

## **FISH AND GAME CODE - FGC**

### **DIVISION 2. DEPARTMENT OF FISH AND WILDLIFE [700 - 1940]**

*( Heading of Division 2 amended by Stats. 2015, Ch. 154, Sec. 21. )*

#### **CHAPTER 10. Native Plant Protection [1900 - 1913]**

*( Chapter 10 added by Stats. 1977, Ch. 1181. )*

##### **1900.**

The intent of the Legislature and the purpose of this chapter is to preserve, protect and enhance endangered or rare native plants of this state.

The Legislature finds that many species and subspecies of native plants are endangered because their habitats are threatened with destruction, drastic modification, or severe curtailment, or because of commercial exploitation or by other means, or because of disease or other factors.

*(Added by Stats. 1977, Ch. 1181.)*

##### **1901.**

The department shall establish criteria for determining if a species, subspecies, or variety of native plant is endangered or rare. As used in this chapter, "native plant" means a plant growing in a wild uncultivated state which is normally found native to the plantlife of this state. A species, subspecies, or variety is endangered when its prospects of survival and reproduction are in immediate jeopardy from one or more causes. A species, subspecies, or variety is rare when, although not presently threatened with extinction, it is in such small numbers throughout its range that it may become endangered if its present environment worsens.

*(Added by Stats. 1977, Ch. 1181.)*

##### **1904.**

The commission may, after public hearing, designate endangered and rare native plants. To the extent that the location of such plants is known, the department shall notify the owners of such land of the fact that a rare or endangered native plant is growing thereon and provide such information about the protection of such plants as may be appropriate.

*(Added by Stats. 1977, Ch. 1181.)*

#### 1905.

The department may undertake botanical research and field investigations and may collect and diffuse such statistics and information as shall pertain to the conservation, protection, and perpetuation of native plants.

*(Added by Stats. 1977, Ch. 1181.)*

#### 1906.

Nothing in this code or any other law shall prohibit the department from taking, for scientific or propagation purposes, any species of native plants. The department may import, propagate, and distribute native plants.

*(Added by Stats. 1977, Ch. 1181.)*

#### 1907.

(a) The commission may adopt regulations governing the taking, possession, propagation, transportation, exportation, importation, or sale of any endangered or rare native plants. Such regulations may include, but shall not be limited to, requirements for persons who perform any of the foregoing activities to maintain written records and to obtain permits which may be issued by the department.

(b) Persons engaged in the production, storage, sale, delivery, or transportation of nursery stock pursuant to the provisions of Part 3 (commencing with Section 6701) of Division 4 of the Food and Agricultural Code shall not be required to obtain a permit pursuant to this chapter unless such activities involve the collection of rare or endangered plants or parts or products thereof growing in a wild, uncultivated state.

(c) Persons who purchase nursery grown stock shall not be required to obtain a permit pursuant to this chapter.

*(Added by Stats. 1977, Ch. 1181.)*

#### 1908.

No person shall import into this state, or take, possess, or sell within this state, except as incident to the possession or sale of the real property on which the plant is growing, any native plant, or any part or product thereof, that the commission determines to be an endangered native plant or rare native plant, except as otherwise provided in this chapter.

*(Added by Stats. 1977, Ch. 1181.)*

#### 1909.

When any power or authority is given by any provision of this chapter to any person, it may be exercised by any deputy, inspector, or agent duly authorized by such person. Any person in whom the enforcement of any provision of this chapter is vested has the power of a peace officer as to such enforcement, which shall include state and federal agencies, and the State of Nevada, State of Oregon, or State of Arizona with which cooperative agreements have been made by the department to enforce any provisions of this chapter.

*(Added by Stats. 1977, Ch. 1181.)*

#### **1910.**

A peace officer or an employee or agent of the department may, in the enforcement of this chapter, make arrests without warrant for a violation of this chapter he may witness, and may confiscate plants or parts thereof when unlawfully taken, transported, possessed, sold, or otherwise, in violation of this chapter. The provisions of this chapter are in addition to the provisions of Section 384a of the Penal Code.

*(Added by Stats. 1977, Ch. 1181.)*

#### **1911.**

All state departments and agencies shall, in consultation with the department, utilize their authority in furtherance of the purposes of this chapter by carrying out programs for the conservation of endangered or rare native plants. Such programs include, but are not limited to, the identification, delineation and protection of habitat critical to the continued survival of endangered or rare native plants.

*(Added by Stats. 1977, Ch. 1181.)*

#### **1912.**

The provisions of this chapter shall not be applicable to emergency work necessary to protect life or property; however, notification by the person or agency performing such emergency work shall be made to the department within 14 days of the commencement of such work.

*(Added by Stats. 1977, Ch. 1181.)*

#### **1913.**

(a) The provisions of this chapter are not intended and shall not be construed as authorizing any public agency to mandate, prescribe, or otherwise regulate agricultural operations or management practices, including the clearing of land for agricultural practices or fire control measures.

(b) Notwithstanding the provisions of Section 1911, timber operations in accordance with a timber harvesting plan submitted pursuant to the provisions of the Z'berg-Nejedly Forest Practice Act of 1973 (commencing with Section 4511 of the Public Resources Code), or required mining assessment work pursuant to federal or state mining laws, or the removal of endangered or rare native plants from a canal, lateral ditch, building site, or road, or other right-of-way by the owner of the land or his agent, or the performance by a public agency or a publicly or privately owned public utility of its obligation to provide service to the public, shall not be restricted by this chapter because of the presence of rare or endangered plants, except as provided in subdivision (c) of this section.

(c) Notwithstanding the provisions of subdivisions (a) and (b) of this section, where the owner of land has been notified by the department pursuant to Section 1903.5 that a rare or endangered native plant is growing on such land, the owner shall notify the department at least 10 days in advance of changing the land use to allow for salvage of such plant. The failure by the department to salvage such plant within 10 days of notification shall entitle the owner of the land to proceed without regard to this chapter. Submission of a timber harvesting plan pursuant to the Z'berg-Nejedly Forest Practice Act of 1973 (commencing with Section 4511 of the Public Resources Code) shall constitute notice under this section. Converting from one type of agricultural use, as defined in Section 51201 of the Government Code, to another type of agricultural use shall not constitute a change in land use.

*(Added by Stats. 1977, Ch. 1181.)*