

# 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: Multiple counties

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

Project Title: Emergency Action to Re-adopt the Addition of Section 749.13, Title 14, CCR, Incidental Take of Southern California Steelhead

Project Applicant: N/A

Project Location - Specific: Southern California coastal streams from Santa Maria River south to the U.S.-Mexico border.

Project Location - City: Multiple

Project Location - County: Multiple

Description of Nature, Purpose and Beneficiaries of Project:

This re-adoption of an emergency California Fish and Game Code Section 2084 regulation would continue to authorize take under the California Endangered Species Act (CESA) for southern California steelhead during the CESA candidacy period in accordance with the terms and conditions described in the regulation.

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

Name of Person or Agency Carrying Out Project: Various entities

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: Public Resources Code Section 21080(b)(4) and CEQA Guidelines Section 15269(c)

Reasons why project is exempt:  
See attachment.

Lead Agency: California Fish and Game Commission, P.O. Box 944209, Sacramento, CA 94244-2090

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: **Miller-Henson,**  
**Melissa@FGC**

Digitally signed by Miller-Henson, Melissa@FGC  
DN: DC=Gov, DC=Ca, DC=Dfg, DC=AD, OU=DFG  
Divisions, OU=EXEC, OU=Users, CN=Miller-Henson,  
Melissa@FGC  
Reason: I am approving this document  
Location: your signing location here  
Date: 2022.10.14 12:42:04-07'00'  
Foxit PDF Editor Version: 11.2.0

Date: October 14, 2022

Title: Executive Director

Signed by Lead Agency  Signed by Applicant

Date Received for filing at OPR:

October 14, 2022

## **ATTACHMENT TO NOTICE OF EXEMPTION**

Emergency Action to  
Re-adopt the Addition of Section 749.13 to  
Title 14, California Code of Regulations  
Incidental Take of Southern California Steelhead

At its April 21, 2022, meeting, the California Fish and Game Commission (Commission) determined that listing southern California steelhead as endangered under the California Endangered Species Act (CESA) may be warranted pursuant to California Fish and Game Code Section 2074.2. Southern California steelhead is a candidate species under CESA. Candidate species are protected under CESA pursuant to Fish and Game Code sections 2080 and 2085. 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. Also at its April 21, 2022, meeting, the Commission adopted the addition of Section 749.13 to Title 14 of the California Code of Regulations, Relating to Take of Southern California Steelhead (*Oncorhynchus mykiss*) During Candidacy Period, through emergency authority.

At its October 13, 2022, meeting, the Commission re-adopted a Fish and Game Code Section 2084 regulation through an emergency rulemaking action that, if approved and filed by the Office of Administrative Law, will re-adopt the addition of Section 749.13 to Title 14 of the California Code of Regulations, Special Order Relating to Take of Southern California Steelhead (*Oncorhynchus mykiss*) During Candidacy Period. Based on the Commission's record for the emergency rulemaking action, the Commission determined that its adoption of the 2084 regulation 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 Section 21080(b)(4) and CEQA Guidelines, Title 14, California Code of Regulations, Section 15269(c).

The emergency regulation has three parts. First, delays or stoppages for projects or activities that relate to flood control and provide flood protection necessary to prevent flood damage to communities or infrastructure that would likely occur without this emergency regulation because of southern California steelhead CESA protections would jeopardize that flood protection. Second, delays or stoppages for projects or activities that relate to highways and provide public-safety benefits through highway maintenance or improvements that would likely occur without this emergency regulation because of southern California steelhead CESA protections would jeopardize those public-safety benefits. Third, delays or stoppages for projects or activities related to the diversion, impoundment, or discharge of water that provide water supply or water treatment for essential domestic, agricultural, industrial, or commercial uses that would likely occur without this emergency regulation because of southern California steelhead CESA protections would jeopardize those water supply or water treatment public benefits. Regarding projects or activities that provide water supply, on March 28, 2022, Governor Newsom ordered through Executive Order N-7-22 that the previously proclaimed states of emergency due to extreme and expanding drought conditions that exist across all the counties of California shall remain in full force and effect.