

CALIFORNIA PRIVACY PROTECTION AGENCY

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Date: September 24, 2024

To: California Privacy Protection Agency Board
(Meeting of October 4, 2024)

From: Philip Laird
General Counsel
California Privacy Protection Agency

Subject: **Agenda Item 3 – Discussion and Possible Action to Advance Draft Regulations to Formal Rulemaking for Updates to Existing Regulations, Insurance, Cybersecurity Audits, Risk Assessments, and Automated Decisionmaking Technology**

This memorandum provides staff's recommendation that the Board advance the proposed regulations to formal rulemaking for updates to existing regulations, insurance, cybersecurity audits, risk assessments, and automated decisionmaking technology (ADMT).

Background

The California Consumer Privacy Act (CCPA) directs the Agency to adopt regulations to further the purposes of the Act, including promulgating regulations on 22 specific topics. In accordance with this direction, the Agency has drafted proposed regulations that do the following: (1) update existing CCPA regulations; (2) clarify when insurance companies must comply with the CCPA; (3) operationalize requirements to complete an annual cybersecurity audit; (4) operationalize requirements to conduct a risk assessment; and (5) operationalize consumers' rights to access and to opt-out of businesses' use of ADMT.

These proposed regulations are accompanied by an Initial Statement of Reasons (ISOR) that describes the purpose and necessity of the proposed regulations. The proposed regulations and ISOR have been modified since the July 2024 board meeting to do the following: (1) remove proposed section 7005, which addressed the consumer price index increase, because this was addressed via legislation (AB 3286, statutes of 2024); (2) detail the proposed regulations' benefits; (3) incorporate the Standardized Regulatory Impact Assessment and address statewide economic impacts; (4) address regulatory alternatives; (5) list the materials relied upon; and (6) make nonsubstantial grammatical changes, such as updating cross-references and updating citations to the CCPA.

The proposed regulations are informed by several years of preliminary rulemaking activities, including two rounds of preliminary written comments from the public, which yielded over 1,850 pages of comments from over 100 commenters; two days of instructive informational sessions; and six days of stakeholder sessions collectively attended by several hundred members of the public and that yielded over 140 comments. In addition, the Board has discussed the topics of these proposed regulations and received public comment on them at seven board meetings between March 2022 and July 2024.

Recommendation

Staff recommends that the Board advance the proposed regulations to formal rulemaking, which will provide the public with a formal opportunity to provide written and oral comments to the Agency on the proposed regulations. After receiving public comments, the Board will have additional opportunities to discuss, and potentially update, the proposed regulations.