

# Notice of Exemption

# Appendix E

**To:** Office of Planning and Research  
P.O. Box 3044, Room 113  
Sacramento, CA 95812-3044

County Clerk  
County of: N/A  
\_\_\_\_\_  
\_\_\_\_\_

**From:** (Public Agency): CA Fish and Game Commission  
P.O. Box 944209  
Sacramento, CA 94244-2090

(Address)

Project Title: Take of western Joshua tree

Project Applicant: N/A

Project Location - Specific:  
Anywhere western Joshua trees are found in California

Project Location - City: Multiple Project Location - County: Multiple

Description of Nature, Purpose and Beneficiaries of Project:  
The proposed project would authorize the removal or trimming of western Joshua trees that pose a hazard to public health and safety.

Name of Public Agency Approving Project: California Fish and Game Commission

Name of Person or Agency Carrying Out Project: California Department of Fish and Wildlife

**Exempt Status: (check one):**


- Ministerial (Sec. 21080(b)(1); 15268);
- Declared Emergency (Sec. 21080(b)(3); 15269(a));
- Emergency Project (Sec. 21080(b)(4); 15269(b)(c));
- Categorical Exemption. State type and section number: \_\_\_\_\_
- Statutory Exemptions. State code number: \_\_\_\_\_

Reasons why project is exempt:  
The Commission determined that the project is exempt from the California Environmental Quality Act (CEQA) as an action necessary to prevent or mitigate an emergency as specified in Public Resources Code 21080(b)(4) and 15269(c) of the CEQA guidelines.

Lead Agency  
Contact Person: Melissa Miller-Henson Area Code/Telephone/Extension: (916) 653-4899

**If filed by applicant:**

1. Attach certified document of exemption finding.
2. Has a Notice of Exemption been filed by the public agency approving the project?  Yes  No

Signature:  Date: 10/18/2021 Title: Executive Director

Signed by Lead Agency  Signed by Applicant

Authority cited: Sections 21083 and 21110, Public Resources Code. Date Received for filing at OPR: \_\_\_\_\_  
Reference: Sections 21108, 21152, and 21152.1, Public Resources Code.

## **ATTACHMENT TO NOTICE OF EXEMPTION Take of western Joshua tree**

At its September 22, 2020 meeting, the California Fish and Game Commission determined that listing western Joshua tree as a threatened or endangered species under the California Endangered Species Act (CESA) may be warranted pursuant to California Fish and Game Code Section 2074.2. Upon publication of notice in the California Notice Register, western Joshua tree became a candidate species. Candidate species are protected under CESA pursuant to Fish and Game Code Section 2085 during the CESA listing process. Fish and Game Code Section 2084 permits the Commission to authorize, subject to terms and conditions it prescribes, and based on the best available scientific information, the take of any candidate species, "provided that...the take is consistent with" CESA.

On December 3, 2020, the California Department of Fish and Wildlife provided the Commission with a proposed regulation to address potential human safety issues related to western Joshua trees, that will be exacerbated by winter weather, and the constraints imposed by the western Joshua tree candidacy protections. To address potential hazards related to human safety, the Commission adopted emergency regulation Section 749.11, Title 14 for the limited take of western Joshua tree.

At its October 14, 2021 meeting, the Commission took action to readopt Section 749.11 to Title 14 of the California Code of Regulations (CCR) to allow limited take of western Joshua tree for an additional 90-day period to prevent lapse in regulatory coverage. Extending the emergency regulation would prevent excessive permitting delays and significant costs that could be detrimental to public safety and result in property damage.

### **Statutory Exemption from the California Environmental Quality Act**

The Commission determined, based on the record, that the approval is exempt from the California Environmental Quality Act (CEQA) as an action necessary to prevent or mitigate an emergency as specified in Public Resources Code subdivision 21080(b)(4) and in Title 14, CCR, subsection 15269(c) of the CEQA Guidelines. The Commission further determined, pursuant to Section 11346.1 of the Government Code, that an emergency situation exists and found the proposed regulation is necessary to address the emergency.

The proposed regulation would create a permit process for the California Department of Fish and Wildlife to authorize applicants to remove trees that have fallen over and are within 30 feet of a structure, are leaning against existing structures, or otherwise create an imminent threat to public health or safety. There is sufficient risk to warrant taking emergency action; a regular, non-emergency rulemaking would not allow these risks to be addressed quickly.