

ROD, public and agency comments, and the appeals and responsive statements), to evaluate primarily the effects of its implementation on grazing, recreation, and impacts to local communities (J. Blackwell, USFS, *in litt.* 2001). This review and assessment may result in proposed changes to the SNFPA and its associated documents. Therefore, the extent to which it will continue to be implemented, and the extent to which it may benefit the mountain yellow-legged frog and its habitat, remain undetermined. There is additional uncertainty because the proposed changes to the NFMA planning regulations recently issued by Forest Service (67 FR 72770) contain two options for meeting the NFMA direction to provide for the diversity of plant and animal communities, and both options would change the current regulation pertaining to forest planning to provide habitat to support viable populations.

The statute establishing the National Park Service, commonly referred to as the National Park Service Organic Act (39 Stat. 535; 16 U.S.C. 1,2,3 and 4) states that the NPS will administer areas under their jurisdiction “. . . by such means and measures as conform to the fundamental purpose of said parks, monuments, and reservations, which purpose is to conserve the scenery and the natural and historic objects and the wildlife therein and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations.” The 2001 edition of NPS Management Policies (NPS D1416) further elaborates on how impacts on park resources, including native organisms, will not be allowed to the level that they would constitute impairment: “To comply with this mandate, park managers must determine in writing whether proposed activities in parks would impair natural resources. Park managers must also take action to ensure that ongoing NPS activities do not cause impairment. In cases of doubt as to the impact of activities on park natural resource, the Service will decide in favor of protecting the natural resources.” Sequoia, Kings Canyon, and Yosemite National Parks began phasing out fish stocking in 1969 and terminated this practice entirely in 1991 (Bahls 1992; Knapp 1996).

Under section 404 of the Clean Water Act, the U.S. Army Corps of Engineers (Corps) regulates the discharge of fill material into waters of the United States, including wetlands. Section 404 regulations require applicants to obtain a permit for projects that involve the discharge of fill material into waters of

the United States, including wetlands. Projects that are subject to regulation may qualify for authorization to place fill material into headwaters and isolated waters, including wetlands, under several nationwide permits. The use of nationwide permits by an applicant or project proponent is normally authorized with minimal environmental review by the Corps. An individual permit may be required by the Corps if a project otherwise qualifying under a nationwide permit would have greater than minimal adverse environmental impacts. However, few projects that include fill of wetlands are likely to occur within the range of the mountain yellow-legged frog.

#### State

The State of California considers the mountain yellow-legged frog a species of special concern, but it is not State listed as a threatened or endangered species and thus is not protected under the California Endangered Species Act.

California Sport Fishing Regulations include the mountain yellow-legged frog as a protected species that may not be taken or possessed at any time with a sport fishing license. Possession or take of the mountain yellow-legged frog is authorized under special permit from the CDFG. This gives the frog some legal protection from collecting, but does not protect it from other causes of mortality or alterations to its habitat.

The California Forest Practice rules set guidelines for the design of timber harvests on private land to reduce impacts on non-listed species. These rules have little application to the protection of the mountain yellow-legged frog because the vast majority of the species' range is on Federal land, and much of its range is too high in elevation to overlap with lands used for commercial timber harvest.

The California Department of Pesticide Regulation (CDPR) has authority to restrict the use of pesticides. The CDPR Toxic Air Contaminant (TAC) Program includes assessment of the risks posed by airborne pesticides; this assessment involves collection of air samples near sites of pesticide application and in communities near those sites. If air samples indicate that reductions in exposure are needed, mitigation measures are developed to bring about those reductions (CDPR 2001). However, the TAC program is intended primarily to protect human health, and air samples are not taken at far distant locations from application sites, like those inhabited by the mountain yellow-legged frog in the Sierra Nevada.

The California Environmental Quality Act (CEQA) pertains to projects on non-Federal lands and requires review of any project that is undertaken, funded, or permitted by a State or local governmental agency. If a project with potential impacts on the mountain yellow-legged frog in the Sierra Nevada is reviewed, CDFG personnel could determine that, although not state-listed, the frog is *de facto* an endangered, threatened, or rare species under section 15380 of CEQA. Once significant effects are identified, the lead agency has the option of requiring mitigation for effects through changes in the project or to decide that overriding considerations make mitigation infeasible (CEQA Sec. 21002). In the latter case, projects may be approved that cause significant environmental damage, such as destruction of state-listed endangered species or their habitat. Protection of listed species through CEQA is, therefore, dependent on the discretion of the agency involved. In addition, fish stocking is not subject to disclosure of its potential environmental impacts because it is exempt from CEQA under Article 19 section 15301(j). Therefore, the effects of fish stocking on the mountain yellow-legged frog are not analyzed pursuant to CEQA. Also, the vast majority of the species' range is on Federal land and is affected by Federal actions (other than the State-sponsored fish stocking) that are not subject to CEQA analysis.

Section 1603(a) of the California Fish and Game Code requires a permit from the CDFG for any activity that may alter the bed, channel, or bank of any river, stream, or lake. The permit may incorporate measures to minimize adverse impacts to fish and wildlife. Therefore, this regulation may offer some protection of mountain yellow-legged frog habitat. The extent to which this regulation has provided the mountain yellow-legged frog with protection is unknown because much of the range of this species is on federal lands where few habitat modifications subject to this permit are proposed.

The CDFG is practicing an informal policy on fish stocking in the range of the mountain yellow-legged frog in the Sierra Nevada. This policy directs that: (1) Fish will not be stocked in lakes with known populations of mountain yellow-legged frogs, nor in lakes which have not yet been surveyed for mountain yellow-legged frog presence; (2) waters will be stocked only with a fisheries management justification; and (3) the number of stocked lakes will be reduced over time. In 2001, the number of lakes stocked with fish within the range of the mountain yellow-legged