesses from understating the value of US consumer data by aggregating it with the value of consumer data in less prosperous countries.	consider the value to the business of the data of all natural persons in the United States and not just consumers." This modification addresses the comment's concern.		
279.	Insert the following at the end of the subsection: "In its notice of financial incentive, a business may also identify any additional consideration the consumer is receiving aside from the incentive, and request the consumer's acknowledgement that the incentive and additional consideration together constitute fair value for the personal information."	No change has been made in response to this comment. Section~~§~~ 999.337 provides several bases for businesses to consider in establishing a "reasonable and good faith method for calculating the value of the consumer's data." As a result, § 999.337 provides sufficient flexibility to businesses to estimate the value of the consumer's data. Whether there are "additional considerations" that affect the estimate of the value of the consumer's data raises specific legal questions that require a fact-specific determination. The regulation provides general guidance for CCPA compliance, and businesses have discretion to determine the best way to communicate the required information and flexibility to craft the notices and privacy policy in a way that the consumer understands them.	W254-3	000419
OTHER – NOT REGARDING A PARTICULAR SECTION				
280.	The Attorney General wrongly determined that these proposed regulations are not inconsistent or incompatible with any existing state regulations, because there are no existing regulations that address the specific subject matter of the proposed regulations. For insurers, the California Department of Insurance implements and enforces the Insurance Information and Privacy Act.	No change has been made in response to this comment. To reiterate previous responses to the same comment, the OAG does not agree that existing state regulations, including those that regulate the insurance industry, already address the specific consumer privacy rights and corresponding business obligations created by the CCPA.~~-~~ The comment also objects to the CCPA's lack of any enumerated exemption over its industry, and is therefore not directed at the regulations, let alone any modified text. See Civ. Code § 1798.145. It also does not explain how the insurance industry is unable to comply with both the obligations imposed by the CCPA and other state regulations. The proposed exemption of an entire industry is overly broad and would not further the purpose and intent of the CCPA.	W265-11	000485-000486
281.	Having multiple regulators poses a significant challenge, and it would be more effective and efficient to charge regulators that already oversee industries with the	No change has been made in response to this comment. To reiterate previous responses to the same comment, the comment appears to object to the CCPA, not the proposed regulations. The CCPA charges the Attorney General with enforcing the CCPA and adopting regulations to	W265-11	000485-000486

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	enforcement of the rules relating to that industry. With respect to insurers, the Attorney General should defer investigation and enforcement to the California Department of Insurance, which regulates insurers and implements and enforces the Insurance Information and Privacy Act.	further its purposes. Civ. Code §§ 1798.155, 1798.185. The regulations are consistent with and necessary to carry out the purpose and intent of the CCPA, which creates new privacy rights for consumers and imposes corresponding obligations on businesses subject to it. Moreover, the Attorney General also has investigatory and enforcement jurisdiction over insurers.		
COMMENTS NOT DIRECTED AT 15-DAY MODIFIED TEXT				
282.	Comments regarding the definitions in § 999.301 or regarding the CCPA, but not about any modifications to the proposed regulations. These comments suggested additional definitions, removing definitions, or disagreed with unchanged definitions.	No change has been made to the regulations because the comments do not relate to any modification to the text for the 15-day comment period.	W214-1 W219-1 W222-1 W226-1 W238-1 W248-17 W248-18 W248-20 W281-4 W302-1 W308-4 W308-5	000030 000071-000072 000106 000138-000139 000269-000270 000367 000367 000368 000603 00756 000779 000779-000780
283.	Comments regarding § 999.305, but not about any modification to the proposed regulation. These comments proposed various changes to the section, including revisions to how businesses should provide notice at or before the point of collection and the need for model notices.	No change has been made to the regulations because the comments do not relate to any modification to the text for the 15-day comment period.	W212-5 W212-9 W217-6 W221-6 W226-6 W228-2 W230-1 W237-2 W243-4 W245-6 W248-22	000011 000012-000013 000062-000063 000098-000100 000139-000140 000170-000171 000190 000264 000335 000341-000342 000369

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			W261-1 W262-4 W270-1 W274-1 W289-5	000456 000460-000461 000505-000506 000544 000647
284.	Comments regarding § 999.306, but not about any modification to the proposed regulation. These comments proposed various changes to the section, including the manner in which businesses must provide notice of the right to opt-out.	No change has been made to the regulations because the comments do not relate to any modification to the text for the 15-day comment period.	W230-2 W230-3 W262-7 W269-6 W272-4 W277-16 W282-2	000190 000190 000461-000462 000502 000519 000583-000584 000606-000607
285.	Comments regarding §§ 999.307 and/or 999.337, but not about any modification to the proposed regulations. The comments objected to what information must be provided, the manner in which to provide it, and how to determine the value of a consumer's personal information.	No change has been made to the regulations because the comments do not relate to any modification to the text for the 15-day comment period.	W212-15 W212-16 W229-4 W230-4 W248-6 W253-5 W262-9 W272-7 W274-4 W275-4 W308-6	000014-000015 000015 000181-000182 000190-000191 000363-000364 000412 000463 000520 000545 000558-000559 000780
286.	Comments regarding § 999.308, but not about any modification to the proposed regulations. These comments proposed various changes to the section, including what information should be included in privacy policies.	No change has been made to the regulations because the comments do not relate to any modification to the text for the 15-day comment period.	W212-18 W212-19 W218-2 W226-8 W227-5 W243-5 W243-6 W248-7 W248-11	000015-000016 000016 000067 000141 000165-000166 000335-000336 000336 000364 000365

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			W248-19	000368
287.	Comments regarding § 999.312, but not about any modification to the proposed regulations. These comments proposed various changes to the section, including how businesses should be required to accept and respond to consumer requests.	No change has been made to the regulations because the comments do not relate to any modification to the text for the 15-day comment period.	W226-9 W230-5 W261-2 W262-12	000141-000143 000190 000456-000457 000465
288.	Comments regarding § 999.313, but not about any modification to the proposed regulations. These comments proposed various changes to the section, including how and when businesses should respond to consumer requests to know and to delete. Many comments objected to providing the required information, including categories of information when the business could not verify the identity of the consumer to a reasonably high degree of certainty.	No change has been made to the regulations because the comments do not relate to any modification to the text for the 15-day comment period.	W212-27 W221-2 W222-11 W222-12 W222-14 W226-10 W226-11 W226-12 W226-14 W226-15 W226-18 W228-10 W230-6 W231-4 W236-8 W238-8 W238-11 W241-3 W245-16 W245-20 W246-3 W246-5 W248-9 W248-10 W248-14	000018 000093-000095 000109 000110 000110 000143-000144 000144 000144-000145 000145 000145-000146 000149 000173 000190 000195 000258 000273-000274 000276 000288 000343 000344-000345 000349-000350 000350 000364-000365 000365 000366

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			W248-16	000366-000367
			W248-38	000372
			W250-15	000395-000396
			W250-16	000396
			W250-19	000397
			W252-5	000407
			W252-6	000407
			W252-7	000407
			W252-10	000408
			W253-8	000413
			W262-13	000465-000466
			W262-31	000470
			W266-6	000489-000490
			W267-7	000494
			W269-3	000501
			W270-10	000508
			W271-4	000515
			W272-9	000520
			W272-10	000520
			W272-11	000520
			W272-13	000520
			W272-15	000521
			W272-17	000521
			W274-6	000546
			W274-7	000546
			W274-8	000546
			W277-10	000580
			W280-8	000597
			W280-12	000598
			W284-11	000623-000624
			W289-10	000648
			W291-1	000660-000709

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			W297-3 W297-4 W301-1 W308-8	000746 000746 000754-000755 000781
289.	Comments regarding § 999.314, but not about any modification to the proposed regulations. These comments proposed various changes to the section, including who should be deemed a service provider and the obligations service providers should owe.	No change has been made to the regulations because the comments do not relate to any modification to the text for the 15-day comment period.	W212-29 W219-2 W232-1 W235-7 W240-4 W269-9 W274-9 W280-6 W285-3 W287-1 W290-3 W293-3	000018-000020 000072 000200-000201 000251 000284-000285 000503 000546 000597 000631-000632 000636-000637 000658-000659 000715
290.	Comments regarding § 999.315, but not about any modification to the proposed regulations. These comments proposed various changes to the section, including how consumers or their estates could submit requests to opt-out and what information must be provided when the opt-out request is suspected to be fraudulent. Many comments objected to the requirement to honor global privacy settings as requests to opt-out.	No change has been made to the regulations because the comments do not relate to any modification to the text for the 15-day comment period.	W212-32 W212-35 W212-38 W217-1 W218-2 W222-20 W225-3 W226-20 W226-21 W226-22 W226-23 W228-14 W229-8 W237-8 W245-22 W248-4	000021 000021 000022 000059-000060 000067 000112-000113 000132 000150-000151 000150-000152 000150-000151 000152 000174 000184-000186 000265 000345 000362-000363

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			W250-8	000385, 000390-000391
			W250-9	000385, 000391-000392
			W250-17	000396
			W250-18	000396-000397
			W253-3	000411
			W255-5	000425
			W262-18	000466-000467
			W262-32	000470
			W265-6	000483-000484
			W272-14	000521
			W273-6	000535
			W273-8	000537
			W274-10	000547
			W277-5	000576
			W277-16	000583-000584
			W280-8	000597
			W297-5	000746
			W301-1	000754-000755
			W304-6	000763-000764
291.	Comments regarding § 999.316, but not about any modification to the proposed regulations. These comments proposed various changes to the section, including requests for more detailed guidance, the deletion of the two-step process required for requests to opt-in, and clarification regarding overlapping references in the two-step process.	No change has been made to the regulations because the comments do not relate to any modification to the text for the 15-day comment period.	W218-2	000067
			W222-21	000113
			W226-1	000138-000139
			W229-9	000186
			W233-6	000206, 000229
			W235-5	000250
			W238-13	000276-000277
			W245-23	000345
			W248-26	000371
			W262-22	000469
			W308-4	000779

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			W308-5	000779-000780
292.	Comments regarding § 999.317, but not about any modification to the proposed regulations. These comments objected to various parts of the section, including mandatory training, record-keeping, and the publication of compliance metrics.	No change has been made to the regulations because the comments do not relate to any modification to the text for the 15-day comment period.	W226-24 W226-25 W226-26 W226-27 W228-16 W229-10 W230-7 W231-5 W235-1 W238-14 W248-25 W249-2 W250-14 W253-4 W260-6 W262-23 W266-9 W266-10 W270-18 W272-12 W274-11 W277-13 W277-14 W293-6	000153 000154 000154-000155 000154-000155 000175 000186 000190 000195-000196 000248 000277 000370 000378-000379 000394-000395 000411 000453 000469 000490 000490 000510 000520 000547 000582 000582-000583 000716
293.	Comments regarding § 999.323, but not about any modification to the proposed regulations. These comments proposed various changes to the section, including the verification methods prescribed, how to handle requests for deidentified information, and how to address concerns	No change has been made to the regulations because the comments do not relate to any modification to the text for the 15-day comment period.	W213-1 W223-3 W228-18 W229-11 W230-8 W245-24 W248-28	000026 000116 000175-000176 000187 000190 000345 000372

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	with verifying consumer requests.		W260-9 W266-11 W285-3 W288-1 W305-1	000453 000490-000491 000631-000632 000639-000640 000766
294.	Comments regarding § 999.324, but not about any modification to the proposed regulations. These comments proposed various changes to the section, including whether authorized agents should be required or prohibited from submitting requests through a consumer's online account.	No change has been made to the regulations because the comments do not relate to any modification to the text for the 15-day comment period.	W213-2 W226-29 W228-18 W242-5	000026 000155-000156 000175-000176 000295-000296
295.	Comments regarding § 999.325, but not about any modification to the proposed regulations. These comments objected to various parts of the section, including the two levels of verification.	No change has been made to the regulations because the comments do not relate to any modification to the text for the 15-day comment period.	W228-18 W228-20 W248-27 W260-10 W272-22	000175-000176 000176 000371-000372 000453 000522
296.	Comments regarding § 999.326, but not about any modification to the proposed regulations. These comments proposed various changes to the section, including how authorized agents are authenticated, regulated by the State, how they should communicate with businesses, and which requests they should have the power to execute on behalf of consumers.	No change has been made to the regulations because the comments do not relate to any modification to the text for the 15-day comment period.	W225-1 W226-30 W226-31 W228-22 W234-1 W255-3 W270-22 W272-23 W273-10 W305-3	000129-000132 000156 000156 000177 000244 000425 000511 000522 000539 000766
297.	Comments regarding § 999.330, but not about any modification to the proposed regulations. These comments proposed that satisfying COPPA's requirements	No change has been made to the regulations because the comments do not relate to any modification to the text for the 15-day comment period.	W226-32 W235-6 W266-12 W276-2	000156-000157 000250 000491 000562-000564

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	should be sufficient to satisfy the CCPA.		W277-9	000579-000580
298.	Comment regarding §§ 999.331 and 999.332, but not about any modification to the proposed regulations. This comment proposed that notices should be directed to a child's reading comprehension level.	No change has been made to the regulations because the comment does not relate to any modification to the text for the 15-day comment period.	W243-7	000336
299.	Comments regarding § 999.336, but not about any modification to the proposed regulations. These comments proposed various high-level changes to the regulations regarding financial incentives, including whether any disclosures should be required at all.	No change has been made to the regulations because the comments do not relate to any modification to the text for the 15-day comment period.	W219-6 W226-33 W250-11 W283-1	000078 000157-000158 000385, 000393 000612-000613
300.	Comments regarding § 999.337, but not about any modification to the proposed regulations. These comments proposed various high-level changes to the regulation of financial incentives, including whether any disclosures should be required at all.	No change has been made to the regulations because the comments do not relate to any modification to the text for the 15-day comment period.	W222-9 W226-3 W226-34 W230-4 W238-5 W245-12 W253-5 W254-3 W273-2 W308-6	000109, 000113 000139, 000141, 000158-000159 000158 000190-000191 000272-000273 000343 000412 000419 000529-000530 000780
301.	Comments neither directed at any specific section of the proposed regulations, nor any modification to the proposed regulations. These comments made various proposals, observations, or requests, including: • Requesting model notices; • Exempting certain industries or	No change has been made to the regulations because the comments do not relate to any modification to the text for the 15-day comment period.	W210-1 W214-15 W215-1 W228-23 W231-10 W235-4 W237-1	000002 000034 000040-000041 000177 000197-000198 000250 000262-000263, 000265-000266

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	entities regulated under other statutes; • Clarifying the status of deceased consumers; • Raising various First Amendment issues with the CCPA; • Making general criticisms of the CCPA or the regulations as a whole; • Proposing greater fraud protections; • Regulating "app stores"; • Clarifying who is subject to the CCPA; • Requesting compliance training by the OAG; • Requesting definitions for undefined terms within the CCPA; • Requesting the delay of enforcement of the CCPA or regulations; • Proposing changes for unique or rare situations; • Requesting various "safe harbors"; • Requesting alterations to the statutory definition of "sale"; and, • Requesting various other changes to provisions in the CCPA; • Facilitating bottom-up solutions with businesses; and • Proving authoritative guidance.		W237-3 W237-9 W239-1 W240-3 W242-4 W243-2 W245-1 W245-2 W245-3 W245-4 W245-5 W248-1 W249-1 W252-1 W253-1 W253-12 W253-13 W254-6 W255-6 W258-1 W260-11 W260-12 W260-13 W260-14 W261-3 W262-26 W262-27 W262-28 W262-29 W262-30 W264-2 W267-2	000264 000265 000281 000284 000295 000334 000340 000340 000340 000341 000341 000358 000378 000405-000406 000410 000414 000414 000420 000425-000426 000447 000453 000453 000453 000453-000454 000457 000470 000470 000470 000470 000470 000478-000479 000493

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			W267-6	000495
			W268-2	000498
			W268-3	000498
			W272-1	000518
			W275-1	000555-000556
			W276-5	000562, 000564-000565
			W277-1	000571
			W278-2	000588-000589
			W280-4	000596
			W284-18	000627
			W289-1	000642-000643
			W289-2	000643-000646
			W290-1	000654-000655, 000658-000659
			W300-1	000753
			W307-1	000774
			W308-1	000776-000778
			W308-2	000778