

REGULAR

STATE OF CALIFORNIA—OFFICE OF ADMINISTRATIVE LAW

NOTICE PUBLICATION/REGULATIONS SUBMISSION

(See instructions on reverse)

15
For use by Secretary of State only

ENDORSED FILED
IN THE OFFICE OF

2014 OCT 24 PM 2:50

Debra Bowen
DEBRA BOWEN
SECRETARY OF STATE

STD. 400 (REV. 01-2013)

OAL FILE NUMBERS	NOTICE FILE NUMBER Z-2014-0606-02	REGULATORY ACTION NUMBER 2014-0912-015	EMERGENCY NUMBER
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NOTICE	REGULATIONS 2014 SEP 12 AM 11:17 OFFICE OF ADMINISTRATIVE LAW
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AGENCY WITH RULEMAKING AUTHORITY Fish and Game Commission	AGENCY FILE NUMBER (if any)
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A. PUBLICATION OF NOTICE (Complete for publication in Notice Register)

1. SUBJECT OF NOTICE		TITLE(S)	FIRST SECTION AFFECTED	2. REQUESTED PUBLICATION DATE	
3. NOTICE TYPE <input type="checkbox"/> Notice re Proposed Regulatory Action <input type="checkbox"/> Other		4. AGENCY CONTACT PERSON		TELEPHONE NUMBER	FAX NUMBER (Optional)
OAL USE ONLY <input type="checkbox"/> Approved as Submitted <input type="checkbox"/> Approved as Modified <input type="checkbox"/> Disapproved/Withdrawn		NOTICE REGISTER NUMBER 2014 252		PUBLICATION DATE 6/20/2014	

B. SUBMISSION OF REGULATIONS (Complete when submitting regulations)

1a. SUBJECT OF REGULATION(S) Take of Rare Plants	1b. ALL PREVIOUS RELATED OAL REGULATORY ACTION NUMBER(S)
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2. SPECIFY CALIFORNIA CODE OF REGULATIONS TITLE(S) AND SECTION(S) (Including title 26, if toxics related)	
SECTION(S) AFFECTED (List all section number(s) individually. Attach additional sheet if needed.)	ADOPT 786.9
	AMEND
	REPEAL
TITLE(S) 14	

3. TYPE OF FILING			
<input checked="" type="checkbox"/> Regular Rulemaking (Gov. Code §11346)	<input type="checkbox"/> Certificate of Compliance: The agency officer named below certifies that this agency complied with the provisions of Gov. Code §§11346.2-11347.3 either before the emergency regulation was adopted or within the time period required by statute.	<input type="checkbox"/> Emergency Readopt (Gov. Code, §11346.1(h))	<input type="checkbox"/> Changes Without Regulatory Effect (Cal. Code Regs., title 1, §100)
<input type="checkbox"/> Resubmittal of disapproved or withdrawn nonemergency filing (Gov. Code §511349.3, 11349.4)	<input type="checkbox"/> Resubmittal of disapproved or withdrawn emergency filing (Gov. Code, §11346.1)	<input type="checkbox"/> File & Print	<input type="checkbox"/> Print Only
<input type="checkbox"/> Emergency (Gov. Code, §11346.1(b))		<input type="checkbox"/> Other (Specify)	

4. ALL BEGINNING AND ENDING DATES OF AVAILABILITY OF MODIFIED REGULATIONS AND/OR MATERIAL ADDED TO THE RULEMAKING FILE (Cal. Code Regs. title 1, §44 and Gov. Code §11347.1)

5. EFFECTIVE DATE OF CHANGES (Gov. Code, §§ 11343.4, 11346.1(d); Cal. Code Regs., title 1, §100)			
<input checked="" type="checkbox"/> Effective January 1, April 1, July 1, or October 1 (Gov. Code §11343.4(a))	<input type="checkbox"/> Effective on filing with Secretary of State	<input type="checkbox"/> §100 Changes Without Regulatory Effect	<input type="checkbox"/> Effective other (Specify)

6. CHECK IF THESE REGULATIONS REQUIRE NOTICE TO, OR REVIEW, CONSULTATION, APPROVAL OR CONCURRENCE BY, ANOTHER AGENCY OR ENTITY			
<input checked="" type="checkbox"/> Department of Finance (Form STD. 399) (SAM §6660)	<input type="checkbox"/> Fair Political Practices Commission	<input type="checkbox"/> State Fire Marshal	
<input type="checkbox"/> Other (Specify) <i>per agency request</i>			

7. CONTACT PERSON Sheri Tiemann	TELEPHONE NUMBER (916) 654-9872	FAX NUMBER (Optional) (916) 653-5040	E-MAIL ADDRESS (Optional) Sheri.Tiemann@fgc.ca.gov
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8. I certify that the attached copy of the regulation(s) is a true and correct copy of the regulation(s) identified on this form, that the information specified on this form is true and correct, and that I am the head of the agency taking this action, or a designee of the head of the agency, and am authorized to make this certification.

SIGNATURE OF AGENCY HEAD OR DESIGNEE <i>Melissa Miller-Henson</i>	DATE 9/12/14
TYPED NAME AND TITLE OF SIGNATORY Melissa Miller-Henson, Staff Services Manager	

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ENDORSED APPROVED

OCT 24 2014

Office of Administrative Law

Regulatory Language

Amend Title 14, Division 1, Subdivision 3, Chapter 6 to read:

Chapter 6. Regulations for Implementation of the California Endangered Species Act and Native Plant Protection Act

Add Article 2.5 and Section 786.9 after Article 2 as follows:

Article 2.5. Take of Rare Plants under the Native Plant Protection Act

§786.9. Take of Rare Plants.

(a) Definitions:

(1) The term "rare plants" shall mean those plants listed as rare by the commission in Section 670.2(c) of these regulations.

(2) The term "rare plant impacts" shall mean the take, possession, propagation, transportation, exportation, importation or sale of rare plants.

(b) The department may issue permits, agreements, plans or programs that authorize rare plant impacts using the same procedures and under the same conditions as take authorizations issued pursuant to Section 783 *et seq.* of these regulations relating to incidental take permits, Section 786 *et seq.* of these regulations relating to voluntary local programs, Fish and Game Code Section 2800 *et seq.* relating to natural community conservation plans, or Fish and Game Code Section 2089.2 *et seq.* relating to safe harbor agreements as if rare plants were listed as endangered, threatened, or candidate species. The choice among the four sets of conditions and procedures listed in this subdivision to be applied to the permit for authorization of rare plant impacts shall be made by the person or entity seeking the permit, agreement, plan or program.

(c)(1) Except as provided in (2) below, the department may issue permits or memorandums of understanding that authorize rare plant impacts for scientific, educational or management purposes pursuant to either Fish and Game Code Sections 1002, 1002.5 and 1003 and Section 650(a) of these regulations, or Fish and Game Code subdivision (a) of Section 2081. The choice between using Fish and Game Code Sections 1002, 1002.5 and 1003 and Section 650(a) of these regulations, or Fish and Game Code subdivision (a) of Section 2081 shall be made by the department.

(2) Where propagation is being conducted for scientific, educational or management purposes, a permit will be issued as described in this subdivision (c). All other rare plant propagation shall be permitted under (b) above.

(d) Nothing in this section requires a permit or other authorization for rare plant impacts where the rare plant impacts are otherwise allowed pursuant to Fish and Game Code Section 1900 *et seq.* (Native Plant Protection Act) including, but not limited to, those activities covered by Fish and Game Code Section 1913.

(e) Nothing in this section affects the validity of any authorization for rare plant impacts if the rare plant impacts were authorized by the department in a permit, plan, agreement or program approved by the department prior to the effective date of

these regulations. The authorization contained in such permit, plan, agreement or program is deemed to be in effect as of the date it was approved.

NOTE: Authority: Section 1907, Fish and Game Code. Reference: Sections 1900, 1907 and 1908, Fish and Game Code.