

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below or by accessing the website listed below.

CONTACT PERSON

Inquiries or comments concerning the proposed rule-making action may be addressed to:

Name:

Gabriel Nevin, Legislative and Regulatory Analyst

Address:

Dental Board of California
2005 Evergreen Street, Suite 1550
Sacramento, CA 95815

Telephone Number:

(916) 263-2027

Fax Number:

(916) 263-2140

E-Mail Address:

gabriel.nevin@dca.ca.gov

The backup contact person is:

Name:

Steve Long, Budget Analyst

Address:

Dental Board of California
2005 Evergreen Street, Suite 1550
Sacramento, CA 95815

Telephone Number:

(916) 263-0967

Fax Number:

(916) 263-2140

E-Mail Address:

steve.long@dca.ca.gov

Website Access: Materials regarding this proposal can be found at the Board's website at <http://www.dbc.ca.gov/lawsregs/index.shtml>.

**TITLE 22. DEPARTMENT OF TOXIC
SUBSTANCES CONTROL**

**SAFER CONSUMER PRODUCTS
REGULATIONS — Listing Carpets and Rugs
Containing Perfluoroalkyl or Polyfluoroalkyl
Substances as a Priority Product
Department of Toxic Substances Control reference
number: R-2019-02**

NOTICE IS HEREBY GIVEN that the Department of Toxic Substances Control (DTSC) proposes to

amend the California Code of Regulations, title 22, division 4.5, chapter 10, section 66260.11 and chapter 55, section 69511, and adopt section 69511.4. This proposed amendment pertains to identification of a Priority Product under the Safer Consumer Products (SCP) regulations, approved by the Office of Administrative Law (OAL) and filed with the Secretary of State on August 28, 2013 (effective date: 10/01/2013; OAL Regulatory Action Number: 2013-0718-03).

PUBLIC HEARING

DTSC will hold a public hearing on the proposed regulation at the following time and location:

DATE:

April 13, 2020

TIME:

9:00 a.m.-1:00 p.m.

LOCATION:

CalEPA Building, Sierra Hearing Room
1001 "I" Street
Sacramento, California, 95814

When the hearing convenes any person(s) may present statements or arguments, orally or in writing, relevant to this proposal. The public hearing will begin at 9:00 a.m. and will remain open until 1:00 p.m. or until all registered persons complete their testimony.

Representatives of DTSC will preside at the hearing. Anyone wishing to speak must register before the hearing. Pre-hearing registration is conducted at the location of the hearing from 8:45 a.m. until the hearing commences. Registered persons will be heard in the order of their registration. Anyone else wishing to speak at the hearing will have an opportunity after all registered persons have been heard. DTSC reserves the right to set time limits to ensure that everyone has an opportunity to speak.

All visitors are required to sign in prior to attending any meeting at the Visitor and Environmental Services Center, located just inside and to the left of the building's public entrance. Please allow adequate time to sign in and receive a visitor badge before the public hearing begins.

**NOTICE PERTAINING TO ACCESSIBILITY AND
REASONABLE ACCOMMODATION**

All documents related to these regulations can be made available in alternate format (i.e., Braille, large print, etc.) or in another language, as requested, in accordance with State and Federal law. Further, to ensure the public has equal access to all available services and information, DTSC will provide disability-related reasonable accommodations and/or translator/interpreter

needs, upon request. For assistance, please contact the staff person below as soon as possible, no later than 10 business days prior to the scheduled hearing.

Ms. Jackie Buttle
Office of Legislation and Regulatory Review
Department of Toxic Substances Control
P.O. Box 806
Sacramento, California 95812-0806
Fax Number: (916) 324-1808
TTY/TDD/Speech-to-Speech users may
dial 7-1-1 for the California Relay Service.

WRITTEN COMMENT PERIOD

Any interested person(s) or their authorized representative(s) may submit written comments relevant to the proposed regulatory action to DTSC in either electronic or hard-copy formats. Written comments may be submitted electronically through the SCP Information Management System, CalSAFER at: <https://calsafers.dtsc.ca.gov/>. Please direct questions or concerns about CalSAFER to Simona Balan at 510-540-3888 or simona.balan@dtsc.ca.gov. While DTSC prefers that comments be submitted through the CalSAFER system, interested persons may also submit their comments in an email to: SaferConsumerProducts@dtsc.ca.gov.

Written comments may also be submitted electronically through the DTSC regulations email address at regs@dtsc.ca.gov or please direct hard-copy written comments to Ms. Jackie Buttle, Regulations Coordinator, as specified above.

The written comment period will close on April 13, 2020. Only comments received at the DTSC office by that date and time will be considered. Any interested person(s) or their authorized representative(s) may submit written comments relevant to the proposed regulatory action to DTSC in either electronic or hard copy formats. DTSC will only consider comments received on or before this date and time or submitted during the public hearing.

AUTHORITY AND REFERENCE

Authority

This regulation is being adopted under the following authorities:

- Health and Safety Code (HSC) section 25252 authorizes and requires DTSC to adopt regulations to establish a process to identify and prioritize those chemicals or chemical ingredients in consumer products that may be considered a Chemical of Concern. This section also directs

DTSC to reference and use available information from various sources but does not limit DTSC to use only this information.

- HSC section 25253 authorizes and requires DTSC to adopt regulations that establish a process for evaluating Chemicals of Concern in consumer products, and their potential alternatives, to determine how best to limit exposure to or to reduce the level of hazard posed by a Chemical of Concern.
- HSC section 58012 (added by Government Reorganization Plan Number 1, section 146, effective July 17, 1991) grants DTSC authority to adopt regulations to execute its duties.

Reference

This regulation implements, interprets, or makes specific the following statutes:

- HSC sections 25252 and 25253.

INFORMATIVE DIGEST

Policy Statement Overview:

Sections Affected: DTSC proposes to amend sections 69511 and add one Priority Product to the Priority Product list (section 69511.4) in Article 11, Chapter 55, Division 4.5 of Title 22, of the California Code of Regulations.

Background and Effect of the Proposed Regulatory Action:

The SCP regulations were adopted in October 2013 to meet the statutory requirements outlined in HSC sections 25252 and 25253. The regulations outline a science-based process for evaluating Chemicals of Concern in consumer products and safer alternatives by:

- Establishing a list of Candidate Chemicals and specifying criteria by which these may be designated Chemicals of Concern;
- Establishing a process to identify and prioritize product and Candidate Chemical combinations that may be listed as Priority Products;
- Requiring manufacturers to notify DTSC when their product is listed as a Priority Product;
- Requiring manufacturers of a Priority Product to perform an Alternatives Analysis (AA) to determine how best to reduce exposures to, or the level of adverse public health or environmental impacts posed by, the Chemical(s) of Concern in the product;
- Requiring DTSC to identify and require implementation of Regulatory Responses following completion of an AA; and
- Creating a process for persons to petition DTSC to add chemicals to the Candidate Chemicals list, add

or remove Candidate Chemicals lists in their entirety, or to add or remove a product–chemical combination from the Priority Products List.

DTSC proposes to amend sections 66260.11 and 69511 and add section 69511.4 to Article 11 of the SCP regulations. The proposed action will add carpets or rugs containing any perfluoroalkyl and polyfluoroalkyl substances (PFASs) as a Priority Product on the Priority Products List.

This listing applies to any consumer product made from natural or synthetic fabric intended to be used as a floor covering inside commercial or residential buildings that contains any PFASs. This includes carpeted door mats because they are also used inside buildings. This listing excludes the following:

- Carpets and rugs intended solely for outdoor use;
- Carpets and rugs intended solely for use inside airplanes, trains, automobiles, light duty trucks, vans, buses, or any other vehicles, as well as light duty trucks, vans, buses, or any other vehicles;
- Carpets and rugs intended for use in any other indoor environments besides buildings;
- Resilient floor coverings;
- Artificial turf;
- Wall hangings and coverings;
- Table mats; and
- Camping sleeping mats.

Following extensive review of the scientific literature and analysis of the known hazard traits of PFASs, DTSC determined there is potential for the vast majority of California consumers including infants, school children, and pregnant women and their developing fetuses to be exposed to PFASs while in their carpeted homes, offices, buildings, stores, and classrooms for prolonged periods of time daily. These exposures have the potential to contribute to or cause significant adverse health impacts including carcinogenicity, cardiovascular toxicity, developmental toxicity, endocrine toxicity, hepatotoxicity, immunotoxicity, nephrotoxicity, ocular toxicity, and reproductive toxicity. In addition, PFASs are known to be environmentally persistent, bioaccumulative, highly mobile in the environment, can be transported long distances, and undergo lactational and transplacental transfer in humans and animals. DTSC based this determination on an evaluation of an abundance of publicly available, reliable scientific information pertinent to the regulatory criteria.

Benefits of the Proposed Regulatory Action:

A primary goal of the SCP regulations is to mitigate widespread adverse health and environmental impacts of PFASs in commerce, as well as the overall costs of these impacts to the State of California. By listing carpets or rugs containing any PFASs as a Priority Product,

DTSC encourages manufacturers to evaluate whether PFASs are necessary in carpets and rugs or whether there are functionally safer alternatives that would reduce human exposure to PFASs during manufacturing, use, and post–consumer recycling or disposal of carpets and rugs containing PFASs. Reduction in PFASs in consumer products and the environment means healthier ecosystems, safer homes, offices, schools, workplaces, and a more sustainable environment, with cleaner drinking water and air. Reducing exposure to PFASs could reduce the prevalence of elevated serum concentrations of PFASs in the general population of California, and its associated potential for adverse health effects. Expanded use and development of new, safer alternatives benefits California’s entire population and environment.

Another primary goal of SCP regulations is to protect public health by reducing exposures to potentially harmful chemicals. By listing carpets and rugs containing any PFASs as a Priority Product, DTSC sets in motion a strategy to reduce human exposure to PFASs from the manufacturing, use, and end–of–life of this product category. A reduction in exposure to PFASs could benefit the health of California’s residents and wildlife. The development of safer alternatives benefits California workers, consumers, employers, and environment.

DTSC cannot pre–determine the alternatives that each manufacturer will propose; therefore, it is impossible to accurately predict or quantify the full range of potential benefits associated with their development. DTSC will maximize the use of alternatives of least concern and give preference to those that provide the greatest level of inherent protection. In general, economic benefits to California workers and business owners may include expanded employment opportunities in the fields of consulting, worker and consumer education, and marketing. Additional benefits may accrue because of increased research and product development collaboration between manufacturers and California–based research entities. Institutional and corporate financial support of chemical and material science programs focused on developing safer alternatives to PFASs could advance the field. These research initiatives could provide manufacturers with employees that are highly skilled in the research and design of products for newly emerging global markets.

Existing Laws and Regulations:

The SCP regulations established a unique approach to regulating Chemicals of Concern in consumer products that grants DTSC authority to take actions to protect people and the environment when such actions are outside the scope of other regulatory programs. There are no equivalent federal or state regulations that require product manufacturers to determine if the chemi-

cal in their product is necessary and whether there is a safer alternative, with the goal of protecting consumers and the environment from adverse effects associated with a product throughout its lifetime.

As a class, PFASs are not currently regulated by the Consumer Product Safety Commission (CPSC), the Food and Drug Administration (FDA), or the Occupational Safety and Health Administration (OSHA), nor by any other state agencies. The United States Environmental Protection Agency (U.S. EPA) took some limited regulatory actions on a small number of PFASs (see below), but the proposed regulation does not duplicate or conflict with any of these regulations, which are discussed below.

U.S. EPA’s Limited Regulatory Actions on PFASs:

Section 5 of Toxic Substances Control Act (TSCA) authorizes U.S. EPA to issue Significant New Use Rules (SNURs) for new or existing chemicals used in a significant new way. A SNUR requires companies to notify U.S. EPA at least 90 days prior to manufacturing, importing, or processing substances for a significant new use, and submit a notification including information about the chemical’s identity, physical characteristics, processing and use, and available toxicity data. U.S. EPA has 90 days to evaluate the new use and can request more data, prohibit or limit the manufacture, or allow the use. The following SNURs are related to PFASs:

- A SNUR was issued regarding any future manufacture (including imports) of 75 PFASs specifically included in the 2000–2002 voluntary phaseout of perfluorooctane sulfonic acid (PFOS) by the 3M Company on December 9, 2002;
- A SNUR was issued regarding any future manufacture (including imports) of 13 PFASs specifically included in the 2000–2002 voluntary phaseout of PFOS by 3M on March 11, 2002;
- A SNUR was issued for 183 PFASs believed to no longer be manufactured, imported, or used in the United States on October 9, 2007;
- A SNUR was issued requiring companies to report their intent to manufacture certain perfluorooctanoic acid (PFOA)–related chemicals to treat carpets, and to import carpets containing these PFASs on September 30, 2013; and
- A proposed SNUR was published affecting manufacturers (including importers) of PFOA and PFOA–related chemicals, including as part of articles, and processors of these chemicals on January 21, 2015; this has not been finalized.

In 2006, U.S. EPA developed a 2010/2015 Stewardship Program for reducing emissions of PFOA, its precursors, and related higher homologues (U.S. EPA

2010). Through a Memorandum of Understanding (MOU) with U.S. EPA, eight major U.S. manufacturers agreed to voluntarily eliminate PFOA in their emissions and products by 2015. Participating companies include: Arkema, Asahi, BASF Corporation, Clariant, Daikin, 3M/Dyneon, DuPont, and Solvay Solexis.

Since 2000, U.S. EPA has been reviewing hundreds of substitutes for PFOA, PFOS, and other longer–chain PFASs, particularly regarding their toxicity, fate, and bioaccumulation under the New Chemicals Program. For many PFASs, U.S. EPA has been using TSCA section 5(e) Consent Orders to require testing while allowing production and use. U.S. EPA is also investigating substitutes for certain direct uses of PFOA. On January 27, 2010, U.S. EPA amended the Polymer Exemption Rule for new chemicals under TSCA to exclude certain side–chain fluorinated polymers, due to potential risk to human health or the environment.

Related State Laws and Regulations:

No California state laws or regulations currently address the use of PFASs in carpets and rugs. However, a few current laws apply to carpet recycling.

California AB 2398 was signed into law September 30, 2010 to increase the diversion and recycling of carpet in the state of California. The law generates funding to meet its goals through an assessment on each square yard of carpet sold in California. It does not address the use of PFASs in carpets and rugs.

California AB 1158 was signed into law October 14, 2017, setting a goal for the state to achieve a 24 percent recycling rate for postconsumer carpet by January 1, 2020, and to meet and exceed that rate continually thereafter. It requires a carpet stewardship plan to achieve 24 percent recycling rate for postconsumer carpet by January 2020, and quantifiable 5–year and annual goals. It does not address the use of PFASs in carpets and rugs.

Therefore, these proposed regulations will not be inconsistent or incompatible with existing state laws or regulations.

Comparable Federal Regulation or Statute:

This regulation is not based on, identical to, or in conflict with any federal regulations.

**OTHER APPLICABLE REQUIREMENTS
PRESCRIBED BY STATUTE**

California Environmental Quality Act (CEQA) Compliance

DTSC has determined that this rulemaking would be exempt from CEQA (Public Resources Code Section 21000, et seq.) under the “general rule” or “common sense” exemption outlined in California Code of Regulations, title 14, section 15061(b)(3). A draft Notice of Exemption (NOE) is available for review during the

public comment period upon request and will be filed with the State Clearinghouse if the regulation is finalized.

California Environmental Policy Council Review

Under the provisions of HSC section 25252.5, the California Environmental Policy Council (CEPC) reviewed the framework SCP regulations prior to their adoption in October 2013 (the CEPC Resolution may be viewed at: <http://www.calepa.ca.gov/cepc/>). Under HSC Section 25252.5(f), the CEPC determined that the proposed regulations would not have any significant adverse impact on public health or the environment and could be adopted by DTSC without undergoing a multimedia life cycle evaluation.

DTSC determined that further review by the CEPC is not warranted for this rulemaking because the requirements of HSC section 25252.5 apply only to the creation of the SCP program and not regulations that may be required to implement this program.

Peer Review

DTSC requested an external scientific peer review of the scientific basis of the proposed regulation pursuant to Health and Safety Code section 57004. The result of the external scientific peer review is posted to DTSC’s rulemaking website at: <https://dtsc.ca.gov/regs/>.

MANDATE ON LOCAL AGENCIES OR SCHOOL DISTRICTS

DTSC has determined that adoption of this regulation will not impose a local mandate or result in costs subject to state reimbursement pursuant to part 7 of division 4, commencing with section 17500, of the Government Code or other nondiscretionary costs or savings to local agencies.

COST OR SAVINGS TO STATE OR LOCAL AGENCIES, OR SCHOOL DISTRICTS SUBJECT TO REIMBURSEMENT

DTSC determined that adoption of this regulation will not result in costs or savings for any local agency or school district required to be reimbursed pursuant to Part 7 of Division 4, commencing with section 17500 of the Government Code, or other nondiscretionary costs or savings imposed on local agencies.

Costs or Savings to Any State Agency:

DTSC will absorb additional costs associated with reviewing Notifications, Abridged AA Reports, or two-stage AA Reports submitted by manufacturers of carpets and rugs containing any PFASs by reallocating staff to this new task. DTSC estimates that the total fiscal costs to state government for reviewing all Notifica-

tions, Abridged AA Reports, and two-stage AA reports submitted by manufacturers will range from \$3,290,000 to \$11,590,000.

Local Agencies:

DTSC determined that adoption of this regulation will not impose a local mandate or result in costs or savings for any local agency subject to reimbursement pursuant to Part 7 of Division 4, commencing with section 17500, of the Government Code or other nondiscretionary costs or savings to local agencies.

School Districts:

DTSC determined that adoption of this regulation would not result in costs or savings for any school district required to be reimbursed pursuant to Part 7 of Division 4, commencing with section 17500 of the Government Code.

Federal Funding to the State:

DTSC determined that adoption of this regulation will not result in cost or savings in federal funding to the state. DTSC determined that no fiscal impact to federal funding or state programs exists.

DETERMINATION OF NO SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT

DTSC determined the proposed regulatory action has no significant statewide adverse economic impact directly affecting business. Following a review of available carpets and rugs market data and survey of affected manufacturers and industry organizations, DTSC determined the proposed regulation is not a major regulation and is unlikely to have a significant adverse impact on business.

Types of Businesses Affected: Manufacturers of carpets and rugs containing any PFASs have the principal duty to comply with the notification and reporting requirements.

Projected Reporting, Recordkeeping, or other Compliance Requirements: In accordance with Government Code sections 11346.3(c) and 11346.5(a)(11), DTSC found that the reporting requirements of the proposed regulatory action, which apply to businesses, are necessary for the health, safety, and welfare of the people of the State of California. The specific reporting requirements and forms are:

- Priority Product Notification [section 69503.7]
- Removal/Replacement Notifications:
 - Chemical of Concern Removal Intent Notification [section 69505.2]
 - Chemical of Concern Removal Confirmation Notification [section 69505.2]
 - Product Removal Intent Notification [section 69505.2]

- Product Removal Confirmation Notification [section 69505.2]
- Product–Chemical Replacement Intent Notification [section 69505.2]
- Product–Chemical Replacement Confirmation Notification [section 69505.2]
- Product Cease Ordering Notification [section 69501.2(b)(2)(B)]
- AA Notifications and Reports:
 - AA Threshold Notification [section 69505.3]
 - AA Extension [section 69505.1(c)]
 - Preliminary AA Report [section 69505.4(a)(2), section 69505.5, section 69505.1(b)(2)(A), section 69505.7]
 - Final AA Report [section 69505.4(a)(3), section 69505.6, section 69505.1(b)(2)(B), section 69505.7]
 - Abridged AA Report [section 69505.4(b)]
 - Alternate AA Work Plan [section 69505.4(c)]
 - Previously completed AA [section 69505.4(d)]

The reports and forms that will be submitted by a manufacturer depend on several factors including the Priority Products produced, the availability of viable alternatives, and business decisions made by the manufacturer.

The reporting requirements applicable to manufacturers may be fulfilled by a consortium, trade association, public–private partnership, or other entity acting on behalf of, or in lieu of, one or more manufacturer. This does not apply to the Priority Product Notification or AA Threshold Exemption Notification requirements [section 69501.2(a)(2)].

DTSC has made an initial determination that the adoption of this regulation will not exert a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. DTSC has considered proposed alternatives that would lessen any adverse economic impact on business and invites interested parties to submit proposals. Submissions may include the following considerations:

- i. The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to businesses.
- ii. Consolidation or simplification of compliance and reporting requirements for businesses.
- iii. The use of performance standards rather than prescriptive standards.
- iv. Exemption or partial exemption from the regulatory requirements for businesses.

COST IMPACTS ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES

DTSC estimates the cumulative cost for all California–based manufacturers of carpets and rugs containing any PFASs to submit Priority Product Notifications and AA Reports and to respond to DTSC’s reviews of these submittals to be from \$2,259,200 to \$6,099,200. DTSC relied on a variety of sources, such as U.S. Census Bureau County Business Patterns and D and B Hoovers databases, to estimate the number of manufacturers potentially impacted by this proposed regulation. From these data sources, DTSC estimates there are 20 manufacturers of carpets and rugs containing PFASs in California that would be impacted by this proposed regulation.

RESULTS OF THE ECONOMIC IMPACT ASSESSMENT

Creation of New Businesses or Elimination of Existing Businesses:

DTSC determined that it is:

- Unlikely that this proposal will eliminate or create businesses or jobs in manufacturing of carpets and rugs;
- Possible that this proposal could create an unknown number of businesses to assist manufacturers of carpets and rugs containing PFASs in meeting regulatory obligations including consulting services, chemical and material science research services, and product development support;
- Possible that this proposal could create an unknown number of public or private sector jobs in consulting services, product research and design, chemical and material science research and support and marketing.

Expansion of Businesses Currently doing Business:

DTSC determined that it is possible that this proposal could result in the expansion of businesses currently doing business within the state, particularly those engaged in regulatory consulting services, chemical and material science research and support, product research and design and marketing.

Effect on Housing Costs:

DTSC has made a determination that the proposed regulation will have no significant effect on housing costs.

Effect on Small Businesses:

DTSC made an initial determination that the adoption of this regulation may affect small businesses. DTSC estimates that 17 of the 20 potentially impacted manufacturers are small businesses. Costs to submit Priority

Product Notifications and AA Reports are expected to be the same for all impacted businesses. Moreover, DTSC estimates that it will take each manufacturer a maximum of 16 hours at \$60/hour to complete a Priority Product Notification, or a total of \$960. DTSC estimates that the cost to each manufacturer for the Priority Product Notification, AA report, and responding to DTSC's AA report review will be \$112,960 to \$182,960 for an Abridged AA (Table 1a), and \$139,960 to \$304,960 for a two-stage AA (Table 1b). DTSC expects costs to individual manufacturers to be lower if they form a consortium and submit a combined AA. These are one-time notification and reporting requirements that manufacturers are expected to complete within one year of adoption of the proposed regulation; therefore, there are no ongoing costs.

Benefits of the Regulation on the Health and Welfare of California Residents, Worker Safety, and the State's Environment:

DTSC made an initial determination that the adoption of these regulations may positively affect the health and welfare of California residents, worker safety, and the State's environment. A reduction in exposure to PFASs could benefit the health of California's residents and wildlife. The development of safer alternatives benefits California workers, consumers, employers, and the environment. DTSC cannot predetermine the alternatives that each manufacturer will propose; therefore, it is impossible to accurately predict or quantify the full range of potential benefits associated with their development. DTSC will maximize the use of alternatives of least concern and give preference to those that provide the greatest level of inherent protection. In general, economic benefits to California workers and business owners may include expanded employment opportunities in the fields of consulting and marketing. Additional benefits may accrue because of increased research and product development collaboration between manufacturers and California-based research facilities. Institutional and corporate financial support of chemical and material science programs focused on developing safer carpet and rug protective treatments could advance the field. These research initiatives could provide manufacturers with employees that are highly skilled in the research and design of products for newly emerging global markets.

CONSIDERATION OF ALTERNATIVES

DTSC must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of DTSC would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to

affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

CONTACT PERSONS

Inquiries regarding technical aspects of the proposed regulation or CEQA documents may be directed to Simona Balan of DTSC at 510-540-3888 or, if unavailable, Nancy Ostrom of DTSC at 916-445-3077. However, such oral inquiries are not part of the rulemaking record.

A public comment period for the rulemaking has been established commencing on February 28, 2020 and closing on April 13, 2020. Statements, arguments, or contentions regarding the rulemaking and/or supporting documents must be submitted in writing or presented orally or in writing at the public hearing in order for them to be considered by DTSC before it adopts, amends, or repeals these regulations.

DTSC will accept statements, arguments or contentions, and/or supporting documents regarding this rulemaking submitted in writing either through CalSAFER or by mail, or they may be presented orally or in writing at the public hearing.

AVAILABILITY OF TEXT OF PROPOSED REGULATIONS, INITIAL STATEMENT OF REASONS, AND OTHER RULEMAKING DOCUMENTS

Copies of the Notice of Proposed Action, Initial Statement of Reasons, all the information upon which this proposal is based, and the express terms of the proposed regulation (also known as the proposed regulatory text) are posted to DTSC's Internet website at <https://dtsc.ca.gov/regs/>.

After the close of the comment period, DTSC may adopt the proposed regulation. If substantial, sufficiently related changes are made to the regulatory text, the modified full text (with the changes clearly indicated) will be made available for comment for at least 15 days prior to adoption. Only persons who request the specific proposed regulation, attend the hearing, or provide written comments on this specific regulation will be sent a copy of the modified text if substantial, sufficiently related changes are made.

Once DTSC finalizes the regulatory text, DTSC will prepare a Final Statement of Reasons that updates the Initial Statement of Reasons, summarizes how DTSC addressed comments, and includes other materials. A copy of the Final Statement of Reasons will also be posted on DTSC's Internet site at <https://dtsc.ca.gov/regs/>, along with the date the rulemaking is filed with

the Secretary of State and the effective date of the regulation.

ALL OTHER
QUESTIONS/COMMENTS/INQUIRIES/UPDATES

Please direct all written comments, procedural inquiries, and requests for documents by mail, e-mail, or fax to Ms. Jackie Buttle, Regulations Coordinator, as specified above. To be included in this regulation package's mailing list and to receive updates of this rulemaking, please visit <https://dtsc.ca.gov/dtsc-e-lists/> and subscribe to the applicable E-List or e-mail: regs@dtsc.ca.gov.

GENERAL PUBLIC INTEREST

**DEPARTMENT OF
FISH AND WILDLIFE**

**PROPOSED RESEARCH FOR A
FULLY PROTECTED SPECIES
Research on the Blunt-nosed
Leopard Lizard (*Gambelia sila*)**

The Department of Fish and Wildlife (Department) received a proposal on August 7, 2019, from Dr. Brian Cypher requesting an amendment to his Memorandum of Understanding (MOU) that authorized take of the Blunt-nosed Leopard Lizard (*Gambelia sila*) ('BNLL') for scientific research purposes consistent with conservation and recovery of the species. The BNLL is a Fully Protected reptile and is also listed as Endangered under the California and federal Endangered Species Acts.

Dr. Cypher is the Associate Director and Research Ecologist at the Endangered Species Recovery Program at California State University, Stanislaus. He has been involved in studying BNLL for over 20 years. His previous MOU authorized (1) conducting capture mark recapture (CMR) surveys for BNLL population demography studies (2) collecting tissue samples for genetic analyses, and (3) x-raying gravid females for reproductive ecology data.

Dr. Cypher is proposing to include marking using passive integrated transponder (PIT) tags during CMR surveys, as well as additional activities deemed necessary for the recovery of the species and consistent with the Recovery Plan for Upland Species of the San Joaquin Valley. These may include radio telemetry; conducting focused research experiments, such as investigating climate change adaptation; head starting

and captive breeding; and translocation. He is requesting authorization to conduct research on BNLL throughout the species' range in accordance with methods approved by the Department and the U.S. Fish and Wildlife Service (Service).

The Department intends to issue, under specified conditions, an MOU to authorize qualified wildlife researchers, with Dr. Cypher as the Principal Investigator, to carry out the proposed activities. Dr. Cypher and the researchers are also required to have a valid federal recovery permit for the BNLL, and a scientific collecting permit (SCP) to take other terrestrial species in California.

Pursuant to California Fish and Game Code (FGC) Section 5050(a)(1), the Department may authorize take of Fully Protected reptile species after a 30 days' notice has been provided to affected and interested parties through publication of this notice. If the Department determines that the proposed research is consistent with the requirements of FGC Section 5050 for take of Fully Protected reptiles, it would issue the MOU on or after March 30, 2020, for an initial and renewable term of up to, but not to exceed, five years.

Contact: Laura Patterson, Laura.Patterson@wildlife.ca.gov, 916-373-6633.

**DEPARTMENT OF
FISH AND WILDLIFE**

**PROPOSED RESEARCH FOR
FULLY PROTECTED SPECIES
Research on the Blunt-nosed
Leopard Lizard (*Gambelia sila*)**

The Department of Fish and Wildlife (Department) received a proposal on February 13, 2020, from Dr. Rory Telemeco requesting authorization to take the Blunt-nosed Leopard Lizard (*Gambelia sila*) ('BNLL') for scientific research purposes consistent with conservation and recovery of the species. The BNLL is a Fully Protected reptile and is also listed as Endangered under the California and federal Endangered Species Acts.

Dr. Telemeco is an Assistant Professor in Biology at California State University, Fresno, with extensive experience conducting research on lizards. His Master's thesis and PhD dissertation research were on lizard ecology, and he has authored or co-authored over 20 publications on reptile reproductive and thermal ecology. His proposed research is entitled "Investigating population dynamics, life history, nesting, and development of Blunt-Nosed Leopard Lizards (*Gambelia sila*) to inform management." He is requesting authorization to conduct research on BNLL throughout the species' range, focusing on the northern-most population in the