

Regulatory Language

Amend 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 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 subsection to be applied to the permit for authorization of rare plant impacts shall be made by the person or entity seeking the permit.

(c)(1) Except as provided in (2) below, the department may issue permits that authorize rare plant impacts for scientific, educational or management purposes pursuant to either Fish and Game Code Section 1002 *et seq.* and Section 650 *et seq.* of these regulations, or Fish and Game Code subsection (a) of Section 2081. The choice between using Fish and Game Code Section 1002 *et seq.* or Fish and Game Code subsection (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 subsection (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.* 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, 1906, 1908, 1910, 1912, and 1913, Fish and Game Code.