

STAFF SUMMARY FOR JUNE 16-17, 2021

25. PETITIONS FOR REGULATION CHANGE**Today's Item**Information ☐Action ☒

This is a standing agenda item for FGC to act on regulation petitions received from the public at previous meetings. For this meeting:

- (A) Action on petitions received at the Apr 2021 meeting
- (B) Pending regulation petitions referred to staff or DFW for review

Summary of Previous/Future Actions

- | | |
|--------------------------------------|--|
| (A) | |
| • FGC received petitions | Apr 14, 2021; Webinar/Teleconference |
| • Today's action on petitions | Jun 16-17, 2021; Webinar/Teleconference |
| (B) | |
| • FGC received petition #2020-011 | Oct 14, 2020; Webinar/Teleconference |
| • Petition #2020-011 referred to DFW | Dec 9-10, 2020; Webinar/Teleconference |
| • Today's action on petition | Jun 16-17, 2021; Webinar/Teleconference |

Background

Regulation change petitions received at an FGC meeting are scheduled for consideration at the next regularly-scheduled business meeting under (A), unless the petition is rejected under 10-day staff review as prescribed in Title 14, subsection 662(b).

A petition may be (1) denied, (2) granted, or (3) referred to a committee, staff or DFW for further evaluation or information-gathering. Referred petitions are scheduled for action under (B) once the evaluation is completed and a recommendation made.

- (A) ***Petitions for regulation change.*** Three petitions received at the Apr 2021 meeting are scheduled for action:
- I. Petition #2021-001: Request to reopen recreational and commercial red abalone harvest at San Miguel Island, Santa Barbara County, based on guidance in Appendix H of the Abalone Recovery and Management Plan (Exhibit A2)
 - II. Petition #2021-003: Request to change special fishing regulations for East Walker River, Mono County (Exhibit A3)
 - III. Petition #2021-004: Request to remove *Xenopus amietae* from the restricted species list (Exhibit A4)

Staff recommendations and rationales, developed with input from DFW staff, are provided in Exhibit A1.

- (B) ***Pending regulation petitions.*** This is an opportunity for staff to provide recommendations on petitions previously referred to staff, DFW, or a committee for review.

STAFF SUMMARY FOR JUNE 16-17, 2021

One petition previously referred to DFW is scheduled for action today:

- I. *Petition #2020-011*: Request to establish limited entry and precautionary regulations for commercial coonstripe shrimp trap fishery (Exhibit B1).

This petition requests to establish restrictive trap gear regulations as a proactive measure to minimize the risk of entanglement of whales in trap gear. DFW's review and recommendation is provided in Exhibit B2.

DFW reviewed the request and has determined that a limited entry program and changes to mesh size are not warranted at this time. DFW must first complete an enhanced status report to explore concerns in the fishery and would need to consult the fleet to discuss possible changes before proposing specific measures.

Regarding risk of whale entanglement, staff has confirmed that no documented entanglements have been attributed to the coonstripe shrimp trap fishery. However, DFW intends to complete a comprehensive review of entanglement risk in all trap limit programs, including coonstripe shrimp, once current commitments prioritized for management focus under the Marine Life Management Act master plan framework and work plan are completed (Exhibit B2).

Significant Public Comments

Related but not specific to petition #2021-003, over 50 comments were received under general public comment expressing concerns with the East Walker River special fishing regulations (see Agenda Item 2, Exhibit 9 for representative examples). The comments generally urge FGC to reverse amendments to the East Walker River regulations adopted last year through the simplification of statewide inland sportfishing rulemaking; the regulations became effective Mar 1, 2021.

Recommendation

FGC staff:

- (A)
 - (1) Refer petitions #2021-001, 2021-003, and #2021-004 to DFW for review and recommendation.
 - (2) Refer petition # 2021-001 to FGC legal counsel relative to petitioner's proposal to rely on Appendix H of the ARMP alone to reopen the proposed fishery.
- (B) Deny petition #2020-011 based on DFW's evaluation and recommendation.

DFW: (B) Deny petition #2020-011 for the reasons described in Exhibit B2.

Exhibits

- A1. [Table of petitions for regulation change, updated Jun 4, 2021](#)
- A2. [Petition #2021-001, received Feb 22, 2021](#)
- A3. [Petition #2021-003, received Mar 31, 2021](#)
- A4. [Petition #2021-004, received Mar 24, 2021](#)
- B1. [Petition #2020-011, received Aug 12, 2020](#)
- B2. [DFW memo regarding petition #2020-011, received Jun 1, 2021](#)

STAFF SUMMARY FOR JUNE 16-17, 2021

Motion

Moved by _____ and seconded by _____ that the Commission adopts the staff recommendations to refer petition #2021-001 to Commission legal counsel and the Department for review and recommendation, refer petitions #2021-003 and #2021-004 to the Department for review and recommendation, and deny petition #2020-011, as reflected in exhibits A1 and B2.

OR

Moved by _____ and seconded by _____ that the Commission adopts the staff recommendations as reflected in exhibits A1 and B2, except for petition(s) #_____ for which the action is _____.

CALIFORNIA FISH AND GAME COMMISSION PETITIONS FOR REGULATION CHANGE - ACTION

Revised 06/04/2021

FGC - California Fish and Game Commission DFW - California Department of Fish and Wildlife WRC - Wildlife Resources Committee MRC - Marine Resources Committee
 Grant: FGC is willing to consider the petitioned action through a process Deny: FGC is not willing to consider the petitioned action Refer: FGC needs more information before the final decision

Tracking No.	Date Received	Name of Petitioner	Subject of Request	Short Description	FGC Receipt Scheduled	FGC Action Scheduled	Staff Recommendation
2021-001	2/22/2021	Steve Rebuck	Recreational and commercial red abalone fishery: San Miguel Island	Open a three-month biological fishery for red abalone at San Miguel Island, Santa Barbara County, relying upon Appendix H of the Abalone Recovery and Management Plan. A detailed proposal is offered, including data collection and habitat/resource recovery and mitigation actions.	4/14/2021	6/16-17/2021	REFER to DFW for review and recommendation and REFER to FGC legal counsel for review of reliance on Appendix H of the Abalone Recovery and Management Plan to reopen the fishery, as proposed.
2021-003	3/31/2021	Ron Klimusko	Special fishing regulations: East Walker River	Return East Walker River regulation to pre-simplification: artificial lures with barbless hooks, with a bag and possession limit of one, and artificial lures and barbless hooks with a limit of zero from November 16 through the last Friday in April.	4/14/2021	6/16-17/2021	REFER to DFW for review and recommendation.
2021-004	3/24/2021	Paul Rudnick	Restricted species list: Xenopus amieti frog	Remove Xenopus amieti from the restricted species list.	5/11/2021	6/16-17/2021	REFER to DFW for review and recommendation.



Tracking Number: (2021-001)

To request a change to regulations under the authority of the California Fish and Game Commission (Commission), you are required to submit this completed form to: California Fish and Game Commission, (physical address) 1416 Ninth Street, Suite 1320, Sacramento, CA 95814, (mailing address) P.O. Box 944209, Sacramento, CA 94244-2090 or via email to FGC@fgc.ca.gov. Note: This form is not intended for listing petitions for threatened or endangered species (see Section 670.1 of Title 14).

Incomplete forms will not be accepted. A petition is incomplete if it is not submitted on this form or fails to contain necessary information in each of the required categories listed on this form (Section I). A petition will be rejected if it does not pertain to issues under the Commission's authority. A petition may be denied if any petition requesting a functionally equivalent regulation change was considered within the previous 12 months and no information or data is being submitted beyond what was previously submitted. If you need help with this form, please contact Commission staff at (916) 653-4899 or FGC@fgc.ca.gov.

SECTION I: Required Information.

Please be succinct. Responses for Section I should not exceed five pages

1. Person or organization requesting the change (Required)

Name of primary contact person: Steven L. Rebuck

Address: [REDACTED]

Telephone number: [REDACTED]

Email address: [REDACTED]

2. Rulemaking Authority (Required) - Reference to the statutory or constitutional authority of the Commission to take the action requested: Section 29.15. Abalone 14CCR, S.45, 200, 203, 205, 206, 209, 210, 211, 215, 218, 219, 220, 265, 3990.

3. Overview (Required) - Summarize the proposed changes to regulations: Restore recreational and commercial harvest of red abalone, Regulations, south of San Francisco to pre-1998 status, San Miguel Island, Santa Barbara County California only.

4. Rationale (Required) - Describe the problem and the reason for the proposed change: See attached Rationale

SECTION II: Optional Information

5. Date of Petition: February 22, 2021.

6. Category of Proposed Change

☒ Sport Fishing

☒ Commercial Fishing

☐ Hunting

☐ Other, please specify: Click here to enter text.



7. **The proposal is to:** *(To determine section number(s), see current year regulation booklet or <https://govt.westlaw.com/calregs>)*
☒ Amend Title 14 Section(s):
☐ Add New Title 14 Section(s):
☐ Repeal Title 14 Section(s):
8. **If the proposal is related to a previously submitted petition that was rejected, specify the tracking number of the previously submitted petition**
Or ☐ Not applicable.
9. **Effective date:** If applicable, identify the desired effective date of the regulation.
If the proposed change requires immediate implementation, explain the nature of the emergency:
10. **Supporting documentation:** Identify and attach to the petition any information supporting the proposal including data, reports and other documents:
11. **Economic or Fiscal Impacts:** Identify any known impacts of the proposed regulation change on revenues to the California Department of Fish and Wildlife, individuals, businesses, jobs, other state agencies, local agencies, schools, or housing:
12. **Forms:** If applicable, list any forms to be created, amended or repealed:

SECTION 3: FGC Staff Only

Date received:

FGC staff action:

- ☐ Accept - complete
☐ Reject - incomplete
☐ Reject - outside scope of FGC authority

Tracking Number

Date petitioner was notified of receipt of petition and pending action:

Meeting date for FGC consideration:

FGC action:

- ☐ Denied by FGC
☐ Denied - same as petition
Tracking Number
☐ Granted for consideration of regulation change

Biological Red Abalone Fishery for San Miguel Island

March 2021

By Steven L. Rebuck



These details of a Biological Fishery for red abalone at San Miguel Island (SMI) are in addition, and pursuant to our Petition for Regulatory Change, Submission, February 22, 2021, using Abalone Recovery and Management Plan (ARMP) Appendix H. We propose these details to assist the California Fish and Game Commission (FGC) in consideration of our petition.

- 1) We propose to use Fish and Game Code Sections on commercial and recreational abalone as they existed prior to the Moratorium, May, 1997.
- 2) We propose a fishery season of July, August, September, 2021 , at San Miguel Island (SMI) only.
- 3) Only properly permitted commercial or recreational fishermen will be allowed to participate.
- 4) All red abalone fishing will be conducted pursuant to ARMP Appendix H, and related regulations.
- 5) Fishermen must contact California Department of Fish and Wildlife (CDFW) before departure.
- 6) We propose a Biological Fishery where all red abalone catch, commercial (E-Tix/Dock Ticket) and recreational (fixed tag/smart phone) must be reported before fishermen leave SMI. All abalone landed will be presented to CDFW agents at a Santa Barbara location.
- 7) After examination, CDFW agents will return remaining shell, trim and meat to the fishermen or processor.
- 8) CDFG will only close these fisheries when:
 - A) Total Allowable Catch limit is reached;
 - B) September 30, 2021 is reached;
 - C) Biological data suggest the fishery should close.
 - D) In season adjustments may be considered.

Habitat/Resource Recovery and Mitigation

- 1) Encourage purple urchin removal. Allow mixed commercial loads of abalone, red urchin and purple sea urchin. This creates a financial incentive for those with both commercial abalone and sea urchin permits to remove excess purple urchins. Currently, there is a limited market only for purple sea urchin. What to do with them remains a problem. Commercial and recreational divers prefer smashing of purple urchins.
- 2) Fishery will initially target the largest and oldest of the red abalone observed at SMI. However, Appendix H suggests a slot size between 7 $\frac{3}{4}$ " and 8" (p. H-7). It would appear logical to remove larger size animals first, providing increase habitat for abalone recruiting into the fishery. A slot limit will make this difficult.
- 3) Using underwater GoPro video cameras, commercial divers will video each dive, collecting data on density, size variation, kelp, and other biological factors. Upon delivery of abalone, divers will turn over memory cards to CDFW. Once data is downloaded, memory cards will be returned for reuse.
- 4) Encourage abalone enhancement through out-planting of juvenile red abalone. The commercial divers in Santa Barbara have out-planting history going back approximately 40 years to the early 1980s. Onboard "Deck Spawning" is another option.
- 5) Commercial divers will engage in cooperative research projects with: National Park Service (NPS), Channel Islands Marine Sanctuary (CIMS), County of Santa Barbara (CSB), Ocean Protection Council (OPC), Reef Check (RC), and Dept. of Fish and Wildlife (CDFW).
- 6) Encourage, and assist kelp enhancement projects.

Overview/Rationale: Former Commercial Abalone Diver
Support for Abalone Recovery and Management Plan,
Appendix H (revised February 18, 2021)

Steven L. Rebuck, Former Commercial Abalone Divers

" A biomass estimate of 3 million emergent abalone indicate a harvestable population of 75,000 to 150,000 red abalone at SMI. An initial total allowable catch (TAC) of 15,000 red abalone is proposed at SMI. Harvesting 10-20% of those abalone falls within the slot size should have a negligible effect on the population as a whole." Abalone Recovery and Management Plan, Appendix H, Page H-9

OVERVIEW

- 1) The range of red abalone, *Haliotis rufescens* is Sunset Bay, Oregon to Bahia Tortugas, Baja, Mexico._1/.
- 2) Red abalone, *Haliotis rufescens*, are not a State or Federal threatened and/or endangered species.
- 3) This is not an "Experimental Fishery". We propose to reestablish former abalone fishing regulations used prior to 1998.
- 4) We propose using Abalone Advisory Group (AAG) Fishery Management Option A: Red Abalone Demonstration Fishery. _2/.
- 5) The former commercial abalone divers of California support the use of the Abalone Recovery and Management Plan (ARMP) Appendix H (A-H)_3/ as a management vehicle to reopen San Miguel Island, Santa Barbara County, for commercial and recreational red abalone diving.
- 6) Multiple studies have been produced demonstrating the possibility of reestablishing commercial and recreational fisheries at San Miguel Island. _4/5/6/7/8/.....

HISTORY

Drafting of what became A-H began in August 19, 2005 with the submission of a plan titled: "Components of an Experimental Commercial Red Abalone Fishery", Steven L. Rebuck, to the California Fish and Game Commission (Commission). Commission President Michael Flores requested staff (John Ugoretz) include this submission into the ARMP discussion. By September 2005, the California Abalone

Association (CAA) had created a subcommittee to explore and draft a plan for San Miguel Island. A DRAFT of this plan was submitted to the Commission September the 2005. At this meeting, the Commission directed staff to work with CAA on this project. Originally, this effort was title Alternative 8. Within a couple years, a Technical Panel (TP) was formed and began drafting language for what became A-H. *_6/ followed by a Review Panel_ 7/. This effort coincided with the appointment of the Abalone Advisory Group (AAG) .*

JUSTIFICATION

A-H, as crafted, and included with the ARMP, offers a Fishery Management Plan (FMP) for SMI. A-H contains the following:

- * Suggests use of ARMP required Index Sites, in coordination with California Department of Fish and Wildlife (DFW), Director's Abalone Advisory Committee (DAAC), National Park Service (NPS)/Kelp Forest Monitoring Program (KMP), and California Abalone Association (CAA).
- * Identifies Collaborative Abalone Research Program (CARP) and Adams Cove, Castle Rock, and Crooks Point as Index Sites. CAA had previously installed on monitoring site at Tyler Bight, monitored by NPS/KMP.
- * Identifies a Total Allowable Catch (TAC) for both commercial and recreational abalone fishing for red abalone only.
- * Fisheries Management: Integrates Marine Protected Areas (MPAs) at SMI: Judith Rock, near Pt. Bennett, which includes Adams Cove.
- * Use of Position Indicating Transponders (PIT).
- * Identifies Landing Taxes and Resource Rents.
- * Creates Fishery Dependent and Fishery Independent Data which DFW does not currently have.
- * Creates a financial stream for DFW, management and law enforcement, which they currently does not have.

We propose a domestic use fishery only. No export out of the USA.

BIOLOGICAL FISHERY

As proposed by the California Department of Fish and Wildlife (DFW)
This group of former commercial abalone divers support this concept.

- 1) All abalone harvested will be reported to DFW at the time of harvest. Photographs of ones fishing trip, location, time of day, dates, etc. will be reported.
- 2) Once a fishing trip is completed, the boat crew will contact DFW and report the estimated time of return to port.
- 3) Crew will meet with DFW biological team and allow them to examine all abalone harvested.
- 4) Once DFW biological team has examined and/or taken tissue samples, abalone will be returned to boat crew and/or abalone processor.
- 5) Catch reporting: Title 14, S 197, E-Tix, <http://etix.psmfc.org>

Excerpted Source: Sonke Mastrup, pers. comm., et al

TERRITORIAL USE RIGHTS for FISHING (TURF)

"TURFs allocate exclusive harvest for one or more marine species in a specific area. TURFs are ideal for species like abalone that will not move beyond TURF boundaries, but they can be designed for more mobile species as well. TURFs may occur independently, or they may be part of a broader system of TURFs. Well designed networks of TURFs can be used to manage more complex fisheries, including those with mobile species or multiple groups of fishermen."

What are TURF Reserves?

"TURF Reserves are TURFs paired with no-take reserves, which are areas where no fishing is permitted. Theory and practice show that fishermen have greater incentive to implement and enforce TURF Reserves because they directly benefit from the fish that spill over from no-take reserves to their TURF. The fishery management combination is growing in interest, allowing local government to reap the rewards of being responsible stewards of their fisheries."

Source: Environmental Defense

SUPPORTING LITERATURE

1. Cox, Keith, 1962, California Abalones, Family Haliotidae, Fish Bulletin 118, California Department of Fish and Game.
2. Abalone Advisory Group Report, January 29, 2010, Management Options for Establishing a Potential Red Abalone Fishery at San Miguel Island, For Presentation to the Marine Resources committee of the California fish and Game Commission, February 16, 2010.
3. Appendix H. Proposed Amendments to Alternative 1 in ARMP as Submitted by Commercial Constituents to the Fish and Game Commission, an amendment to the Abalone Recovery and Management Plan, Alternative 1.
4. Taniguchi, Ian, D. Stein, K. Lampson, The San Miguel Island Red Abalone Resource: Results of Survey Conducted from July-October 2007, Marine Invertebrate Management Project, DFG.
5. Jloa, Yan, L. Rogers-Bennett, P. Crone, J. Butler, April 10, 2009, Appendix H.
6. Appendix B: DFG San Miguel Island Red Abalone Surveys (2006, 2007, 2008).
7. Prince, Jerome, California Abalone Marketing Association, February 6, 2012/Revised May 30, 2012, Proposal for Red abalone Research Fishery at San Miguel Island (SMI).
8. Bren School, 2010, Economic Viability and Sustainable Management of a California Red Abalone Fishing Cooperative.



Tracking Number: (2021-003_)

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SECTION I: Required Information.

Please be succinct. Responses for Section I should not exceed five pages

1. Person or organization requesting the change (Required)

Name of primary contact person: Ron Klimusko.

Address: [REDACTED]

Telephone number: [REDACTED]

Email address: [REDACTED]

2. Rulemaking Authority (Required) - Reference to the statutory or constitutional authority of the Commission to take the action requested: Title 14 of California Fish and Game Commission.

3. Overview (Required) - Summarize the proposed changes to regulations: The special regulations of the East Walker River need to be kept in place to preserve and protect the quality waters of this fishery. Return special regulation of artificial lures with barbless hooks, with a limit of 1 (one). Additionally, fishing permitted from November 16 through last Friday in April using artificial lures and barbless hooks with 0 take. .

4. Rationale (Required) - Describe the problem and the reason for the proposed change: The East Walker fishery has had its share of devastating events for a once protected fishery. Dewatered many years ago, it has struggled to return to its former greatness. A special regulation (artificial lures and barbless hooks) was for the longest time, a requirement placed on the river to help protect the fish in these waters. The new change (barbs) will now affect the dynamics of fish caught and lessen the quantity and quality of available fish in these waters. |

SECTION II: Optional Information

5. Date of Petition: 03/31/2012.



6. Category of Proposed Change

- ☒ Sport Fishing
☐ Commercial Fishing
☐ Hunting
☐ Other, please specify:

7. The proposal is to: *(To determine section number(s), see current year regulation booklet or <https://govt.westlaw.com/calregs>)*

- ☒ Amend Title 14 Section(s):
☐ Add New Title 14 Section(s):
☐ Repeal Title 14 Section(s):

8. If the proposal is related to a previously submitted petition that was rejected, specify the tracking number of the previously submitted petition
Or ☒ Not applicable.

9. Effective date: If applicable, identify the desired effective date of the regulation.
If the proposed change requires immediate implementation, explain the nature of the emergency:

10. Supporting documentation: Identify and attach to the petition any information supporting the proposal including data, reports and other documents:

11. Economic or Fiscal Impacts: Identify any known impacts of the proposed regulation change on revenues to the California Department of Fish and Wildlife, individuals, businesses, jobs, other state agencies, local agencies, schools, or housing:

12. Forms: If applicable, list any forms to be created, amended or repealed:

SECTION 3: FGC Staff Only

Date received:

FGC staff action:

- ☒ Accept - complete
☐ Reject - incomplete
☐ Reject - outside scope of FGC authority

Tracking Number

Date petitioner was notified of receipt of petition and pending action:

Meeting date for FGC consideration:



FGC action:

- ☐ Denied by FGC
- ☐ Denied - same as petition Tracking Number
- ☐ Granted for consideration of regulation change



Tracking Number: (2021-004_) |

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SECTION I: Required Information.

Please be succinct. Responses for Section I should not exceed five pages

1. Person or organization requesting the change (Required)

Name of primary contact person: Paul Rudnick

Address: [REDACTED]

Telephone number [REDACTED]

Email address:

2. Rulemaking Authority (Required) Reference to the statutory or constitutional authority of the Commission to take the action requested:

14 CCR §671.1 (a)

3. Overview (Required) - Summarize the proposed changes to regulations:

All species of the Genus *Xenopus* tadpoles and frogs are prohibited in the State.

The well documented *Xenopus laevis* is the largest *Xenopus* species and an invasive species in California and elsewhere around the Globe.

However, the current regulation 14 CCR §671.1 (a) prohibits ALL species of the Genus *Xenopus*.

Many of the prohibited species were not even described until years after the regulations were enacted.

There are many species within the Genus *Xenopus* which are completely non – invasive.

The rule prohibits the non invasive species *Xenopus amietii* based upon the fact that *Xenopus*



amieti is 'related to' the invasive *Xenopus laevis*. It is true these two frog species share the same Genus as the also shared a common ancestor millions of years ago.

The rule CLEARLY is enacted to prohibit species based upon *their level of invasiveness* and **not** enacted to prohibit amphibian species based upon evolution.

Xenopus amieti is legally prohibited from sharing classroom space with students in the State and it's only 'crime' is that it had a common ancestor with the invasive *Xenopus laevis* millions of years ago.

We are respectfully requesting a review of the now nearly half century old statute to reflect the realities of the much-changed challenge to native amphibians in local ecosystems and the implications for study in K-12 classrooms.

We are proposing to leave the Statute in place prohibiting 'all species of the Genus *Xenopus*' *with the single exception of Xenopus amieti*.

4. Rational (Required) - Describe the problem and the reason for the proposed change:

The study of tadpole to frog metamorphosis is K-12 Core curriculum and 'one of the fondest memories of childhood.'

As per current Statute the completely non invasive little 'Volcano frog' *Xenopus amieti* is legally prohibited from classrooms in the State yet the highly invasive bullfrog and highly invasive Cuban tree frog are legally permitted.

It seems to us that non – invasive, harmless tadpoles should be permitted in classrooms and 'not the other way around' as is the case per current Statutes.

In order to provide students with a positive Natural History lesson in classroom while allowing native diminishing tadpole populations to remain 'undisturbed' we propose a change to 14 CCR §671.1 (a) to allow the completely harmless non invasive I.U.C.N. Vulnerable Volcano frog to be allowed for classroom study in the State.

For the past 42 years Three Rivers Mail Order Corporation (a.k.a. Growafrog) has proudly facilitated education by providing captive bred see thru tadpoles and 'living staged tadpole to frog life cycle kits' so that a child may study metamorphosis in classroom without removing a native tadpole from the wild. A child may literally observe a live heartbeat and study anatomy WITHOUT the 'need' to dissect a live frog. In now 42 years there has never been a feral population of any of our frogs - anywhere - ever!

Currently *Xenopus amieti* is listed as an invasive species.

The little frog has zero invasive characteristics:

1. It is NOT a predator. It is prey.
2. It is NOT Invasive – it is endangered.
3. I.U.C.N. Red list status VULNERABLE



4. Endemic to one region on earth the Cameroon highlands.
5. Extreme low fecundity: *Xenopus laevis* perhaps 10,000 eggs per clutch. *Xenopus amieti* approx. 200 per clutch.
6. Extreme small size. Adults are approximately the same size as the permitted dwarf frog *Hymenochirus*.
7. Poor predator avoidance. *Xenopus amieti* is endemic to Volcanic lakes of the Cameroon highlands which are devoid of fish. The little frog has zero chance of surviving much less being an invasive species if introduced anywhere with many common larger fish such as largemouth bass.
8. No I.S.S.G.org listing of an invasive population of *Xenopus amieti* anywhere in the world. Indeed there are no listings of ANY *Xenopus* species on the Globe with the exception of the largest species *Xenopus laevis*.

Unfortunately, the simple act of a child going to the pond to obtain a tadpole for metamorphosis observation is no longer simple. The tadpole could easily be a highly invasive *Lithobates catesbeiana* (common American Bullfrog) tadpole which is well established in multiple regions in California. American Bullfrogs are a highly invasive I.U.C.N. species infested with Chytrid fungus.

In Southern California the tadpole is likely the Giant Cuban tree frog which is an I.S.S.G. highly invasive Non native species.

As per current Statutes, the American bullfrog is listed as a highly invasive species, yet it is PERMITTED.

Currently the Cuban tree frog is not even listed as an invasive species in the State. However, *Osteopilus septentrionalis* is a well documented invasive predator and 'bad news' for native amphibians. The Department will never be able to get rid of it – ever. The best that can be hoped for is to limit it's spread through legislation.

As per current Statute we are providing the permitted *Hymenochirus* and this frog is a 'poor choice' for education. *Hymenochirus* tadpoles are extremely small aprox 7mm. The tadpoles do not survive well in classroom. They are not transparent. We have already had a bevy of very upset educators who for decades have 'counted on' our company and our reputation to provide healthy, vigorous B.d. negative captive bred staged tadpoles for classroom observation.

In contrast to *Hymenochirus* tadpoles the Volcano frog *Xenopus amieti* **tadpoles** are EXCELLENT in size! Volcano frogs are also transparent thus allowing classroom anatomy study without the 'need' to dissect and 'sacrifice' a diminishing live frog! Volcano frogs compare very favorably with *Xenopus laevis* tadpoles for study!

*The student is getting ALL of the educational value of *Xenopus laevis* transparent tadpoles with ZERO risk of invasiveness!*

Our risk assessment of Not allowing the proposed rule change:

1. Continued harm to native California frog populations via predatory invasive species likely being released after classroom study.



2. An entire generation of students statewide will be 'shut out' from study of core curriculum in classroom.
3. Opening up the 'Potpourri' of unknown tadpole species via Ebay / biological supply companies/pet shops suppliers who simply collect wild tadpoles and ship. These tadpoles are often 'mystery' tadpoles and the State, the student and supplier often have 'no clue' what tadpole species are being provided.
4. The possible capture of native California frogs such as the Mountain Yellow-legged frog and/or Red Legged frog for classroom study. We *fervently* are of the opinion that this is a very poor idea. Native diminishing tadpole populations should be allowed to remain in the pond! Mountain Yellow-legged frog tadpoles take 2-4 years to morph! The California Red Legged frog is a threatened species! Let's NOT do this!

Our assessment of allowing the proposed rule change:

1. The State 'knows' the tadpole source for education – a harmless B.d. negative captive bred tadpole of a single species *Xenopus amieti* HIGHLY suitable for classroom observation.
2. Every student in California would have access to the study of core curriculum instead of 'shutting down' education for an entire generation of students.
3. Stopping or at least not contributing to the spread of invasive species which would likely be used as a 'substitute' for classroom study.
4. Save a species! The plight of diminishing 'bell weather' amphibians is a huge worldwide concern. In our humble opinion there is NO better way of 'raising awareness' of the plight of Vulnerable amphibian species than studying one in classroom!

If the application is denied and captive bred B.d. negative harmless tadpoles remain restricted and not permitted in the State the tadpoles which are permitted are

highly likely to be invasive species

OR

native species of concern which need to remain in the pond.

Our company is based upon a strong commitment to education **and** to native frog populations! We provide captive bred B.d. negative see thru tadpoles *because* we wish to allow native amphibians to remain 'undisturbed.' It is our understanding that we could legally provide invasive bullfrog or Cuban tree frog tadpoles as per Statute. We wish to inform the Commission that we will NOT do this! We do not provide invasive species to California or anywhere else. It is our fervent hope that the legal issues can be resolved however our commitment to the environment is unwavering and we will NOT provide invasive species even if permitted.

We respectfully thus petition the Commission to leave the door open to education by allowing the Volcano frog *Xenopus amieti* to be the single *Xenopus* species permitted in the State.

To summarize, this simple, single change to regulation is:

1. WIN for native frog populations
2. WIN for Elementary / Secondary Education



3. WIN for raising awareness for the plight of amphibians worldwide.

We wish to **thank** the Commission for allowing us to submit application for review.

SECTION II: Optional Information

5. **Date of Petition: March 7, 2021**

6. **Category of Proposed Change**

☐ Sport Fishing

☐ Commercial Fishing

☐ Hunting

☒ Other, please specify: Invasive species reclassification: Remove *Xenopus amietii* from the restricted invasive species classification.

7. **The proposal is to:** (To determine section number(s), see current year regulation booklet or <https://govt.westlaw.com/calregs>)

☐ Amend Title 14 Section(s): [Click here to enter text.](#)

☐ Add New Title 14 Section(s): [Click here to enter text.](#)

☒ Repeal Title 14 Section(s): Remove *Xenopus amietii* from restricted species listing

8. **If the proposal is related to a previously submitted petition that was rejected, specify the tracking number of the previously submitted petition** [Click here to enter text.](#)
Or ☐ Not applicable.

9. **Effective date:** If applicable, identify the desired effective date of the regulation.
If the proposed change requires immediate implementation, explain the nature of the emergency:
As soon as possible.

10. **Supporting documentation: Identify and attach to the petition any information supporting the proposal including data, reports and other documents:**

<https://www.biodiversitylibrary.org/page/41421231#page/949/mode/1up>

<https://www.iucnredlist.org/species/58168/16929588>

<http://www.iucngisd.org/gisd/search.php>

[https://cdfgnews.wordpress.com/2014/07/15/california-red-legged-frog-named-state-amphibian/#:~:text=\(Rana%20draytonii\)%2Ca%20state,legged%20frog%2C%20official%20State%20Amphibian.](https://cdfgnews.wordpress.com/2014/07/15/california-red-legged-frog-named-state-amphibian/#:~:text=(Rana%20draytonii)%2Ca%20state,legged%20frog%2C%20official%20State%20Amphibian.)

<https://wildlife.ca.gov/Regions/6/Amphibians/Mountain-Yellow-legged-Frog>



<https://nhm.org/stories/los-angeles-being-invaded-frogs>

<http://www.iucngisd.org/gisd/speciesname/Osteopilus+septentrionalis>

11. Economic or Fiscal Impacts: Identify any known impacts of the proposed regulation change on revenues to the California Department of Fish and Wildlife, individuals, businesses, jobs, other state agencies, local agencies, schools, or housing:

Certainly, a negative impact upon schools by denying a child's core curriculum, source. Possible increased costs to the Department due to costs associated with attempting to curtail the spread of the highly invasive Cuban tree frog which in our opinion would become the 'substitute' tadpole for 'education.' They are cheap and widely available. The tadpoles morph quickly and they are 'interesting' for students. This is about an invasive a frog as it gets and there are already populations established in Southern California.

12. Forms: If applicable, list any forms to be created, amended or repealed:

[Click here to enter text.](#)

SECTION 3: FGC Staff Only

Date received: [Click here to enter text.](#)

FGC staff action:

- ☐ Accept - complete
- ☐ Reject - incomplete
- ☐ Reject - outside scope of FGC authority

Tracking Number

Date petitioner was notified of receipt of petition and pending action: _____

Meeting date for FGC consideration: _____

FGC action:

- ☐ Denied by FGC
- ☐ Denied - same as petition _____
- ☐ Granted for consideration of regulation change

Tracking Number



2020 AUG 12 7:55 Tracking Number: (2020-011AM1) -

To request a change to regulations under the authority of the California Fish and Game Commission (Commission), you are required to submit this completed form to: California Fish and Game Commission, (physical address) 1416 Ninth Street, Suite 1320, Sacramento, CA 95814, (mailing address) P.O. Box 944209, Sacramento, CA 94244-2090 or via email to FGC@fgc.ca.gov. Note: This form is not intended for listing petitions for threatened or endangered species (see Section 670.1 of Title 14).

Incomplete forms will not be accepted. A petition is incomplete if it is not submitted on this form or fails to contain necessary information in each of the required categories listed on this form (Section I). A petition will be rejected if it does not pertain to issues under the Commission's authority. A petition may be denied if any petition requesting a functionally equivalent regulation change was considered within the previous 12 months and no information or data is being submitted beyond what was previously submitted. If you need help with this form, please contact Commission staff at (916) 653-4899 or FGC@fgc.ca.gov.

SECTION I: Required Information.

Please be succinct. Responses for Section I should not exceed five pages

1. Person or organization requesting the change (Required)

Name of primary contact person: Click here to enter text. ANDY SCHNEIDER

Address: Click here to enter text. [REDACTED]

Telephone number: Click here to enter text. [REDACTED]

Email address: Click here to enter text. [REDACTED]

2. Rulemaking Authority (Required) - Reference to the statutory or constitutional authority of the Commission to take the action requested: Click here to enter text.

TITLE 14, 180.15 CCR coonstripe shrimp, also 180.2, 180.5 trap fishery Sections 713, 1050, 8591 and 8842, California Fish and Game Code

3. Overview (Required) - Summarize the proposed changes to regulations: Click here to enter text.

① Establish limited entry ② Establish trap limit (350 traps - proposed)

③ Establish minimum mesh size (1" x 0.5" - proposed)

4. Rationale (Required) - Describe the problem and the reason for the proposed change: Click here to enter text.

① limit participants to reduce potential threat to marine mammals (ESA listed whales)
② Reduce trap count to reverse overcapitalization trend and reduce threat to marine mammals (ESA listed whales)
③ Reduce take and injury of unmarketable juvenile stocks

SECTION II: Optional Information

5. Date of Petition: Click here to enter text. Aug 10, 2020

6. Category of Proposed Change

☐ Sport Fishing

☒ Commercial Fishing

☐ Hunting

☐ Other, please specify: Click here to enter text.



7. **The proposal is to:** (To determine section number(s), see current year regulation booklet or <https://govt.westlaw.com/calregs>)
☐ Amend Title 14 Section(s): Click here to enter text.
☒ Add New Title 14 Section(s): Click here to enter text. ① limited entry ② trap limit ③ min. mesh size
☐ Repeal Title 14 Section(s): Click here to enter text.
8. **If the proposal is related to a previously submitted petition that was rejected, specify the tracking number of the previously submitted petition** Click here to enter text.
Or ☒ Not applicable.
9. **Effective date:** If applicable, identify the desired effective date of the regulation.
If the proposed change requires immediate implementation, explain the nature of the emergency: Click here to enter text. Jan 1, 2021
10. **Supporting documentation:** Identify and attach to the petition any information supporting the proposal including data, reports and other documents: Click here to enter text.
The fishery is being overcapitalized and will become unsustainable, 2 whales entangled per 7 fishers
11. **Economic or Fiscal Impacts:** Identify any known impacts of the proposed regulation change on revenues to the California Department of Fish and Wildlife, individuals, businesses, jobs, other state agencies, local agencies, schools, or housing: Click here to enter text.
no economic impact. 7 boats fishing will see increased catch per unit of effort
12. **Forms:** If applicable, list any forms to be created, amended or repealed:
Click here to enter text. trap tag application

SECTION 3: FGC Staff Only

Date received: Click here to enter text.

FGC staff action:

- ☐ Accept - complete
☐ Reject - incomplete
☐ Reject - outside scope of FGC authority

Tracking Number

Date petitioner was notified of receipt of petition and pending action: _____

Meeting date for FGC consideration: _____

FGC action:

- ☐ Denied by FGC
☐ Denied - same as petition _____
Tracking Number
☐ Granted for consideration of regulation change

State of California
Department of Fish and Wildlife

M e m o r a n d u m

Date: May 21, 2021

Received 6/1/2021
Original signed copy on file

To: Melissa Miller-Henson
Executive Director
Fish and Game Commission

From: Charlton H. Bonham
Director

Subject: **Petition #2020-011: Coonstripe Shrimp**

A petition submitted by Mr. Andy Schneider to the Fish and Game Commission (Commission) proposes several changes to the coonstripe fishery. The California Department of Fish and Wildlife (Department) has reviewed the petition and finds that the proposed regulatory changes for a limited entry program and changes to mesh size are not warranted at this time. The proposed change to implement a trap limit program may be warranted, but the Department recommends waiting until it has completed a thorough review of all trap limit programs and other high priority tasks identified in the [MLMA Work Plan](#).

In addition, the Department has not yet completed an Enhanced Status Report (ESR) for coonstripe shrimp, which would contain in part essential fishery information necessary to explore any problems in the fishery. In addition to completing an ESR, the Department would need to consult the fleet to identify any necessary issues (including mesh size) and proposed changes.

The Department is interested in conducting a comprehensive review of trap limit programs which would include coonstripe shrimp, rock crab, and spot prawn. The Department does not currently have the capacity to undertake a comprehensive review of multiple trap limit programs due to existing higher priority commitments identified in the MLMA Work Plan. Several of these high priority projects are expected to be completed by 2023 which could free up necessary resources to initiate discussions on a review of the various trap limit programs.

Please direct further questions to Dr. Craig Shuman, Marine Regional Manager, at (916) 217-2370 or by email at Craig.Shuman@Wildlife.ca.gov.

ec: Stafford Lehr, Deputy Director
Wildlife and Fisheries Division
Stafford.Lehr@Wildlife.ca.gov

Melissa Miller-Henson, Executive Director
Fish and Game Commission
May 21, 2021
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