

employees. 15 U.S.C. 632. This proceeding pertains to the BOCs, which, because they would not be deemed a "small business concern" under the Small Business Act and have more than 1,500 employees, do not qualify as small entities under the RFA. Therefore, we certify that the proposals in this Further Notice, if adopted, will not have a significant economic impact on a substantial number of small entities.

19. The Commission will send a copy of the Notice, including a copy of this Initial Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the SBA. This initial certification will also be published in the **Federal Register**.

#### Ex Parte Presentations

20. This proceeding shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's ex parte rules. Persons making ex parte presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral ex parte presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the ex parte presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during ex parte meetings are deemed to be written ex parte presentations and must be filed consistent with § 1.1206(b). In proceedings governed by § 1.49(f) or for which the Commission has made available a method of electronic filing, written ex parte presentations and memoranda summarizing oral ex parte presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (e.g., .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize

themselves with the Commission's ex parte rules.

#### Ordering Clauses

21. *It is ordered* that, pursuant to §§ 1, 2, 4, 11, 201–205, 251, 272, 274–276, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154, 161, 201–205, 251, 272, 274–276, and 303(r) this Further Notice of Proposed Rulemaking in CC Docket Nos. 95–20 and 98–10 *is adopted*.

22. *It is further ordered* that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of this Further Notice of Proposed Rulemaking in CC Docket Nos. 95–20 and 98–10, including the Initial Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the Small Business Administration.

Federal Communications Commission.

**Sheryl Todd,**

*Deputy Secretary.*

[FR Doc. 2013–15643 Filed 6–28–13; 8:45 am]

**BILLING CODE 6712-01-P**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 17

[Docket No. FWS–R2–ES–2012–0042; 4500030114]

RIN 1018–AX13

#### Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for the Jaguar

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Revised proposed rule; reopening of comment period.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), announce the reopening of the public comment period on the August 20, 2012, proposed designation of critical habitat for the jaguar (*Panthera onca*) under the Endangered Species Act of 1973, as amended (Act), and we announce revisions to our proposed designation of critical habitat for the jaguar. We also announce the availability of a draft economic analysis and draft environmental assessment of the revised proposed designation of critical habitat for jaguar and an amended required determinations section of the proposal. We are reopening the comment period to allow all interested parties an opportunity to comment simultaneously on the revised proposed rule, the associated draft economic analysis and

draft environmental assessment, and the amended required determinations section. Comments previously submitted need not be resubmitted, as they will be fully considered in preparation of the final rule. In addition, we announce a public informational session and public hearing on the revised proposed designation of critical habitat for the jaguar.

**DATES:** *Written comments:* The comment period for the proposed rule published August 20, 2012 (77 FR 50214), is reopened. We will consider comments received or postmarked on or before August 9, 2013. Comments submitted electronically using the Federal eRulemaking Portal (see **ADDRESSES**) must be received by 11:59 p.m. Eastern Time on the closing date.

*Public informational session and public hearing:* We will hold a public informational session and public hearing on this proposed rule on July 30, 2013, at Buena High School Performing Arts Center, 5225 Buena School Blvd., Sierra Vista, Arizona 85615. There will be an informational meeting from 3:30–5:00 p.m., and the public hearing will occur from 6:30–8:30 p.m. at the same location.

#### ADDRESSES:

*Document availability:* You may obtain copies of the proposed rule, draft economic analysis, and draft environmental assessment on the Internet at <http://www.regulations.gov> at Docket No. FWS–R2–ES–2012–0042 or by mail from the Arizona Ecological Services Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**).

*Written comments:* You may submit written comments by one of the following methods, or at the public hearing:

(1) *Electronically:* Go to the Federal eRulemaking Portal: <http://www.regulations.gov>. Submit comments by searching for Docket No. FWS–R2–ES–2012–0042, which is the docket number for this rulemaking.

(2) *By hard copy:* Submit comments by U.S. mail or hand-delivery to: Public Comments Processing, Attn: FWS–R2–ES–2012–0042; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, MS 2042–PDM; Arlington, VA 22203.

We request that you send comments only by the methods described above. We will post all comments on <http://www.regulations.gov>. This generally means that we will post any personal information you provide us (see the Public Comments section below for more information).

*Public informational session and public hearing:* The public

informational session and hearing will be held at Buena High School Performing Arts Center, 5225 Buena School Blvd., Sierra Vista, Arizona 85615. People needing reasonable accommodation in order to attend and participate in the public hearing should contact Steve Spangle, Field Supervisor, Arizona Ecological Services Fish and Wildlife Office, as soon as possible (see **FOR FURTHER INFORMATION CONTACT**).

**FOR FURTHER INFORMATION CONTACT:** Steve Spangle, Field Supervisor, U.S. Fish and Wildlife Service, Arizona Ecological Services Fish and Wildlife Office, 2321 West Royal Palm Drive, Suite 103, Phoenix, AZ 85021; by telephone (602-242-0210); or by facsimile (602-242-2513). Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 800-877-8339.

#### **SUPPLEMENTARY INFORMATION:**

##### **Public Comments**

We are reopening the comment period for our proposed critical habitat designation for the jaguar that was published in the **Federal Register** on August 20, 2012 (77 FR 50214). We are specifically seeking comments on the revised proposed designation and the draft economic and environmental analyses, which are now available, for the revised proposed critical habitat designation; see **ADDRESSES** for information on how to submit your comments. We will consider information and recommendations from all interested parties. We are particularly interested in comments concerning:

(1) The reasons why we should or should not designate habitat as “critical habitat” under section 4 of the Act (16 U.S.C. 1531 *et seq.*), including whether there are threats to the species from human activity, the degree of which can be expected to increase due to the designation, and whether that increase in threat outweighs the benefit of designation such that the designation of critical habitat may not be prudent.

(2) Specific information on:

(a) The amount and distribution of jaguar habitat;

(b) What areas occupied at the time of listing (1972) (or currently occupied) that contain features essential to the conservation of the species we should include in the designation and why;

(c) What period of time surrounding the time of listing (1972) should be used to determine occupancy and why, and whether or not data from 1982 to the present should be used in this determination;

(d) Special management considerations or protection that may be needed in critical habitat areas we are proposing, including managing for the potential effects of climate change;

(e) What areas not occupied at the time of listing (and that do not contain all of the primary constituent elements comprising proposed jaguar critical habitat) are essential for the conservation of the species and why; and

(f) If an area is essential but was not occupied at the time of listing, what are the habitat features that are essential, and which of these features are the most important?

(3) Land-use designations and current or planned activities in the subject areas and their possible impacts on proposed critical habitat.

(4) Information on the projected and reasonably likely impacts of climate change on the jaguar and proposed critical habitat.

(5) Any probable economic, national security, or other relevant impacts of designating any area that may be included in the final designation; in particular, we seek information on any impacts on small entities or families, and the benefits of including or excluding areas from the proposed designation that exhibit these impacts.

(6) Information on the extent to which the description of economic impacts in the draft economic analysis is complete and accurate and the description of the environmental impacts in the draft environmental assessment is complete and accurate.

(7) If lands owned and managed by Fort Huachuca (Fort) should be considered for exemption because the integrated natural resources management plan for the Fort currently benefits the jaguar, whether or not management activities specifically address the species.

(8) Whether any specific areas we are proposing for critical habitat designation should be considered for exclusion under section 4(b)(2) of the Act, and whether the benefits of potentially excluding any specific area outweigh the benefits of including that area under section 4(b)(2) of the Act.

(9) Whether we could improve or modify our approach to designating critical habitat in any way to provide for greater public participation and understanding, or to better accommodate public concerns and comments.

If you submitted comments or information on the proposed rule (77 FR 50214; August 20, 2012) during the initial comment period from August 20, 2012, to October 19, 2012, please do not

resubmit them. We have incorporated them into the public record, and we will fully consider them in the preparation of our final rule. Our final determination concerning critical habitat will take into consideration all written comments and any additional information we receive during both comment periods. On the basis of public comments and other relevant information, we may, during the development of our final determination on the proposed critical habitat designation, find that areas proposed are not essential, are appropriate for exclusion under section 4(b)(2) of the Act, or are not appropriate for exclusion.

You may submit your comments and materials concerning the revised proposed rule, draft economic analysis, or draft environmental assessment by one of the methods listed in the **ADDRESSES** section. We request that you send comments only by the methods described in the **ADDRESSES** section.

If you submit a comment via <http://www.regulations.gov>, your entire comment—including any personal identifying information—will be posted on the Web site. We will post all hardcopy comments on <http://www.regulations.gov> as well. If you submit a hardcopy comment that includes personal identifying information, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so.

Comments and materials we receive, as well as supporting documentation we used in preparing the revised proposed rule, draft economic analysis, and draft environmental assessment, will be available for public inspection on <http://www.regulations.gov> at Docket No. FWS-R2-ES-2012-0042, or by appointment, during normal business hours, at the U.S. Fish and Wildlife Service, Arizona Ecological Services Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**). You may obtain copies of the proposed rule, the draft economic analysis, and the draft environmental assessment on the Internet at <http://www.regulations.gov> at Docket Number FWS-R2-ES-2012-0042, or by mail from the Arizona Ecological Services Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**).

##### **Background**

It is our intent to discuss only those topics directly relevant to the designation of critical habitat for jaguar in this document. For more information on the species, the species' habitat, and

previous Federal actions concerning the jaguar, refer to the proposed designation of critical habitat, published in the **Federal Register** on August 20, 2012 (77 FR 50214). The proposed rule is available online at <http://www.regulations.gov> (at Docket Number FWS-R2-ES-2012-0042) or from the Arizona Ecological Services Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**).

#### *Previous Federal Actions*

On August 20, 2012, we published a proposed rule to designate critical habitat for the jaguar (77 FR 50214). In that proposed rule, we proposed to designate approximately 838,232 acres (ac) (339,220 hectares (ha)) as critical habitat in six units located in Pima, Santa Cruz, and Cochise Counties, Arizona, and Hidalgo County, New Mexico. That proposal had a 60-day comment period, ending October 19, 2012. We received requests for a public hearing; therefore, a public hearing will be held (see **DATES** and **ADDRESSES**).

In 2013, we received a report from the Jaguar Recovery Team that included a revised habitat model for jaguar in the proposed Northwestern Recovery Unit (Sanderson and Fisher 2013, entire). This report recommended defining habitat patches of less than 100 square kilometers (km) (38.6 square miles (mi)) in size as unsuitable for jaguars; therefore, we incorporated this information into the physical and biological feature for the jaguar, which formerly described areas of less than 84 square km (32.4 square mi) as unsuitable. Additionally, the report recommended slight changes to some of the habitat features we used to describe the primary constituent elements (PCEs) comprising jaguar critical habitat (see **Changes From Previously Proposed Critical Habitat**, below). The revised physical and biological feature and PCEs resulted in changes to the boundaries of our original proposed critical habitat, and we are revising our proposal for jaguar critical habitat in this document. In this revised rule, we propose to designate approximately 858,137 ac (347,277 ha) as critical habitat in six units located in Pima, Santa Cruz, and Cochise Counties, Arizona, and Hidalgo County, New Mexico.

#### *Critical Habitat*

Section 3 of the Act defines critical habitat as the specific areas within the geographical area occupied by a species, at the time it is listed in accordance with the Act, on which are found those physical or biological features essential to the conservation of the species and

that may require special management considerations or protection, and specific areas outside the geographical area occupied by a species at the time it is listed, upon a determination that such areas are essential for the conservation of the species. If the proposed rule is made final, section 7 of the Act will prohibit destruction or adverse modification of critical habitat by any activity funded, authorized, or carried out by any Federal agency. Federal agencies proposing actions affecting critical habitat must consult with us on the effects of their proposed actions, under section 7(a)(2) of the Act.

#### **Changes From Previously Proposed Critical Habitat**

On August 20, 2012, we published in the **Federal Register** a proposed rule to designate critical habitat for the jaguar (77 FR 50214). We based the physical and biological feature and PCEs on a preliminary report we received from the Jaguar Recovery Team in 2011, in which the habitat features preferred by the jaguar were described based on the best available science and expert opinion of the team at that time.

Since then, the Jaguar Recovery Team continued to revise and refine these habitat features, resulting in a habitat model that we received in 2013. The changes included: (1) Defining habitat patches of less than 100 square km (38.6 square mi) in size as unsuitable (the physical and biological feature formerly described areas of less than 84 square km (32.4 square mi) as unsuitable); (2) delineating areas 2,000 meters (6,562 feet) and higher as unsuitable (previously there was no PCE related to an upper-elevation limit); (3) including a canopy cover from greater than 1 to 50 percent as suitable (PCE 4 formerly included a range of 3 to 40 percent canopy cover); and (4) slightly diminishing the level of human influence tolerated by jaguars in the northern part of the proposed Northwestern Recovery Unit (PCE 6). When combined, these changes added some new areas containing all of the PCEs, while other areas no longer contained all of the PCEs, and therefore were removed. An increase in area was usually due to the increased range in canopy cover (from greater than 1 to 50 percent, instead of 3 to 40 percent), while a decrease in area was usually due to the upper elevation limit of 2,000 meters (6,562 feet).

In addition to the changes described above, recent photos (October 2012 through January 2013) have been taken of a jaguar in the Santa Rita Mountains. While our understanding of the habitat features did not change drastically

between 2012 and 2013, the combination of a slightly different physical and biological feature and several PCEs (as described above) and the new jaguar sightings have resulted in the proposed revisions to our August 20, 2012, proposed critical habitat rule for the jaguar that are described in this document.

#### **Primary Constituent Elements for Jaguars**

Based on our current knowledge of the physical or biological feature and habitat characteristics required to sustain the jaguar's vital life-history functions in the Northwestern Recovery Unit and the United States, we determine that the primary constituent elements specific to jaguars are: Expansive open spaces in the southwestern United States of at least 100 square km (38.6 square mi) in size which:

- (1) Provide connectivity to Mexico;
- (2) Contain adequate levels of native prey species, including deer and javelina, as well as medium-sized prey such as coatis, skunks, raccoons, or jackrabbits;
- (3) Include surface water sources available within 20 km (12.4 mi) of each other;
- (4) Contain from greater than 1 to 50 percent canopy cover within Madrean evergreen woodland, generally recognized by a mixture of oak, juniper, and pine trees on the landscape, or semidesert grassland vegetation communities, usually characterized by *Pleuraphis mutica* (tobosagrass) or *Bouteloua eriopoda* (black grama) along with other grasses;
- (5) Are characterized by intermediately, moderately, or highly rugged terrain;
- (6) Are characterized by minimal to no human population density, no major roads, or no stable nighttime lighting over any 1-square-km (0.4-square-mi) area; and
- (7) Are below 2,000 m (6,562 feet) in elevation.

#### **Proposed Critical Habitat Designation**

We are proposing six units as critical habitat for the jaguar. The critical habitat areas we describe below constitute our current best assessment of areas that meet the definition of critical habitat for the jaguar. The six units we propose as critical habitat are: (1) Baboquivari Unit divided into subunits (1a) Baboquivari-Coyote Subunit, including the Northern Baboquivari, Saucito, Quinlan, and Coyote Mountains, and (1b) the Southern Baboquivari Subunit; (2) Atascosa Unit, including the Pajarito, Atascosa, and

Tumacacori Mountains; (3) Patagonia Unit, including the Patagonia, Santa Rita, Empire, and Huachuca Mountains, and the Canelo and Grosvenor Hills; (4) Whetstone Unit, divided into subunits (4a) Whetstone Subunit, (4b) Whetstone-Santa Rita Subunit, and (4c) Whetstone-Huachuca Subunit; (5) Peloncillo Unit, including the Peloncillo Mountains both in Arizona and New Mexico; and (6) San Luis Unit, including the northern extent of the San Luis Mountains at the New Mexico-Mexico border. Table 1 lists both the unoccupied units and those that may have been occupied at the time of listing.

TABLE 1—OCCUPANCY OF JAGUARS BY PROPOSED CRITICAL HABITAT UNITS  
[All units are in Arizona unless otherwise noted]

Unit	Occupied at time of listing
1—Baboquivari Unit	
1a—Baboquivari-Coyote Subunit:	
Coyote Mountains .....	Yes.
Quinlan Mountains .....	Yes.
Saucito Mountains .....	Yes.
Northern Baboquivari Mountains .....	Yes.
1b—Southern Baboquivari Subunit:	
Southern Baboquivari Mountains Connection .....	No.
2—Atascosa Unit:	
Tumacacori Mountains .....	Yes.
Atascosa Mountains .....	Yes.
Pajarito Mountains .....	Yes.
3—Patagonia Unit:	
Empire Mountains .....	Yes.
Santa Rita Mountains .....	Yes.
Grosvenor Hills .....	Yes.
Patagonia Mountains .....	Yes.
Canelo Hills .....	Yes.
Huachuca Mountains .....	Yes.
4—Whetstone Unit	
4a—Whetstone Subunit:	
Whetstone Mountains .....	Yes.
4b—Whetstone-Santa Rita Subunit:	
Whetstone-Santa Rita Mountains Connection .....	No.
4c—Whetstone-Huachuca Subunit:	
Whetstone-Huachuca Mountains Connection .....	No.
5—Peloncillo Unit:	
Peloncillo Mountains (Arizona and New Mexico) .....	Yes.
6—San Luis Unit:	
San Luis Mountains (New Mexico) .....	Yes.

The approximate area of each proposed critical habitat unit is shown in Table 2.

TABLE 2—AREA OF PROPOSED CRITICAL HABITAT UNITS FOR THE JAGUAR

Unit or subunit	Federal		State		Tribal		Private		Total	Total
	Ha	Ac	Ha	Ac	Ha	Ac	Ha	Ac	Ha	Ac
1a—Baboquivari-Coyote Subunit .....	4,396	10,862	9,239	22,831	20,764	51,308	3,290	8,130	37,689	93,130
1b—Southern Baboquivari Subunit .....	624	1,543	6,157	15,213	10,829	26,759	1,843	4,555	19,453	48,070
2—Atascosa Unit .....	53,807	132,961	2,296	5,672	0	0	2,522	6,231	58,625	144,864
3—Patagonia Unit .....	107,471	265,566	11,847	29,274	0	0	29,046	71,775	148,364	366,615
4a—Whetstone Subunit .....	16,066	39,699	5,445	13,455	0	0	3,774	9,325	25,284	62,478
4b—Whetstone-Santa Rita Subunit .....	532	1,313	4,612	11,396	0	0	0	0	5,143	12,710
4c—Whetstone-Huachuca Subunit .....	1,654	4,088	2,981	7,366	0	0	3,391	8,379	8,026	19,832
5—Peloncillo Unit .....	28,393	70,160	7,861	19,426	0	0	5,317	13,138	41,571	102,723
6—San Luis Unit .....	0	0	0	0	0	0	3,122	7,714	3,122	7,714
Grand Total .....	212,943	526,191	50,437	124,633	31,593	78,067	52,304	129,246	347,277	858,137

Note: Area sizes may not sum due to rounding.

We present brief descriptions of all units, and reasons why they meet the definition of critical habitat for jaguar, below.

Subunit 1a: Baboquivari-Coyote Subunit

Subunit 1a consists of 37,689 ha (93,130 ac) in the northern Baboquivari, Saucito, Quinlan, and Coyote Mountains in Pima County, Arizona.

This subunit is generally bounded by the eastern side of the Baboquivari Valley to the west, State Highway 86 to the north, the western side of the Altar Valley to the east, and up to and including Leyvas and Bear Canyons to

the south. Land ownership within the unit includes approximately 4,396 ha (10,862 ac) of Federal lands; 20,764 ha (51,308 ac) of Tohono O'odham Nation lands; 9,239 ha (22,831 ac) of Arizona State lands; and 3,290 ha (8,130 ac) of private lands. The Federal land is administered by the Service and Bureau of Land Management. We consider the Baboquivari-Coyote Subunit occupied at the time of listing (37 FR 6476; March 30, 1972) (see "Occupied Area at the Time of Listing" in our August 20, 2012, proposed rule (77 FR 50214)), and it may be currently occupied, based on jaguar photos from 1996 and from 2001–2008. It contains all elements of the physical or biological feature essential to the conservation of the jaguar, except for connectivity to Mexico.

The primary land uses within Subunit 1a include ranching, grazing, border-related activities, Federal land management activities, and recreational activities throughout the year, including, but not limited to, hiking, birding, horseback riding, and hunting. Special management considerations or protections needed within the subunit would need to address threats presented by increased human disturbances in remote locations through construction of impermeable fences and widening or construction of roadways, power lines, or pipelines.

#### Subunit 1b: Southern Baboquivari Subunit

Subunit 1b consists of 19,453 ha (48,070 ac) in the southern Baboquivari Mountains in Pima County, Arizona. This subunit is generally bounded by the eastern side of the Baboquivari Valley to the west, up to but not including Leyvas and Bear Canyons to the north, the western side of the Altar Valley to the east, and the U.S.-Mexico border to the south. Land ownership within the unit includes approximately 624 ha (1,543 ac) of Federal lands; 10,829 ha (26,759 ac) of Tohono O'odham Nation lands; 6,157 ha (15,213 ac) of Arizona State lands; and 1,843 ha (4,555 ac) of private lands. The Federal land is administered by the Service and Bureau of Land Management. The Southern Baboquivari Subunit provides connectivity to Mexico and was not occupied at the time of listing, but is essential to the conservation of the jaguar because it contributes to the species' persistence by providing connectivity to occupied areas.

The primary land uses within Subunit 1b include ranching, grazing, border-related activities, Federal land management activities, and recreational activities throughout the year,

including, but not limited to, hiking, birding, horseback riding, and hunting.

#### Unit 2: Atascosa Unit

Unit 2 consists of 58,625 ha (144,864 ac) in the Pajarito, Atascosa, and Tumacacori Mountains in Pima and Santa Cruz Counties, Arizona. Unit 2 is generally bounded by the eastern side of San Luis Mountains (Arizona) to the west, roughly 4 km (2.5 mi) south of Arivaca Road to the north, Interstate 19 to the east, and the U.S.-Mexico border to the south. Land ownership within the unit includes approximately 53,807 ha (132,961 ac) of Federal lands; 2,296 ha (5,672 ac) of Arizona State lands; and 2,522 ha (6,231 ac) of private lands. The Federal land is administered by the Coronado National Forest and Bureau of Land Management. We consider the Atascosa Unit occupied at the time of listing (37 FR 6476; March 30, 1972) (see "Occupied Area at the Time of Listing" in our August 20, 2012, proposed rule (77 FR 50214)), and it may be currently occupied based on multiple photos of two, or possibly three, jaguars from 2001–2008. It contains all elements of the physical or biological feature essential to the conservation of the jaguar.

The primary land uses within Unit 2 include Federal land management activities, border-related activities, grazing, and recreational activities throughout the year, including, but not limited to, hiking, camping, birding, horseback riding, picnicking, sightseeing, and hunting. Special management considerations or protections needed within the unit would need to address threats posed by increased human disturbances into remote locations through construction of impermeable fences and widening or construction of roadways, power lines, or pipelines.

#### Unit 3: Patagonia Unit

Unit 3 consists of 148,364 ha (366,615 ac) in the Patagonia, Santa Rita, Empire, and Huachuca Mountains, as well as the Canelo and Grosvenor Hills, in Pima, Santa Cruz, and Cochise Counties, Arizona. Unit 3 is generally bounded by a line running roughly 3 km (1.9 mi) east of Interstate 19 to the west; a line running roughly 6 km (3.7 mi) south of Interstate 10 to the north; Cienega Creek and Highways 83, 90, and 92 to the east, including the eastern slopes of the Empire Mountains; and the U.S.-Mexico border to the south. Land ownership within the unit includes approximately 107,471 ha (265,566 ac) of Federal lands; 11,847 ha (29,274 ac) of Arizona State lands; and 29,046 ha (71,775 ac) of private lands. The Federal land is

administered by the Coronado National Forest, Bureau of Land Management, National Park Service, and Fort Huachuca. We consider the Patagonia Unit occupied at the time of listing (37 FR 6476; March 30, 1972) based on the 1965 record from the Patagonia Mountains (see "Occupied Area at the Time of Listing" in our August 20, 2012, proposed rule (77 FR 50214)) and currently occupied based on photos taken from October 2012, through January 2013, of a male jaguar in the Santa Rita Mountains. The mountain ranges within this unit contain all elements of the physical or biological feature essential to the conservation of the jaguar.

The primary land uses within Unit 3 include military activities associated with Fort Huachuca, as well as Federal land management activities, border-related activities, grazing, and recreational activities throughout the year, including, but not limited to, hiking, camping, birding, horseback riding, picnicking, sightseeing, and hunting. Special management considerations or protections needed within the unit would need to address threats posed by human disturbances through such activities as military ground maneuvers and increased human presence in remote locations through mining and development activities, construction of impermeable fences, and widening or construction of roadways, power lines, or pipelines.

#### Subunit 4a: Whetstone Subunit

Subunit 4a consists of 25,284 ha (62,478 ac) in the Whetstone Mountains in Pima, Santa Cruz, and Cochise Counties, Arizona. Subunit 4a is generally bounded by a line running roughly 4 km (2.5 mi) east of Cienega Creek to the west, a line running roughly 6 km (3.7 mi) south of Interstate 10 to the north, Highway 90 to the east, and Highway 82 to the south. Land ownership within the subunit includes approximately 16,066 ha (39,699 ac) of Federal lands; 5,445 ha (13,455 ac) of Arizona State lands; and 3,774 ha (9,325 ac) of private lands. The Federal land is administered by the Coronado National Forest and Bureau of Land Management. We consider the Whetstone Subunit occupied at the time of listing (37 FR 6476; March 30, 1972) (see "Occupied Area at the Time of Listing" in our August 20, 2012, proposed rule (77 FR 50214)), and, based on photographs taken in 2011, it may be currently occupied. The mountain range within this subunit contains all elements of the physical or biological feature essential to the conservation of the jaguar, except for connectivity to Mexico.

The primary land uses within Subunit 4a include Federal land management activities, grazing, and recreational activities throughout the year, including, but not limited to, hiking, camping, birding, horseback riding, picnicking, sightseeing, and hunting. Special management considerations or protections needed within the subunit would need to address threats posed by increased human disturbances as a result of development activities, and widening or construction of roadways, power lines, or pipelines.

#### Subunit 4b: Whetstone-Santa Rita Subunit

Subunit 4b consists of 5,143 ha (12,710 ac) between the Empire Mountains and northern extent of the Whetstone Mountains in Pima County, Arizona. Subunit 4b is generally bounded by (but does not include): The eastern slopes of the Empire Mountains to the west, a line running roughly 6 km (3.7 mi) south of Interstate 10 to the north, the western slopes of the Whetstone Mountains to the east, and Stevenson Canyon to the south. Land ownership within the subunit includes approximately 532 ha (1,313 ac) of Federal lands and 4,612 ha (11,396 ac) of Arizona State lands. The Whetstone-Santa Rita Subunit provides connectivity from the Whetstone Mountains to Mexico and was not occupied at the time of listing, but is essential to the conservation of the jaguar because it contributes to the species' persistence by providing connectivity to occupied areas.

The primary land uses within Subunit 4b include grazing and recreational activities throughout the year, including, but not limited to, hiking, camping, birding, horseback riding, picnicking, sightseeing, and hunting.

#### Subunit 4c: Whetstone-Huachuca Subunit

Subunit 4c consists of 8,026 ha (19,832 ac) between the Huachuca Mountains and southern extent of the Whetstone Mountains in Santa Cruz and Cochise Counties, Arizona. Subunit 4c is generally bounded by Highway 83, Elgin-Canelo Road, and Upper Elgin Road to the west; Highway 82 to the north; a line running roughly 4 km (2.5 mi) west of Highway 90 to the east; and up to but not including the Huachuca Mountains to the south. Land ownership within the subunit includes approximately 1,654 ha (4,088 ac) of Federal lands; 2,981 ha (7,366 ac) of Arizona State lands; and 3,391 ha (8,379 ac) of private lands. The Federal land is administered by the Coronado National Forest, Bureau of Land Management,

and Fort Huachuca. The Whetstone-Huachuca Subunit provides connectivity from the Whetstone Mountains to Mexico and was not occupied at the time of listing, but is essential to the conservation of the jaguar because it contributes to the species' persistence by providing connectivity to occupied areas.

The primary land uses within Subunit 4c include military activities associated with Fort Huachuca, as well as Federal forest management activities, grazing, and recreational activities throughout the year, including, but not limited to, hiking, camping, birding, horseback riding, picnicking, sightseeing, and hunting.

#### Unit 5: Peloncillo Unit

Unit 5 consists of 41,571 ha (102,723 ac) in the Peloncillo Mountains in Cochise County, Arizona, and Hidalgo County, New Mexico. Unit 5 is generally bounded by the eastern side of the San Bernardino Valley to the west, Skeleton Canyon Road and the northern boundary of the Coronado National Forest to the north, the western side of the Animas Valley to the east, and the U.S.-Mexico border on the south. Land ownership within the unit includes approximately 28,393 ha (70,160 ac) of Federal lands; 7,861 ha (19,426 ac) of Arizona State lands; and 5,317 ha (13,138 ac) of private lands. The Federal land is administered by the Coronado National Forest and Bureau of Land Management. We consider the Peloncillo Unit occupied at the time of listing (37 FR 6476; March 30, 1972) (see "Occupied Area at the Time of Listing" in our August 20, 2012, proposed rule (77 FR 50214)), and it may be currently occupied based on a track documented in 1995 and photographs taken in 1996. It contains all elements of the physical or biological feature essential to the conservation of the jaguar.

The primary land uses within Unit 5 include Federal land management activities, border-related activities, grazing, and recreational activities throughout the year, including, but not limited to, hiking, camping, birding, horseback riding, picnicking, sightseeing, and hunting. Special management considerations or protections needed within the unit would need to address threats posed by increased human disturbances in remote locations through construction of impermeable fences and widening or construction of roadways, power lines, or pipelines.

#### Unit 6: San Luis Unit

Unit 6 consists of 3,122 ha (7,714 ac) in the northern extent of the San Luis Mountains in Hidalgo County, New Mexico. Unit 6 is generally bounded by the eastern side of the Animas Valley to the west, a line running roughly 1.5 km (0.9 mi) south of Highway 79 to the north, an elevation line at approximately 1,600 m (5,249 ft) on the east side of the San Luis Mountains, and the U.S.-Mexico border to the south. Land within the unit is entirely privately owned. We consider the San Luis Unit occupied at the time of listing (37 FR 6476; March 30, 1972) (see "Occupied Area at the Time of Listing" in our August 20, 2012, proposed rule (77 FR 50214)), and it may be currently occupied based on photographs taken in 2006. Unit 6 contains almost all elements (PCEs 2–7) of the physical or biological feature essential to the conservation of the jaguar except for PCE 1 (expansive open space). This unit is included because, while by itself it does not provide at least 100 square km (38.6 square mi) of jaguar habitat in the United States, additional habitat can be found immediately adjacent south of the U.S.-Mexico border, and therefore this area represents a small portion of a much larger area of habitat.

The primary land uses within Unit 6 include border-related activities, grazing, and some recreational activities throughout the year, including, but not limited to, hiking, horseback riding, and hunting. Special management considerations or protections needed within the unit would need to address threats posed by increased human disturbances into remote locations through construction of impermeable fences and widening or construction of roadways, power lines, or pipelines.

#### *Consideration of Impacts Under Section 4(b)(2) of the Act*

Section 4(b)(2) of the Act requires that we designate or revise critical habitat based upon the best scientific data available, after taking into consideration the economic impact, impact on national security, or any other relevant impact of specifying any particular area as critical habitat. We may exclude an area from critical habitat if we determine that the benefits of excluding the area outweigh the benefits of including the area as critical habitat, provided such exclusion will not result in the extinction of the species.

When considering the benefits of inclusion for an area, we consider the additional regulatory benefits that area would receive from the protection from adverse modification or destruction as a

result of actions with a Federal nexus (activities conducted, funded, permitted, or authorized by Federal agencies), the educational benefits of mapping areas containing essential features that aid in the recovery of the listed species, and any benefits that may result from designation due to State or Federal laws that may apply to critical habitat.

When considering the benefits of exclusion, we consider, among other things, whether exclusion of a specific area is likely to result in conservation; the continuation, strengthening, or encouragement of partnerships; or implementation of a management plan. We are considering excluding lands owned and managed by the Tohono O'odham Nation from critical habitat. The Tohono O'odham Nation has indicated that they are preparing a Jaguar Management Plan, which we expect to receive during this comment period. However, the final decision on whether to exclude any areas will be based on the best scientific data available at the time of the final designation, including information obtained during the comment period and information about the economic impact of designation. Accordingly, we have prepared a draft economic analysis concerning the proposed critical habitat designation, which is available for review and comment (see **ADDRESSES**).

#### Draft Economic Analysis

The draft economic analysis describes the economic impacts of all potential conservation efforts for the jaguar; some of these costs will likely be incurred regardless of whether we designate critical habitat. The economic impact of the proposed critical habitat designation is analyzed by comparing scenarios both "with critical habitat" and "without critical habitat." The "without critical habitat" scenario represents the baseline for the analysis, considering protections already in place for the species (e.g., under the Federal listing and other Federal, State, and local regulations). The baseline, therefore, represents the costs incurred regardless of whether critical habitat is designated. The "with critical habitat" scenario describes the incremental impacts associated specifically with the designation of critical habitat for the species. The incremental conservation efforts and associated impacts are those not expected to occur absent the designation of critical habitat for the species.

Most courts have held that the Service only needs to consider the incremental impacts imposed by the critical habitat designation over and above those impacts imposed as a result of listing

the species. For example, the Ninth Circuit Court of Appeals reached this conclusion twice within the last few years, and the U.S. Supreme Court declined to hear any further appeal from those rulings (*Arizona Cattle Growers' Assoc. v. Salazar*, 606 F.3d 116, (9th Cir. June 4, 2010) cert. denied, 179 L. Ed. 2d 300, 2011 U.S. LEXIS 1362, 79 U.S.L.W. 3475 (2011); *Home Builders Association of Northern California v. United States Fish & Wildlife Service*, 616 F. 3rd 983 (9th Cir. 2010) cert. denied, 179 L. Ed. 2d 300, 2011 U.S. LEXIS 1362, 79 U.S.L.W. 3475 (2011)).

However, the prevailing court decisions in the Tenth Circuit Court of Appeals do not allow the incremental analysis approach. Instead, the Tenth Circuit requires that the Service consider both the baseline economic impacts imposed due to listing the species and the additional incremental economic impacts imposed by designating critical habitat (*New Mexico Cattle Growers Ass'n v. FWS*, 248 F.3d 1277 (10th Cir. May 11, 2001)). As a consequence, an economic analysis for critical habitat that is being proposed for designation within States that fall within the jurisdiction of the Tenth Circuit (as this designation does) should include a coextensive cost evaluation which addresses, and quantifies to the extent feasible, all of the conservation-related impacts associated with the regulatory baseline (those resulting under the jeopardy standard under section 7 of the Act, and under sections 9 and 10 of the Act). In other words, the allocation of impacts should show those that are part of the regulatory baseline and those that are unique to the critical habitat designation. For a further description of the methodology of the analysis, see Chapter 2.3, "Analytic Framework and Scope of the Analysis," of the draft economic analysis.

The draft economic analysis provides estimated costs of the foreseeable potential economic impacts of the proposed critical habitat designation for the jaguar over the next 20 years, which was determined to be the appropriate period for analysis because limited planning information is available for most activities to forecast activity levels for projects beyond a 20-year timeframe. It identifies potential incremental costs as a result of the proposed critical habitat designation; these are those costs attributed to critical habitat over and above those baseline costs attributed to listing.

The draft economic analysis quantifies economic impacts of jaguar conservation efforts associated with the following categories of activity: (1) Federal land management; (2) border

protection activities; (3) mining; (4) transportation activities; (5) development; (6) military activities; (7) livestock grazing and other activities; and (8) Tohono O'odham Nation activities. Chapter 11 of the draft economic analysis provides the quantification of economic impacts of jaguar conservation efforts.

Given the secretive and transient nature of the jaguar and the fact that Federal land managers already take steps to protect the jaguar even without critical habitat, we do not anticipate recommending incremental conservation measures to avoid adverse modification of critical habitat over and above those recommended to avoid jeopardy of the species, except in cases where an activity could create a situation in which a unit of critical habitat could become inaccessible to jaguars. The loss of one critical habitat unit would not constitute jeopardy to the species, but it may constitute destruction or adverse modification.

Major construction projects (such as new highways, significant widening of existing highways, or construction of large facilities or mines) could sever connectivity within these critical habitat units and subunits, and could constitute adverse modification. However, at this time we are unable to identify the conservation measures that will be requested to avoid adverse modification, and we are therefore unable to quantify these impacts.

Therefore, the total projected incremental costs of administrative efforts resulting from section 7 consultations on the jaguar are approximately \$360,000 over 20 years (\$31,000 on an annualized basis), assuming a 7 percent discount rate. The analysis estimates future potential administrative impacts based on the historical rate of consultations on the jaguar in areas proposed for critical habitat, as discussed in Chapter 2 of the draft economic analysis.

As stated earlier, we are soliciting data and comments from the public on the draft economic analysis and draft environmental assessment, as well as all aspects of the proposed rule, as revised by this document, and our amended required determinations. We may revise the proposed rule or supporting documents to incorporate or address information we receive during the public comment period. In particular, we may exclude an area from critical habitat if we determine that the benefits of excluding the area outweigh the benefits of including the area, provided the exclusion will not result in the extinction of this species.

### Draft Environmental Assessment

The purpose of the draft environmental assessment, prepared pursuant to the National Environmental Policy Act (NEPA) (42 U.S.C. 4321 *et seq.*), is to identify and disclose the environmental consequences resulting from the proposed action of designating critical habitat for the jaguar. In the draft environmental assessment, three alternatives are evaluated: The No Action Alternative; Alternative A, the proposed rule; and Alternative B, the proposed rule with exclusion and exemption areas. The no action alternative is required by NEPA for comparison to the other alternatives analyzed in the draft environmental assessment. The no action alternative is equivalent to no designation of critical habitat for the jaguar. Our preliminary determination is that designation of critical habitat for the jaguar will not have significant impacts on the environment. However, we will further evaluate this issue as we complete our final environmental assessment.

As we stated earlier, we are soliciting data and comments from the public on the draft environmental assessment, as well as all aspects of the proposed rule, the draft economic analysis, and our amended required determinations. We may revise the proposed rule or supporting documents to incorporate or address information we receive during the comment period on the environmental consequences resulting from our proposed designation of critical habitat.

### Required Determinations—Amended

In our August 20, 2012, proposed rule (77 FR 50214), we indicated that we would defer our determination of compliance with several statutes and executive orders until the information concerning potential economic impacts of the designation and potential effects on landowners and stakeholders became available in the draft economic analysis. We have now made use of the draft economic analysis data to make these determinations. In this document, we affirm the information in our proposed rule concerning Executive Orders (E.O.s) 12866 and 13563 (Regulatory Planning and Review), E.O. 13132 (Federalism), E.O. 12988 (Civil Justice Reform), E.O. 13211 (Energy, Supply, Distribution, and Use), the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*), and the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). However, based on the draft economic analysis data, we are amending our required determinations concerning the Regulatory Flexibility Act (5 U.S.C. 601

*et seq.*), the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*), E.O. 12630 (Takings), and the President's memorandum of April 29, 1994, "Government-to-Government Relations with Native American Tribal Governments" (59 FR 22951).

*Regulatory Flexibility Act (5 U.S.C. 601 et seq.)*

Under the Regulatory Flexibility Act (RFA; 5 U.S.C. 601 *et seq.*), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA; 5 U.S.C. 801 *et seq.*), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effects of the rule on small entities (i.e., small businesses, small organizations, and small government jurisdictions). However, no regulatory flexibility analysis is required if the head of the agency certifies the rule will not have a significant economic impact on a substantial number of small entities. The SBREFA amended the RFA to require Federal agencies to provide a certification statement of the factual basis for certifying that the rule will not have a significant economic impact on a substantial number of small entities. Based on our draft economic analysis of the proposed designation, we provide our analysis for determining whether the proposed rule would result in a significant economic impact on a substantial number of small entities. Based on comments we receive, we may revise this determination as part of our final rulemaking.

According to the Small Business Administration, small entities include small organizations such as independent nonprofit organizations; small governmental jurisdictions, including school boards and city and town governments that serve fewer than 50,000 residents; and small businesses (13 CFR 121.201). Small businesses include manufacturing and mining concerns with fewer than 500 employees, wholesale trade entities with fewer than 100 employees, retail and service businesses with less than \$5 million in annual sales, general and heavy construction businesses with less than \$27.5 million in annual business, special trade contractors doing less than \$11.5 million in annual business, and agricultural businesses with annual sales less than \$750,000. To determine if potential economic impacts to these small entities are significant, we considered the types of activities that might trigger regulatory impacts under this designation as well as types of

project modifications that may result. In general, the term "significant economic impact" is meant to apply to a typical small business firm's business operations.

To determine if the proposed designation of critical habitat for the jaguar would affect a substantial number of small entities, we considered the number of small entities affected within particular types of economic activities, such as mining, transportation construction, development, and agriculture and grazing. In order to determine whether it is appropriate for our agency to certify that the proposed rule would not have a significant economic impact on a substantial number of small entities, we considered each industry or category individually. In estimating the numbers of small entities potentially affected, we also considered whether their activities have any Federal involvement. Critical habitat designation will not affect activities that do not have any Federal involvement; designation of critical habitat only affects activities conducted, funded, permitted, or authorized by Federal agencies. Because the jaguar is listed as an endangered species under the Act, in areas where the jaguar is present, Federal agencies are required to consult with us under section 7 of the Act on activities they fund, permit, or implement that may affect the species. If we finalize this proposed critical habitat designation, consultations to avoid the destruction or adverse modification of critical habitat would be incorporated into the existing consultation process.

In the draft economic analysis, we evaluated the potential economic effects on small entities resulting from implementation of conservation actions related to the proposed designation of critical habitat for the jaguar. The designation of critical habitat for the jaguar is unlikely to directly affect any small entities. The costs associated with the designation are likely to be limited to the incremental impacts associated with administrative costs of section 7 consultations. Small entities may participate in section 7 consultation as a third party (the primary consulting parties being the Service and the Federal action agency). It is therefore possible that the small entities may spend additional time considering critical habitat due to the need for a section 7 consultation for the jaguar. Additional incremental costs of consultation that would be borne by the Federal action agency and the Service are not relevant to this screening analysis as these entities (Federal agencies) are not small. It is uncertain



whether any third parties involved with mining or transportation would be considered small entities when fully operational; however, assuming that they would qualify as small entities, the cost of consultation represents less than 1 percent of each company's annual revenues. Potential impacts to agriculture and grazing related to foregone Natural Resources Conservation Service (NRCS) funding are not quantified; however, we do not expect small entities to bear a direct burden. Please refer to the draft economic analysis of the proposed critical habitat designation for a more detailed discussion of potential economic impacts.

The Service's current understanding of recent case law is that Federal agencies are only required to evaluate the potential impacts of rulemaking on those entities directly regulated by the rulemaking; therefore, they are not required to evaluate the potential impacts to those entities not directly regulated. The designation of critical habitat for an endangered or threatened species only has a regulatory effect where a Federal action agency is involved in a particular action that may affect the designated critical habitat. Under these circumstances, only the Federal action agency is directly regulated by the designation, and, therefore, consistent with the Service's current interpretation of RFA and recent case law, the Service may limit its evaluation of the potential impacts to those identified for Federal action agencies. Under this interpretation, there is no requirement under the RFA to evaluate potential impacts to entities not directly regulated, such as small businesses. However, Executive Orders 12866 and 13563 direct Federal agencies to assess the costs and benefits of available regulatory alternatives in quantitative (to the extent feasible) and qualitative terms. Consequently, it is the current practice of the Service to assess to the extent practicable these potential impacts, if sufficient data are available, whether or not this analysis is believed by the Service to be strictly required by the RFA. In other words, while the effects analysis required under the RFA is limited to entities directly regulated by the rulemaking, the effects analysis under the Act, consistent with the E.O. regulatory analysis requirements, can take into consideration impacts to both directly and indirectly impacted entities, where practicable and reasonable.

In summary, we have considered whether the proposed designation would result in a significant economic impact on a substantial number of small

entities. Information for this analysis was gathered from the Small Business Administration, stakeholders, and the Service. For the above reasons and based on currently available information, we certify that, if promulgated, the proposed critical habitat designation would not have a significant economic impact on a substantial number of small business entities. Therefore, an initial regulatory flexibility analysis is not required.

*National Environmental Policy Act (42 U.S.C. 4321 et seq.)*

It is our position that, outside the jurisdiction of the U.S. Court of Appeals for the Tenth Circuit, we do not need to prepare environmental analyses as defined by NEPA (42 U.S.C. 4321 *et seq.*) in connection with designating critical habitat under the Act. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244). This position was upheld by the U.S. Court of Appeals for the Ninth Circuit (*Douglas County v. Babbitt*, 48 F.3d 1495 (9th Cir. 1995), cert. denied 516 U.S. 1042 (1996)). However, when the range of the species includes States within the Tenth Circuit, such as that of the jaguar, under the Tenth Circuit ruling in *Catron County Board of Commissioners v. U.S. Fish and Wildlife Service*, 75 F.3d 1429 (10th Cir. 1996), we will undertake a NEPA analysis for critical habitat designation. In accordance with the Tenth Circuit, we have completed a draft environmental assessment to identify and disclose the environmental consequences resulting from the proposed designation of critical habitat for the jaguar. Our preliminary determination is that the designation of critical habitat for the jaguar would not have significant impacts on the environment.

*E.O. 12630 (Takings)*

In accordance with E.O. 12630 (Government Actions and Interference with Constitutionally Protected Private Property Rights), we have analyzed the potential takings implications of designating critical habitat for the jaguar in a proposed takings implications assessment. The economic analysis found that no significant economic impacts are likely to result from the designation of critical habitat for the jaguar. Based on information contained in the economic analysis and described within this document, it is not likely that economic impacts to a property owner would be of a sufficient magnitude to support a takings action. Therefore, the proposed takings implications assessment concludes that

this designation of critical habitat for the jaguar does not pose significant takings implications for lands within or affected by the designation. However, we will further evaluate this issue as we complete our final economic analysis.

*Government-to-Government Relationship With Tribes*

On May 16, 2012, we sent a letter to the Tohono O'odham Nation (the one Tribe that owns and manages land within the proposed designation) and Bureau of Indian Affairs notifying them of our intent to propose critical habitat for the jaguar. On August 24, 2012, we notified all Tribes potentially affected by our proposal to designate jaguar critical habitat via email, then followed up by sending a letter to each Tribal leader on September 28, 2012. Potentially affected Tribes include: The Ak Chin Community, Gila River Indian Community, Hope Tribe, Pascua Yaqui Tribe, Salt River Pima Maricopa Indian Tribe, San Carlos Apache Tribe, Tohono O'odham Tribe, and White Mountain Apache Tribe. Additionally, on September 27, 2012, we met with Tohono O'odham Nation staff to discuss the proposed designation.

**Authors**

The primary authors of this notice are the staff members of the Arizona Ecological Services Fish and Wildlife Office, Southwest Region, U.S. Fish and Wildlife Service.

**List of Subjects in 50 CFR Part 17**

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

**Proposed Regulation Promulgation**

Accordingly, we propose to further amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as proposed to be amended on August 20, 2012, at 77 FR 50214, as set forth below:

**PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS**

■ 1. The authority citation for part 17 continues to read as follows:

**Authority:** 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

■ 2. Amend § 17.95, the entry proposed for “Jaguar (*Panthera onca*)” at 77 FR 50214, by revising paragraphs (a)(2), (a)(5), (a)(6), and (a)(7) to read as follows:

**§ 17.95 Critical habitat—fish and wildlife.**

\* \* \* \* \*

(a) *Mammals.*

\* \* \* \* \*

Jaguar (*Panthera onca*)

\* \* \* \* \*

(2) Within these areas, the primary constituent elements of the physical or biological feature essential to the conservation of jaguar consist of expansive open spaces in the southwestern United States of at least 100 square kilometers (km) (38.6 square miles (mi)) in size which:

(i) Provide connectivity to Mexico;

(ii) Contain adequate levels of native prey species, including deer and

javelina, as well as medium-sized prey such as coatis, skunks, raccoons, or jackrabbits;

(iii) Include surface water sources available within 20 km (12.4 mi) of each other;

(iv) Contain from greater than 1 to 50 percent canopy cover within Madrean evergreen woodland, generally recognized by a mixture of oak, juniper, and pine trees on the landscape, or semidesert grassland vegetation communities, usually characterized by *Pleuraphis mutica* (tobosagrass) or

*Bouteloua eriopoda* (black grama) along with other grasses;

(v) Are characterized by intermediately, moderately, or highly rugged terrain;

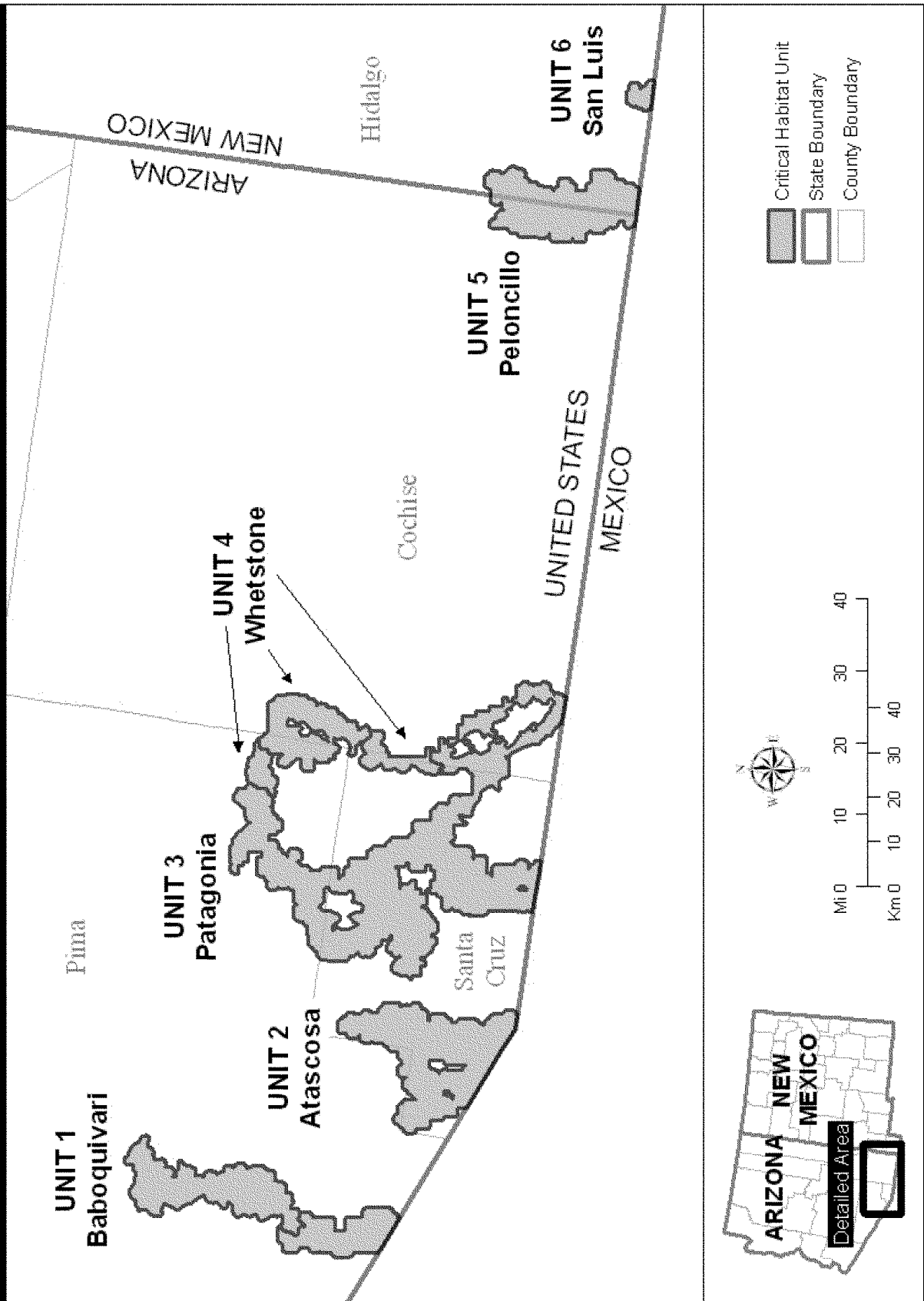
(vi) Are characterized by minimal to no human population density, no major roads, or no stable nighttime lighting over any 1-square-km (0.4-square-mi) area; and

(vii) Are below 2,000 meters (6,562 feet) in elevation.

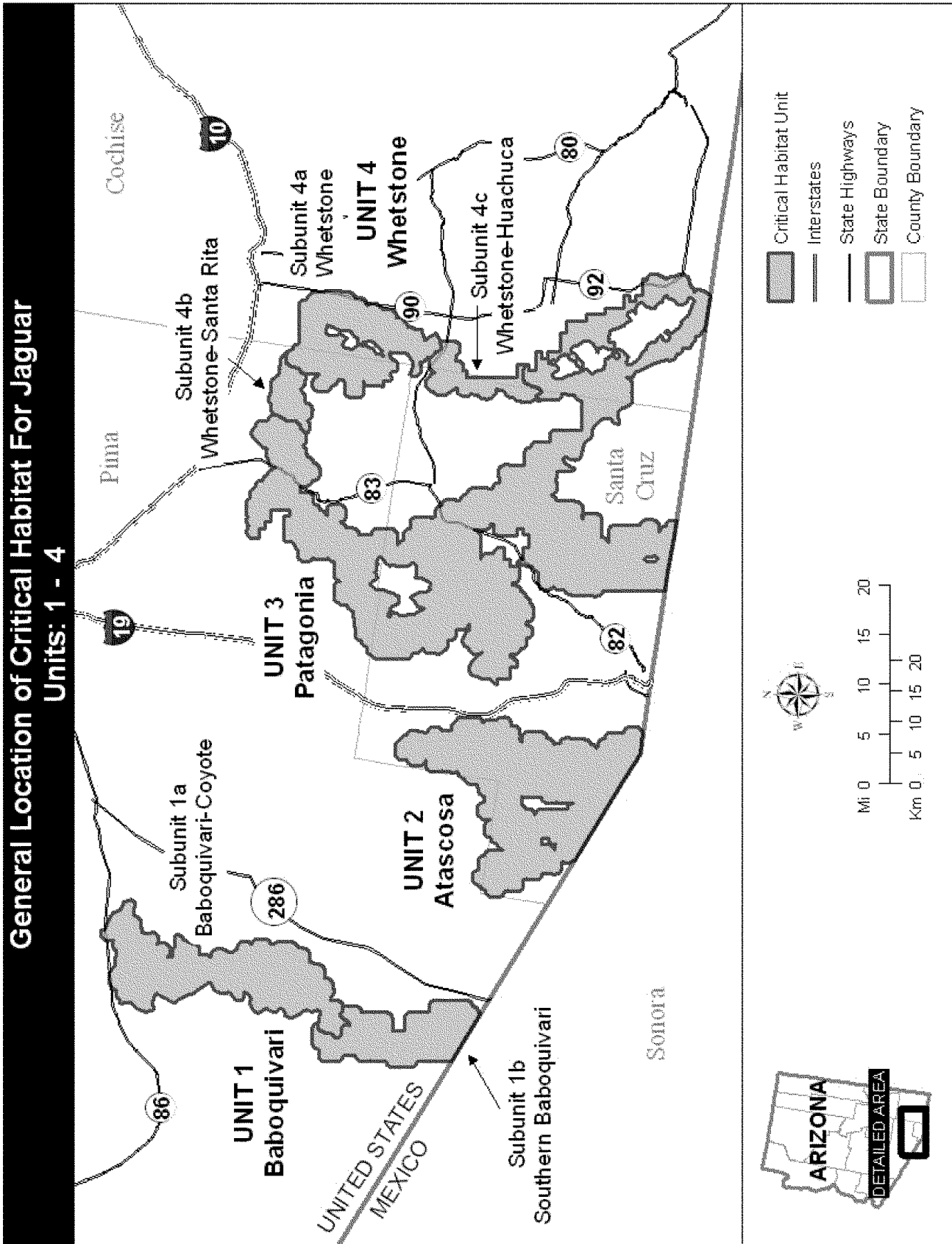
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(5) Index map follows:

# General Location of Critical Habitat For Jaguar Overview



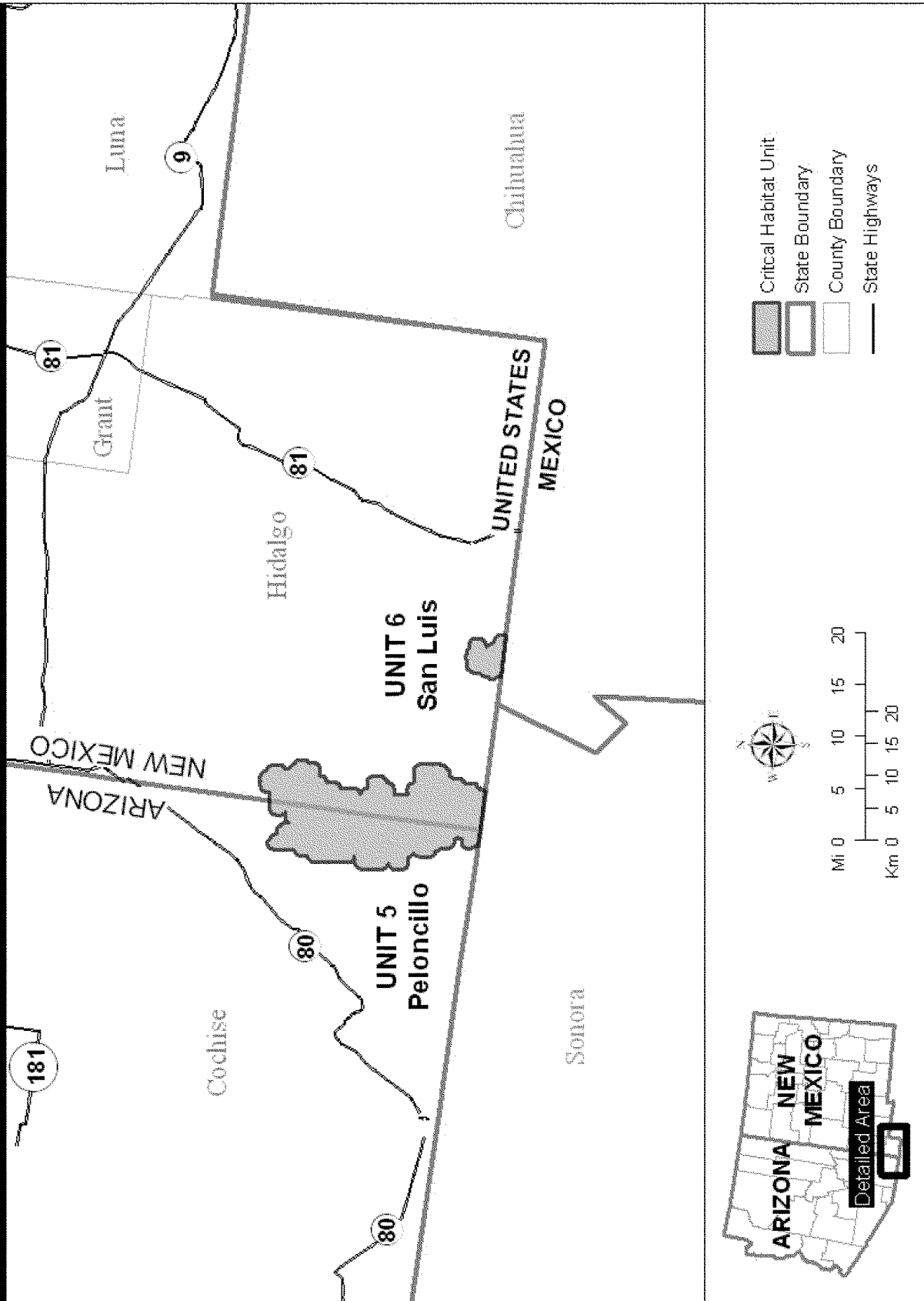
Counties, Arizona. Map of Units 1, 2, 3, and 4 follows:



(7) Units 5 and 6: Peloncillo and San Luis Units, Cochise County, Arizona,

and Hidalgo County, New Mexico. Map of Units 5 and 6 follows:

**General Location of Critical Habitat For Jaguar  
Units: 5 and 6**



\* \* \* \* \*

Dated: June 7, 2013.

**Michael J. Bean,**

*Acting Principal Deputy Assistant Secretary  
for Fish and Wildlife and Parks.*

[FR Doc. 2013-15688 Filed 6-28-13; 8:45 am]

**BILLING CODE 4310-55-C**