

CALIFORNIA PRIVACY PROTECTION AGENCY

TITLE 11. LAW

DIVISION 7. CALIFORNIA PRIVACY PROTECTION AGENCY

CHAPTER 3. Data Broker Registration

INITIAL STATEMENT OF REASONS

Subject Matter of Proposed Regulations: Data Broker Registration

Sections Affected: California Code of Regulations (CCR), title 11, sections 7600, 7601, 7602, 7603, 7604, and 7605.

PROBLEM STATEMENT

On October 10, 2023, the Governor signed Senate Bill (SB) 362 into law. The law transferred the administration and enforcement of the Data Broker Registry from the Office of the Attorney General to the California Privacy Protection Agency (Agency) as of January 1, 2024. The Agency now maintains the Data Broker Registry and posts publicly the required information disclosed by data brokers. SB 362 established that the Agency may adopt regulations to implement and enforce the Data Broker Registry provisions. (Cal. Civ. Code, § 1798.99.87.)

Under the law, the Agency must maintain a public informational internet website providing the data brokers' registration information (Data Broker Registry) and is authorized to charge data brokers a registration fee to support the costs of establishing and maintaining this website. The Agency has developed the proposed regulations to address obstacles and common questions that arose for data brokers and the Agency in its first registration period. The proposed regulations will provide guidance to businesses related to the Data Broker Registry's requirements for those meeting the definition of data broker. This will ensure that data brokers provide accurate and adequate information to support the statute's goals of consumer protection through transparency and informed decision-making when exercising the California Consumer Privacy Act (CCPA) privacy rights.

To that end, the proposed regulations: (1) detail what is included in, and how to pay the registration fee; (2) define terms included in SB 362; and (3) clarify requirements for registration, updates to the registry, and website disclosures.

Specifically, the proposed regulations:

- Clarify that the registration fee includes \$400 plus any fees for processing electronic payments. (Proposed § 7600 (a).)
- Establish a standardized electronic payment method for registration fees. (Proposed § 7600 (b).)
- Establish a rule allowing payment by debit card, check, or wire transfer if a business cannot pay by credit card and the process for such. (Proposed § 7600 (c).)
- Establish a rule stating that registration fees will not be prorated or refunded. (Proposed § 7600 (d).)
- Define the term “direct relationship” to provide clarity on what businesses are data brokers and ensure the definition is consistent with that contemplated in Civil Code Section 1798.99.80 subdivision (c). (Proposed § 7601 (a).)
- Define the term “minor” as persons under 16 years of age and establish when a business is considered to have knowledge of a person’s age. (Proposed § 7601 (b).)
- Define the term “register” to provide clarity on the requirements for completion of registration. (Proposed § 7601 (c).)
- Define the term “registration period” to provide clarity on the start date for data broker registration. (Proposed § 7601 (d).)
- Define the term “reproductive health care data” and provide examples to add clarity on data broker’s disclosure requirements pursuant to Civil Code section 1798.99.82 subdivision (b)(2)(E). (Proposed § 7602 (e)(1).)
- Clarify that each data broker business, regardless of its status as a subsidiary or parent company to another business, is required to uniquely register. (Proposed § 7602 (a).)
- Establish a rule requiring employee or agent for the data broker to register on behalf of the data broker and to have sufficient knowledge of their

practices to provide accurate information under penalty of perjury. (Proposed § 7602 (b).)

- Establish a rule preventing amendments or withdrawals to registration information after the registration period, subject to exceptions. (Proposed § 7602 (c).)
- Establish a rule requiring true and correct responses be submitted by the data broker. (Proposed § 7603 (a).)
- Establish a rule requiring accurate and functional website links and email addresses be provided to the Agency. (Proposed § 7603 (b).)
- Establish a rule requiring disclosure of business’s alternative names and requiring contact information to facilitate communication from the Agency as necessary. (Proposed § 7603.)
- Establish a rule requiring disclosure of the types of personal information, products and services, and the proportion of data collected and sold that are subject to other laws. (Proposed § 7603 (d).)
- Establish a rule preventing data brokers from removing themselves from the registry absent erroneous registration. (Proposed § 7604 (a).)
- Establish a rule allowing updates to certain types of registration information. (Proposed § 7604 (b).)
- Establish a rule that a data broker’s disclosure of metrics must comply with section 7003, where applicable and technically feasible. (Proposed § 7605.)

BENEFITS ANTICIPATED FROM REGULATORY ACTION

The proposed regulations provide several benefits to Californians by furthering the state’s interest in providing transparency into an industry that collects a massive amount of data about consumers, while consumers know very little about what information data brokers collect and sell about them. Providing consumers with additional, uniform information will provide them with a better understanding of which data brokers may collect their data. This, in turn, enables them to make more informed decisions about exercising their privacy rights, such as the right to delete personal information or opt-out of sale or sharing of their personal information.

The proposed regulations also facilitate increased compliance with CCPA by providing clarity to data brokers about how to register as required by SB 362, enabling the ability to pay the registration fee by credit card as requested by

current data brokers, and defining critical terms. The clarification of requirements in the proposed regulations will strengthen the Agency's ability to address noncompliance by businesses acting as data brokers. Increased compliance with the CCPA advances the state's goal of transparency, supports the consumer's ability to make informed choices about their personal information, and provides the consumer with realistic expectations regarding the extent to which they can expect their personal information to be deleted.

Moreover, the proposed regulations will result in efficiencies and consistency in the data broker registration process and the information made available to the public.

SPECIFIC PURPOSE, NECESSITY AND RATIONALE OF EACH SECTION

The Agency proposes amending section 7600 and adopting sections 7601, 7602, 7603, 7604, and 7605 of Division 6, of Title 11, of the California Code of Regulations as follows.

Amend § 7600. Annual Registration Fee.

Proposed subsection (a) has been amended to include in the registration fee the entire cost of registration, including the fees incurred by the Agency from third party processors when payment is made electronically. Civil Code section 1798.99.87 subdivision (b) exempts regulations adopted to establish fees from the Administrative Procedure Act (APA). Subsection (a) is included in this rulemaking package as the current regulatory section is being amended to add subdivisions (b) through (d) which are not subject to the same APA exemption.

Proposed subsection (b) establishes one standardized electronic payment method for registration fees – a credit card. In 2024, the Agency was not able to accept forms of payment other than paper check or money order. Many data brokers asked specifically to pay with a credit card and several data brokers indicated to the Agency that they no longer possessed paper checks to use as a form of payment. In response, the Agency has completed the state contracting process for a vendor that will allow it to accept payment by credit card via its website. Additionally, having payments made via the Agency's website will allow for more accurate and efficient tracking than relying on manual tracking. This provision is necessary to

respond to the request by data brokers to pay by credit card and make the payment process more convenient and effective.

Proposed subsection (c) provides alternative payment methods for data brokers who can demonstrate that they are unable to pay by credit card. This rule is necessary because some data brokers may not have payment processes in place for a credit card payment. The Agency cannot anticipate the myriad of reasons a data broker may not be able to use a credit card and thus needs to be able to assess the particular facts and circumstances of each data broker on a case-by-case basis. Allowing alternative methods of payment in the form of debit card, check, or wire transfer is less burdensome on industry. However, the regulations require that data brokers must receive prior authorization from the Agency. The proposed regulation further indicates that alternative methods not authorized in advance by the Agency will not be accepted or processed.

This is necessary because the Agency needs time to prepare to receive alternative payment methods and to ensure the Agency has the ability to process the specific alternative method of payment the data broker seeks to utilize. The proposed regulation also requires the data broker to provide the information to the Agency in an electronic written communication and that the Agency will notify the data broker in writing when it is authorized to pay by an alternative method. This is necessary so that there is a clear process and mechanism by which data brokers request and have authorized alternative methods of payment.

Proposed subsection (d) establishes that registration fees will not be refunded or prorated. Civil Code section 1798.99.82 requires the payment of a registration fee to be used for the costs to establish, maintain, and provide access to the Data Broker Registry and accessible delete mechanism. The current fee is based on the costs for the Data Broker Registry, for which data brokers register annually in January. This provision is necessary because it is used to process the registration and the payment itself; thus, a proration or refund would not cover the costs as intended by the statute. The provision is also necessary to inform data brokers of this restriction once the registration fee is paid.

Adopt § 7601. Definitions.

Proposed section 7601 defines terms used throughout proposed Chapter 3. Defining the terms is necessary to clarify their meaning to eliminate any

misunderstandings or confusion about a data broker's obligations and the data that must be disclosed.

Proposed subsection (a) defines "Direct relationship" as used in Civil Code section 1798.99.80, which requires registering with the Agency if the data broker does not have a direct relationship with consumers whose personal information it buys and sells.

The definition clarifies that if a consumer intentionally interacts with a business to obtain information about, access, purchase, use, or request products or services within the preceding three years, a direct relationship exists. This is necessary because obtaining information about, accessing, purchasing, using, or requesting products or services directly from a business describes the types of interactions that represent a consumer's typically intentional and direct interaction with a business. However, even when such interactions occur in a single instance, data brokers may attempt to claim an indefinite direct relationship with a consumer and attempt to avoid registration requirements despite having no intentional interaction with the consumer for a prolonged period of time. The Agency determined that three years was a reasonable time limit for a direct relationship based on its understanding of common consumer expectations. Adopting a time frame for direct relationship is necessary to allow consumers, who have not recently interacted with a business, the opportunity to delete their data through an automated mechanism while reasonably adhering to the direct relationship exclusion in the statute. Without such provision, businesses that have ever interacted with the consumers they buy and sell personal information about can indefinitely avoid compliance with the statutory data broker requirements.

The proposed subsection also excludes from a direct relationship engagement between the consumer and business when that engagement is to exercise a right under Title 1.81.5 of Part 4 of Division 3 of the Civil Code (CCPA) or for identity verification. This is necessary to prevent a business from avoiding the data broker registration requirements by claiming a direct relationship with consumers who have only interacted with the business to exercise their CCPA rights or to provide the business with information exclusively to verify their California identity. This is necessary to ensure that consumers are not disincentivized from exercising their CCPA rights to avoid establishing a direct relationship with a data broker, thus, forfeiting their right to utilize an automated delete mechanism.

Finally, the proposed subsection clarifies that a business can simultaneously have a direct relationship with a consumer related to the information it collects during an intentional interaction with that consumer and still be a data broker with respect to the personal information it independently collects from third parties and sells (i.e., personal information not acquired from a direct relationship). For example, a business that offers a widely used service, such as a video game that can be used on a mobile phone, may also buy and sell data about a consumer completely unrelated to the game purchase or use, such as information about their menstrual cycle. Thus, the business would not be considered a data broker with respect to the personal information collected directly from the consumer for the video game but would be considered a data broker for purposes of the personal information about the consumer's menstrual cycle that it independently bought and sold to third parties. A core purpose of SB 362 is to provide consumers with a list of businesses that may be collecting and selling their personal information without their knowledge. This proposed provision clarifies that a business must register with the Agency when it knowingly collects and sells to third parties the personal information of a consumer that it did not directly collect from the consumer, and is necessary to inform consumers that the business potentially possesses and may be selling their personal information not acquired directly from them.

Proposed subsection (b) defines the term “minor” to give businesses clarity on their disclosure requirements under Civil Code section 1798.99.82 subdivision (b)(2)(C), which requires data brokers to disclose whether they collect personal information of minors. The proposed subsection defines a minor as a person under 16 years of age. The Agency chose age 16 to remain consistent with the provisions of the CCPA, which prohibits data brokers from selling or sharing the personal information of consumers under the age of 16 but above the age of 13 unless the consumer affirmatively authorized it. (Cal. Civ. Code, § 1798.120(c).)

The definition also includes that to be a minor, the data broker must have “actual knowledge” that the consumer is less than 16 years of age. This is necessary to protect data brokers that did not know a person was under 16 years of age from violating the provisions related to minors. At the same time, the definition provides that a data broker that “willfully disregards the consumer’s age” will be deemed to have actual knowledge of the age. This is necessary to prevent data brokers from choosing to ignore information related to a consumer’s age to avoid affirmative knowledge and circumvent the requirements related to personal information of minors.

Proposed subsection (c) defines the term “register” as both completing the registration form and paying the registration fee. This is necessary to clarify to data brokers that merely filling out the registration form is insufficient to be considered fully registered as payment is a requisite component of registration under Civil Code section 1798.99.82. Additionally, the use of one word to encompass both actions causes the regulations to be more concise and easier to understand.

Proposed subsection (d) provides temporal parameters around the term “registration period” to clarify the window in which a data broker has to complete their registration. Currently, Civil Code section 1798.99.82 subdivision (a) states that the deadline for registration is on January 31 each year but does not include a start date. This rule clarifies that the registration period starts on January 1 and ends on January 31. The Agency determined that the appropriate start date for the registration period is January 1 because registration is required annually following each year in which a business qualifies as a data broker and the new calendar year begins on January 1. This is necessary to capture the entire preceding year before the registration period begins and clarify for data brokers the time period during which they must complete their registration.

Proposed subsection (e) defines the term “reproductive health care data” because data brokers must disclose whether they collect reproductive health care data annually when registering, and no definition is included in the statute. The proposed definition is necessary to clarify for data brokers what type of information is included in the term for proper reporting. This is necessary to increase transparency for consumers by giving them a more complete understanding of data brokers that may collect their reproductive health care data, enabling consumers to be more informed when exercising their privacy rights.

Proposed paragraph (1) clarifies that information about a consumer searching for, accessing, procuring, using, or otherwise interacting with both goods and services can be considered reproductive health care data. This is necessary to clarify the various ways data brokers may obtain information about a consumer’s reproductive health care. The proposed paragraph also references services, such as vasectomies, and goods, such as a pregnancy tests, to be included in the definition of reproductive health care data. This is necessary as consumers commonly associate both goods and services with their reproductive health care. This paragraph also provides data brokers with a list that includes products and services

commonly associated with reproductive health care data: contraception (e.g., condoms, birth-control pills); prenatal and fertility vitamins and supplements; menstrual-tracking apps; and hormone-replacement therapy; sperm- and egg-freezing; In Vitro Fertilization; abortion care; vasectomies; sexual health counseling; treatment or counseling for sexually transmitted infections, erectile dysfunction, and reproductive tract infections; and precise geolocation information about such treatments. This is necessary to provide illustrative examples for data brokers to clarify what is considered goods or services associated with the human reproductive system. The proposed definition is also consistent with definitions of “reproductive or sexual health application information” under the Confidentiality of Medical Information Act (Cal. Civ. Code, § 56 et seq.), as well as the definition of “reproductive health” in Health & Safety Code section § 128560(b) and Civil Code section § 1798.300(e).

Proposed paragraph (2) includes in the definition of reproductive health care data any information about the consumer’s sexual history and family planning, regardless of whether the data broker got that information through the consumer searching for, accessing, procuring, using, or otherwise interacting with goods or services. The proposed paragraph clarifies that this term includes information entered into mobile applications, such as a dating application. This is necessary to protect consumers’ right to know about who possesses information about their reproduction related sexual history and family planning, clarify that the information meets the definition regardless of how it is obtained, and establish that information entered into a dating or similar application that is not specifically related to health care services or products would also fall within the definition.

Proposed paragraph (3) includes in the definition of reproductive health care data “[i]nferences” that can be drawn about the consumer with respect to the goods or services they access, or the information about the consumer’s sexual history and family planning. This paragraph harmonizes with the use of “infer” in the definition of “reproductive or sexual health application information” under the Confidentiality of Medical Information Act (Cal. Civ. Code, § 56 et seq.); thus, creating consistency between the statutory provisions. This provision is necessary to ensure that inferences about reproductive health matters that rely on information referenced in proposed paragraphs (1) and (2) are treated similarly and that data brokers are aware of such limitations.

Adopt § 7602. Registration Submission Requirements.

Proposed section 7602 clarifies registration submission requirements for data brokers. This section is informed by common questions and obstacles that arose during the first registration period under the statute.

Proposed subsection (a) requires all data brokers to register regardless of whether a parent company or subsidiary associated with that data broker has registered. During the most recent registration period, several companies chose not to register their parent companies or subsidiaries because one of their associated companies had registered. Because each data broker is uniquely subject to the law, the purpose of this proposed subsection is to prevent data brokers from hiding the fact that they are a data broker from consumers. This is necessary to increase transparency for consumers by giving them a more complete understanding of data brokers that may collect their data, enabling consumers to be more informed when exercising their privacy rights.

Proposed subsection (b) requires an employee or agent of the data broker to be authorized to register on behalf of the data broker and to have sufficient knowledge of the data broker's practices to provide accurate information under penalty of perjury. The purpose of this proposed subsection is to promote the integrity of information on the Data Broker Registry. This is necessary to increase transparency for consumers by giving them a more complete and accurate understanding of data brokers that may collect their data, enabling consumers to be more informed when exercising their privacy rights.

The proposed regulation requires the person registering the data broker to certify under penalty of perjury that to the best of their knowledge the information they submit is true and correct. Certification under penalty of perjury helps to ensure that the documentation contains truthful, factual representations made in good faith. (See *e.g.*, *In re Marriage of Reese & Guy* 73 Cal.App.4th 1214, 1223 (Cal. Ct. App. 1999) (explaining the use of certifications under penalty of perjury, “[t]he whole point of permitting a declaration under penalty of perjury, in lieu of a sworn statement, is to help ensure that declarations contain a truthful factual representation and are made in good faith.”).) Accordingly, the certification under penalty of perjury in the form is necessary to ensure that complainants submit truthful and accurate information to the Agency.

In addition, the certification under penalty of perjury helps ensure the reliability of the statements to the Agency since certifying under penalty of perjury can have a deterrent effect on those who may be considering not providing true, accurate, or complete information, as well as provides the Agency with the option of seeking sanctions and referring the matter to law enforcement in the event that such information is not true, complete, or accurate. To do so, “[t]he oath or declaration must be in such form that criminal sanctions of perjury might apply where material facts so declared to be true, are in fact not true or are not known to be true.” (See *In re Marriage of Reese & Guy*, 73 Cal.App.4th 1214, 1223 (Cal. Ct. App. 1999), modified by *Laborde v. Aronson*, 92 Cal.App.4th 459 (Cal. Ct. App. 2001).)

Proposed subsection (c) provides that a data broker cannot amend or withdraw a completed registration after the registration period, subject to exceptions set forth in section 7604. The Data Broker Registry is retrospective and applies only to the past calendar year. Thus, this proposed subsection is necessary to ensure that data brokers who engaged in data broker activities at any point in the previous calendar year remain in the registry to promote transparency for consumers by giving them a more complete understanding of data brokers that may have collected their data, enabling consumers to be more informed when exercising their privacy rights.

Adopt § 7603. Registration Information Requirements.

Proposed section 7603 provides clarity on registration information requirements. This section is informed by common questions and obstacles that arose during the first registration period under the statute and the state’s goal of providing a consumer protective approach through greater transparency.

Proposed subsection (a) requires data brokers to submit true and correct responses. This is necessary to ensure data brokers don’t mislead consumers, and to enable consumers to make informed decisions when exercising their privacy rights.

Proposed subsection (b) requires data brokers to provide accurate and functional email addresses and website links. This is necessary to ensure that the information on the Data Broker Registry is accurate and up to date to provide transparency for consumers and also to provide a functional channel of communication for

consumers. This also ensures data brokers comply with the statutory reporting requirements.

Proposed subsection (c) requires data brokers to provide alternative trade names under which the data broker does business. Because a data broker may operate under numerous names, this rule is necessary to give consumers a more complete understanding of who data brokers are to make an informed decision when choosing to exercise their privacy rights.

The proposed subsection also requires that data brokers provide the Agency with a point of contact, including name, email, and phone number. The name is necessary for the Agency to know who to contact for matters related to the Data Broker Registry. The email address and phone number are necessary to provide an efficient channel of communication between the Agency and the data broker if communication is needed to carry out the Agency's regulatory functions. The contact information will not be posted on the registry as this contact is a specific person the Agency can contact to discuss issues related to compliance, which may be a different contact than the person who handles consumer privacy rights requests for the data broker.

Proposed subsection (d) requires data brokers to disclose any data, the proportion of data, and any products or services that are regulated by other laws. The purpose of this rule is to clarify the meaning of "the extent which" the data broker and any of its subsidiaries are regulated by other laws enumerated in Civil Code section 1798.99.82 subdivision (b)(2)(H). This is necessary because data brokers may act as a data broker but some or all of their data may be exempt from the requirements in SB 362. Based on the wide variety of information received during the first registration period, the Agency determined there was a need for consistent guidance about how to report this information.

Proposed paragraph (1) requires the data broker to state the types of personal information that the data broker collects and sells that is subject to the enumerated laws. This is necessary because it details for the consumer the type of personal information that the consumer cannot expect to delete.

Proposed paragraph (2) requires the data broker to state the specific products or services covered by the enumerated state or federal law. This is necessary because some data brokers have multiple product lines and services, and consumers should

understand which products and services from which they can and cannot delete their data.

Proposed paragraph (3) requires that the data broker state the approximate proportion (percentage) of data collected and sold that is subject to the enumerated laws in comparison with their total annual data collection and sales. This is necessary because consumers need to know how much of their data they can expect to be able to delete from the respective data broker.

Adopt § 7604. Changes to Registration Information After Registration Period Closes.

Proposed section 7604 provides clarity to data brokers about making changes to their registration information after the registration period. Because registration is required for data brokers in the year after they have engaged in data broker activities, this section prevents data brokers from avoiding disclosure of their data broker activities to consumers. This section enables greater transparency for consumers to help facilitate the exercise of their rights.

Proposed subsection (a) prevents data brokers from removing themselves from the registry, except in cases of erroneous registration. This is necessary because the registry reflects businesses that have engaged in data broker activities in the previous calendar year to inform consumers which businesses may have their data and, therefore, which businesses the consumer could contact to exercise their privacy rights.

The proposed subsection allows businesses to remove themselves from the Data Broker Registry in cases of erroneous registration. This proposed subsection is helpful for industry because it allows companies that have erroneously registered to relieve themselves of the obligations under SB 362, including the requirement to access the accessible deletion mechanism every 45 days, which becomes effective in 2026. This is also necessary because the Agency must ensure the registry contains only businesses which qualify as a data broker and ensures consumers make deletion requests only to data brokers that may have their personal information and are subject to the law.

Proposed subsection (b) allows data brokers to contact the Agency to update information that would affect the Agency's and a consumer's ability to contact the

data broker. Data brokers may contact the Agency electronically in writing to update: (1) a change in the name, email, or phone number of the point of contact; (2) a change in the data broker's public-facing contact information, provided pursuant to Civil Code section 1798.99.82 subsections (b)(2)(A); and (3) a change in the data broker's public-facing website addresses, provided pursuant to Civil Code section 1798.99.82 subsections (b)(2)(A) and (b)(2)(G). This is necessary to allow the Data Broker Registry required under Civil Code section 1798.99.84 to be updated with accurate information so that consumers can make an informed decision when choosing to exercise their privacy rights. This rule is also necessary to facilitate communication between the Agency and data brokers if communication is needed to carry out the Agency's regulatory functions.

Adopt § 7605. Requirements for Website Disclosures

Proposed section 7605 establishes requirements for a data broker's disclosure of metrics, as required by law.

Proposed subsection (a) requires disclosures pursuant to Civil Code sections 1798.99.82(b)(2)(G) and 1798.99.85 comply with California Code of Regulations, title 11, section 7003, where applicable and technically feasible, which is necessary to promote consistency within the regulations.

ECONOMIC IMPACT ASSESSMENT

The Agency concludes:

- (1) It is unlikely that proposal would create or eliminate jobs within the state because these regulations merely clarify existing registration requirements mandated by statute and make registration easier for businesses.
- (2) It is unlikely that proposal would create new businesses or eliminate existing businesses within the state because these regulations merely clarify existing registration requirements mandated by statute and make registration easier for businesses.
- (3) It is unlikely that proposal would result in the expansion of businesses currently doing business within the state because these regulations merely clarify existing registration requirements mandated by statute and make registration easier for businesses.

The Agency also concludes:

- (1) The proposal would benefit the health and welfare of California residents by promoting transparency about what data brokers maintain and increasing compliance with the information statutorily required to be provided by data brokers; ultimately allowing consumers to be more informed when exercising their privacy rights.
- (2) The proposal would not benefit worker safety as the provisions do not pertain to, nor impact, worker safety.
- (3) The proposal would not benefit the state's environment as the provisions do not pertain to, nor will impact, the state's environment.

FORMS OR DOCUMENTS INCORPORATED BY REFERENCE

None.

TECHNICAL, THEORETICAL, OR EMPIRICAL STUDIES, REPORTS, OR SIMILAR DOCUMENTS RELIED UPON

The Agency did not rely on any technical, theoretical, or empirical studies, reports, or similar documents in proposing these regulations.

EVIDENCE SUPPORTING DETERMINATION OF NO SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS

The Agency has approximately 500 business registered as data brokers that may be impacted by the proposed regulations. The Agency has made an initial determination that the proposed action would not have a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. This determination is based on the clarifying nature of these regulations which will not have a significant impact on business operations or their headcount. There are no facts, evidence, documents, or testimony to date that support that this will have a significant, statewide adverse economic impact on businesses.

REASONABLE ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE IMPACT ON SMALL BUSINESS

The Agency has made an initial determination that the proposed action may affect small businesses to the extent that they qualify as data brokers. The Agency finds that no reasonable alternatives were presented to, or considered by, the Agency that would lessen any adverse impact on small business.

REASONABLE ALTERNATIVES TO THE PROPOSED ACTION AND REASON FOR REJECTING THOSE ALTERNATIVES

The Agency finds that no reasonable alternative to the regulatory proposal would be more effective in carrying out the purpose of these proposed regulations or would be as effective and less burdensome to affected private persons and equally effective in achieving the purposes of the regulations in a manner that ensures full compliance with the law being implemented or made specific. Set forth below are the alternatives which were considered and the reasons each alternative was rejected.

The first alternative considered by the Agency was to adopt a regulation that required registration fee payment exclusively by credit card without allowing any alternative methods of payment. The Agency recognizes that, although many data brokers requested the ability to pay by credit card, that form of payment may not be feasible for all data brokers. Therefore, the Agency rejected this alternative and upon approval will allow payment by methods other than credit card.

The second alternative considered by the Agency was not to develop regulations. This alternative was rejected. The proposed regulations provide clarity about how to register as a data broker, how to update registry information, as well as address questions and circumstances that arose during the first registration period after the law became effective. The Agency rejected this alternative because adopting the proposed regulations will provide important guidance to data brokers to ensure appropriate and consistent

registration information, which will result in greater compliance and ultimately increased transparency for the public.

Performance Standard as Alternative:

The proposed regulations do not mandate the use of specific technologies or equipment or prescribe specific actions or procedures.