

NOTICE OF PROPOSED RULEMAKING DOCKET NO. NSD-104  
AG ORDER NO. 6067-2024; RIN 1124-AA01  
89 FR 86116 (Oct. 29, 2024)

***DEPARTMENT OF JUSTICE: PROVISIONS REGARDING ACCESS TO AMERICANS'  
BULK SENSITIVE PERSONAL DATA AND GOVERNMENT-RELATED DATA BY  
COUNTRIES OF CONCERN***

**MEETING SUMMARY**

RE: MEETING WITH REPRESENTATIVES FROM THE CIVIL SOCIETY,  
TECHNOLOGY, CLOUD, AND SOFTWARE INDUSTRIES REGARDING THE  
DEPARTMENT OF JUSTICE'S PROPOSED RULE ON ACCESS TO AMERICANS'  
BULK SENSITIVE PERSONAL DATA AND GOVERNMENT-RELATED DATA  
BY COUNTRIES OF CONCERN

DATE/TIME OF MEETING: NOVEMBER 5, 2024 10:30 AM – 11:30 AM EST

PLACE OF MEETING: VIRTUAL

ATTENDEES:

FROM THE NATIONAL SECURITY DIVISION OF THE DEPARTMENT OF  
JUSTICE

Allison Harrington, Attorney  
Chad Davis, Attorney  
Evan Sills, Attorney  
Jailene Acevedo, Paralegal  
Jennifer Roan, Program Analyst  
Kaveh Miremadi, Attorney  
Lee Licata, Deputy Chief for National Security Data Risk  
Michael Goudey, Attorney  
Susannah Gilmore, Paralegal

FROM THE CYBERSECURITY AND INFRASTRUCTURE SECURITY AGENCY

Alicia Smith, Senior Policy Counsel

FROM THE INTERNATIONAL TRADE ASSOCIATION OF THE DEPARTMENT  
OF COMMERCE

Marvin Wiley, Policy Advisor  
Sam Schofield, Senior Policy Advisor

OTHER PARTICIPANTS:

Anarkalee Perera, HP

Anitha Ibrahim, Amazon Web Services  
Brad Weltman, Facebook  
Cody Venzke, ACLU  
Dimple R. Shah, Honeywell  
Drew Erber, Honeywell  
Eva Hampl, Dell Technologies  
Evangelos Razis, Workday  
Harley Geiger, Venable LLP  
Julie Krosnicki, Reddit, Inc.  
Karen Kaya, CrowdStrike  
Paul Escobedo, RTX Corporation  
Paul Redifer, Zoom  
Representatives from the White House National Security Counsel  
Sam Kaplan, Palo Alto Networks

#### SUMMARY OF MEETING:

On November 5, 2024, representatives from the Department of Justice (“DOJ”) and the Cybersecurity and Infrastructure Security Agency (“CISA”) held an engagement with representatives from civil society, technology, cloud, and software industries regarding DOJ’s October 29, 2024 Notice of Proposed Rulemaking (“NPRM”) entitled “Provisions Regarding Access to Americans’ Bulk Sensitive Personal Data and Government-Related Data by Countries of Concern.” *See* 89 FR 86116. These notes are a summary of the engagement; they are not a transcript. The Department of Justice has not shared these notes with meeting participants to confirm their accuracy.

During the engagement, a representative from DOJ briefly discussed the NPRM’s proposed requirements, including exceptions to the proposed rule, changes from DOJ’s March 5, 2024 Advanced Notice of Proposed Rulemaking (“ANPRM”), and comments received on the ANPRM. *See* 89 FR 15780. DOJ also noted that the NPRM comment period is open until November 30, 2024, and encouraged participants to submit comments on the proposed rule.

During the engagement, representatives from DOJ also invited meeting participants to ask questions about the NPRM from participants.

One participant asked how the NPRM’s telecommunications exception applies to broadband internet access. DOJ broadly explained that the NPRM’s definition of telecommunications is modeled off of 47 U.S.C. 153(53). This participant also asked about a 2011 Supreme Court decision addressing first amendment issues and whether this case affects how DOJ interpreted the Berman Amendment as applied to the NPRM.

Another participant noted that the NPRM reporting requirements related to offers to engage in prohibited transaction might be unintentionally broad because business frequently receive “spam” offers and these are often rejected automatically. DOJ explained that this part of the rule models Office of Foreign Assets Control requirements and invited this participant to formally submit this feedback in a public comment.

Another participant asked if DOJ knows how many additional locations will be added to the list of proposed government-related location data sites. DOJ was not able to give a definitive answer, but generally explained how these locations are determined. Another participant similarly asked whether government-related geolocation data is limited to the listed geofences in proposed § 202.1401.

Another participant asked DOJ to clarify the definitions of “data brokerage” and “commercial transaction” in the NPRM and explain what DOJ intends this definition to cover. This participant noted that they are concerned that the current definition is overly broad and may hinder commercial transactions. This participant suggested that DOJ narrow the definition of both data brokerage and commercial transactions. DOJ broadly explained these definitions and welcomed the participant to submit a formal comment explaining specifically how the definitions may hinder commercial transactions.