



March 7, 2014

**NOTICE OF PROPOSED REGULATORY ACTION  
FOR SECOND READOPTION OF EMERGENCY AMENDMENT**

Subject: Definition of Suction Dredging; Use of Vacuum or Suction Dredge Equipment

The California Department of Fish and Wildlife (CDFW) is proposing an emergency rulemaking action under the Administrative Procedure Act (APA) for a second re-adoption of an existing regulation defining “suction dredging” and the “use of any vacuum or suction dredge equipment” for purposes of Fish and Game Code section 5653. The emergency action as proposed will readopt California Code of Regulations, Title 14, Division 1, Subdivision 1, Chapter 8, section 228, subdivision (a).

CDFW initially adopted the existing regulatory definition of suction dredging as an emergency action effective June 28, 2013. (OAL File No. 2013-0618-02E; see also Cal. Reg. Notice Register 2013, No. 28-Z, pp. 1034-1035) OAL approved a first re-adoption of the emergency regulation effective December 26, 2013. (OAL File No. 2013-1216-01 EE; see also Cal. Reg. Notice Register 2014, No. 2-Z, p. 65) On February 14, 2014, CDFW initiated regular noticed rulemaking to make permanent the now in-effect and recently readopted regulatory definition of suction dredging. On April 1, 2014, the Department will hold a public hearing to receive public input on the regular rulemaking.

Absent a second re-adoption the existing regulatory definition will expire on March 27, 2014. (Gov. Code, § 11346.1, subd. (e).) However, if readopted by CDFW and approved by the Office of Administrative Law (OAL) before that time, the existing regulatory definition of suction dredging will remain in effect for an additional period of time not to exceed 90 days. (*Id.*, subd. (h).) Thus, a second re-adoption will preserve the existing status quo as a matter of law and on the ground in anticipation of the existing definition becoming permanent through the regular noticed rulemaking by CDFW pursuant to the Administrative Procedure Act.

Pursuant to Government Code section 11346.1, subdivision (a)(2), and California Code of Regulations, Title 1, section 52, at least five working days prior to submission of the proposed re-adoption to OAL, CDFW must provide related notice to every person who has filed a request for notice of regulatory action with CDFW. After submission of the proposed re-adoption to OAL, any interested person will have five (5) calendar days to submit related comments to OAL as set forth in Government Code section 11349.6. Also upon submission, OAL will have ten (10) calendar days within which to review and make a decision on the proposed re-adoption.

Attached to this notice is the specific regulatory language CDFW proposes to readopt and its updated Finding of Emergency as required by the APA.

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You may also review the proposed regulatory language and updated finding on CDFW's website at: [www.dfg.ca.gov/suctiondredge](http://www.dfg.ca.gov/suctiondredge).

If you have any questions regarding this proposed emergency action, please contact Craig Martz, CDFW Regulations Unit Manager, Wildlife and Fisheries Division, at (916) 653-4681. Related comments or questions can also be submitted to CDFW via email at the following address: [suctiondredge@wildlife.ca.gov](mailto:suctiondredge@wildlife.ca.gov).