

security zone in order to ensure navigational safety.

\* \* \* \* \*

5. Amend § 165.1410 to revise paragraphs (a)(1), (a)(2), (b), (c)(1), and (c)(2) to read as follows:

**§ 165.1410 Security Zones; Kauai, HI.**

(a) \* \* \*

(1) *Nawiliwili Harbor, Lihue, Kauai.* All waters extending 100 yards in all directions from each large passenger vessel in Nawiliwili Harbor, Kauai, HI or within 3 nautical miles seaward of the Nawiliwili Harbor COLREGS DEMARCATION (See 33 CFR 80.1450). This is a moving security zone when the LPV is in transit and becomes a fixed zone when the LPV is anchored, position-keeping, or moored.

(2) *Port Allen, Kauai.* All waters extending 100 yards in all directions from each large passenger vessel in Port Allen, Kauai, HI or within 3 nautical miles seaward of the Port Allen COLREGS DEMARCATION (See 33 CFR 80.1440). This is a moving security zone when the LPV is in transit and becomes a fixed zone when the LPV is anchored, position-keeping, or moored.

(b) *Definitions.* As used in this section, *large passenger vessel* or *LPV* means a cruise ship more than 300 feet in length that carries passengers for hire, and any passenger ferries more than 300 feet in length that carries passengers for hire.

(c) *Regulations.* (1) Under 33 CFR 165.33, entry into the security zones created by this section is prohibited unless authorized by the Coast Guard Captain of the Port, Honolulu or his or her designated representative. When authorized passage through an LPV security zone, all vessels must operate at the minimum speed necessary to maintain a safe course and must proceed as directed by the Captain of the Port or his or her designated representative. No person is allowed within 100 yards of a large passenger vessel that is underway, moored, position-keeping, or at anchor, unless authorized by the Captain of the Port or his or her designated representative.

(2) When conditions permit, the Captain of the Port, or his or her designated representative, may permit vessels that are at anchor, restricted in their ability to maneuver, or constrained by draft to remain within an LPV security zone in order to ensure navigational safety.

\* \* \* \* \*

Dated: June 6, 2007.

**Sally Brice-O'Hara,**

*Rear Admiral, U.S. Coast Guard, Commander, Fourteenth Coast Guard District.*

[FR Doc. E7-11748 Filed 6-18-07; 8:45 am]

**BILLING CODE 4910-15-P**

**DEPARTMENT OF THE INTERIOR**

**Fish and Wildlife Service**

**50 CFR Part 17**

**RIN 1018-AU78**

**Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for the Guajón (*Eleutherodactylus cooki*)**

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

**ACTION:** Revised proposed rule; reopening of comment period, availability of draft economic analysis, and amended Required Determinations.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), announce a revised proposed critical habitat designation for the guajón (*Eleutherodactylus cooki*). We are reopening the public comment period to accept comments on proposed additional critical habitat units and revised required determinations, and also to announce the availability of and accept comments on our draft economic analysis of the proposed designation of critical habitat under the Endangered Species Act of 1973, as amended (Act). We are allowing all interested parties an opportunity to comment simultaneously on the original proposed rule, the proposed additional critical habitat units, the revised required determinations, and the associated draft economic analysis. If you submitted comments previously on the original proposed rule, you need not resubmit them, as we will incorporate them into the public record and fully consider them as we prepare the final rule. We are proposing five additional critical habitat units totaling 43.4 acres (ac) (17.5 hectares (ha)). With their inclusion, we are proposing 17 critical habitat units for the species, for a total of 260.6 ac (105.6 ha). The amendments we propose in this document are in addition to, and not in lieu of, the proposed designation we published in our original proposed rule of October 5, 2006. The draft economic analysis, that includes the additional units, finds that potential future costs associated with conservation activities for the guajón are estimated at \$4.34 million in undiscounted dollars, \$4.28 million

when discounted at 3 percent, and \$4.23 million when discounted at 7 percent over the 20 year period 2007–2026. Annualized future costs are \$288,000 and \$399,000 using a 3 percent and 7 percent discount rate, respectively.

**DATES:** We will accept public comments until July 19, 2007.

**ADDRESSES:** If you wish to comment, you may submit your comments and information concerning this proposal, identified by “Attn: Guajón Proposed Rule,” by any one of the following methods:

1. *Mail:* You may submit written comments and information to Edwin E. Muñiz, Field Supervisor, U.S. Fish and Wildlife Service, Boquerón Field Office, P.O. Box 491, Boquerón, Puerto Rico 00622.

2. *Hand delivery:* You may hand-deliver written comments to us at the following address: Cabo Rojo National Wildlife Refuge Visitor Center, Boquerón Field Office, PR-301, km. 5.1, Boquerón, PR.

3. *E-mail:* You may send comments by electronic mail (e-mail) to [jorge\\_saliva@fws.gov](mailto:jorge_saliva@fws.gov). Please see the Public Comments Solicited section below for file format and other information about electronic filing.

1. *Facsimile:* You may fax your comments to 787-851-7440.

5. *Federal Rulemaking Portal:* Submit comments via the Federal Rulemaking portal at <http://www.regulations.gov>. Follow the instructions on the site for submitting comments.

Please see the Public Comments Solicited section below for more information about submitting comments or viewing our received materials.

**FOR FURTHER INFORMATION CONTACT:** Jorge E. Saliva, Ph.D., Boquerón Field Office, P.O. Box 491, Boquerón, PR 00622 (telephone 787-851-7297 x 224; facsimile (787-851-7440)). Persons who use the telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 800-877-8339.

**SUPPLEMENTARY INFORMATION:**

**Public Comments Solicited**

We are accepting written comments and information during this reopened comment period. We solicit comments on the original proposed critical habitat designation for the guajón published in the **Federal Register** on October 5, 2006 (71 FR 58954), the inclusion of the additional units proposed in this document, and our draft economic analysis of the proposed designation. We will consider information and recommendations from all interested

parties. We are particularly interested in comments concerning:

(1) The reasons why habitat should or should not be designated as critical habitat for the guajón under section 4 of the Act (16 U.S.C. 1531 *et seq.*), including whether the benefit of designation would outweigh threats to the species caused by designation such that designation of critical habitat is prudent;

(2) Specific information on the amount and distribution of guajón habitat, particularly what areas should be included in the designation that were occupied at the time of listing and that contain the features that are essential for the conservation of the species and why; and what areas that were not occupied at the time of listing are essential to the conservation of the species and why;

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

(4) Any foreseeable economic, national security, or other potential impacts resulting from the proposed designation and, in particular, any impacts on small entities, and the benefits of including or excluding areas that exhibit these impacts; the reasons why our conclusion that the proposed designation of critical habitat will not result in a disproportionate effect on small businesses should or should not warrant further consideration; and other information that would indicate that the designation of critical habitat would or would not have any impacts on small entities.

(5) Information on whether the draft economic analysis identifies all local costs attributable to the proposed critical habitat designation, and information on any costs that have been inadvertently overlooked;

(6) Whether the draft economic analysis makes appropriate assumptions regarding current practices and likely regulatory changes imposed as a result of the designation of critical habitat;

(7) Whether the draft economic analysis correctly assesses the effect on regional costs associated with any land use controls that may derive from the designation of critical habitat;

(8) Whether the draft economic analysis appropriately identifies all costs and benefits that could result from the designation;

(9) Whether our approach to designating critical habitat could be improved or modified in any way to provide for greater public participation and understanding, or to assist us in accommodating public concerns and comments; and

(10) Economic data on the incremental effects that would result from designating any particular area as critical habitat.

Pursuant to section 4(b)(2) of the Act, we may exclude an area from critical habitat if we determine that the benefits of such exclusion outweigh the benefits of including a particular area as critical habitat, unless the failure to designate such area will result in the extinction of the species. We may exclude an area from designated critical habitat based on economic impacts, national security, or any other relevant impact.

If you submitted previous comments and information during the initial comment period on the October 5, 2006, proposed rule (71 FR 58954) you need not resubmit them because they are currently part of our record and will be considered in the development of the final rule. If you wish to comment, you may submit your comments and materials concerning the proposed rule, proposed additional units, draft economic analysis, and amended Required Determinations by any one of several methods (see **ADDRESSES**). Our final designation of critical habitat will take into consideration all comments and any additional information we received during both comment periods. On the basis of information received during the public comment period, in the critical habitat proposal, and in the final economic analysis, we may during the development of our final critical habitat determination, 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.

If submitting comments electronically, please also include "Attn: Guajón Proposed Rule" in your e-mail subject header and your name and return address in the body of your message. If you do not receive a confirmation from the system that we have received your electronic message, contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

#### **Public Availability of Comments**

Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. Comments and materials received, as well as supporting documentation used in the preparation

of this proposed rule, will be available for public inspection by appointment during normal business hours at the Boquerón Field Office located at the Cabo Rojo National Wildlife Refuge (see **ADDRESSES**).

You may obtain copies of the original proposed rule and the draft economic analysis by visiting our Web site at <http://www.fws.gov/southeast> or by contacting the Boquerón Field Office at the address or contact numbers under **ADDRESSES**.

#### **Background**

The guajón is a petricolous (i.e., inhabiting rocky areas) frog species endemic to the southeastern part of Puerto Rico. The guajón was listed as threatened under the Act on June 11, 1997 (62 FR 31757), due to its restricted distribution, specialized habitat utilization, and threats to its habitat; this listing was effective on July 11, 1997. On October 5, 2006, we published a proposed rule (71 FR 58954) to designate critical habitat for the guajón. We proposed 12 units that contain one or more of the primary constituent elements (PCEs) (i.e., biological or physical features essential to the conservation of the species). Such features include subtropical forest at elevations from 118 to 1183 feet (ft) (36 to 361 meters (m)) above sea level; plutonic, granitic, or sedimentary rocks or boulders that form caves, crevices, and grottoes (interstitial spaces) in a streambed in proximity, or connected to, a permanent, ephemeral, or subterranean clear-water stream or water source; and vegetation over rocks along drainages and vegetated streambed that extend laterally up to 99 ft (30 m) from the banks of a stream or drainage. Areas that do not contain at least one of the PCEs and are not currently occupied by the species were not included in the proposal. Boundaries for each proposed critical habitat unit were determined based on known guajón sightings, topographical features known to be needed by the species, the range of elevations used by the species, and visual inspection of the units. In the proposed rule (71 FR 58954), we proposed to designate 9 units on lands determined to be occupied at the time of listing and containing sufficient PCEs to support life history functions essential for the conservation of the species, and 3 units on lands not known to be occupied at the time of listing, but that provide habitat essential to the conservation of the species. The 12 units that we proposed as critical habitat in 71 FR 58954 encompass approximately 217.2 ac (88 ha) within the municipalities of

Humacao, Las Piedras, Maunabo, Patillas, and Yabucoa in Puerto Rico and are: Mariana, Montones, Tejas, Emajagua, Jacaboa, Calabazas, Guayanés, Panduras, Talante, Guayabota, Guayabito, and Guayabo.

We now revise our original proposed rule (71 FR 58954) to add five additional units, as described in the next section. As a result of these additions, and revisions to the original proposed rule's acreage figures presented in Table 1 below, the proposed critical habitat now encompasses 260.6 ac (105.6 ha).

Critical habitat is defined in section 3 of the Act as the specific areas within the geographic 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 geographic 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 areas designated as critical habitat must consult with us on the effects of their proposed actions, pursuant to section 7(a)(2) of the Act.

#### Additional Proposed Critical Habitat Units

By this publication in the **Federal Register**, we advise the public of our proposed inclusion of five additional critical habitat units over what we proposed in our October 5, 2006, proposed rule (71 FR 58954). During the comment period for the original proposed rule, we received letters from the Puerto Rico Department of Natural and Environmental Resources (PRDNER) and the Center for Biological Diversity (CBD) which included information on additional sites within the historical range of the guajón that were occupied at the time of listing and support suitable habitat for the species. In total, nine sites were recommended. These organizations recommended that the Service include these nine sites in the critical habitat designation.

Each of these nine sites was visited by the Service to confirm the presence or absence of guajón and the PCEs. As a result of these site visits, we now propose five of the nine recommended units (which we call Units 13–17) as additional critical habitat. A site was

considered for designation if: (1) It was occupied by the guajón at the time of listing and possessed at least one or more of the PCEs, or (2) was not occupied at the time of listing but is currently occupied by the guajón, and has been determined to be essential to the conservation of the species. All five of the units described above are in close proximity with or connected to one or more of the units described in the original proposed rule. Unit 13 is in the immediate vicinity of Units 8 and 9 within the Panduras and Talante Wards; Units 14 and 15 are in the immediate vicinity of Unit 10 and only separated from it by Río Grande de Loíza; Unit 16 is connected to Unit 2 through Río Valenciano; and Unit 17 is connected to Unit 11 and Unit 12 through Quebrada Guayabo.

Six of the recommended sites have been part of the guajón study areas of Dr. Rafael Joglar and Dr. Patricia Burrowes since the early 1990s (Joglar 1992; Burrowes 1997). Of the 6 sites recommended by CBD, 4 sites have at least one PCE and guajón present (Unit 13, Unit 14, Unit 15, and Unit 17). These sites were occupied at the time of listing (i.e., prior to June 1997) (Drewry 1986; Moreno 1991; Joglar 1992; Joglar *et al.* 1996). One site was not included because it did not contain at least one PCE and the species was not present, and one site was determined to be the same as the Emajagua Unit described in the October 5, 2006, proposed rule. Only one other site was located and verified (Unit 16), and was not occupied at the time of listing. Two sites could not be found following the directions provided in the comment.

These five units (Units 13–17) share the following characteristics: (1) They are within the historical range of the species and, with the exception of Unit 16, were occupied at the time of listing; (2) they provide PCEs necessary for the long-term persistence of guajón populations (e.g., caves or large plutonic, granitic, or sedimentary boulders that form crevices and grottoes, forested streambeds where guajón may forage, and high humidity); and (3) they are currently occupied. Unit 16 is essential to the conservation of the species because of the representation, redundancy, and resiliency it adds to the critical habitat designation. Below, we present brief descriptions of the five units, the PCEs they contain, and reasons why they meet the definition of critical habitat for the guajó.

#### Unit 13: El Cielito Unit

Unit 13 consists of approximately 7.84 ac (3.17 ha), between the municipal boundary of Yabucoa to the north, PR–

759 to the south and west, and PR–3 to the east, within Talante Ward, Maunabo. It includes 1,778.15 ft (541.98 m) of a drainage that connects with Quebrada Tumbada, and a guajón foraging area extending laterally 99 ft (30 m) from each side of the drainage. This unit was occupied at the time of listing (Joglar, pers. comm., 2007). It consists of a steep, forested drainage with large granite boulders forming large caves, vegetation-covered rocks, and with high humidity. No surface running water is present, but humidity is maintained through percolation from underground water. All PCEs are found within this unit. The presence of the species and PCEs at this site was confirmed by the Service in February 2007. Threats that may require special management considerations, due to Unit 13 being located on a private farm about 1.2 miles (mi) (2 kilometers (km)) to the west of PR–3, include changes in the composition and abundance of vegetation surrounding guajón habitat (PCEs 1 and 3), degradation of water quality due to agricultural practices (e.g., use of herbicides, fertilizers, or insecticides), and pollution of streams or underground aquifers caused by human and domestic animal refuse (PCE 2).

#### Unit 14: Verraco Unit

Unit 14 consists of approximately 8.9 ac (3.6 ha), between PR–181 to the north and west, Río Grande de Loíza to the east and south, and the municipal boundary of Yabucoa to the south, within Espino Ward, San Lorenzo. It includes three drainages that connect with Quebrada Verraco, and a guajón foraging area extending laterally 99 ft (30 m) from each side of each drainage. This unit was occupied at the time of listing (Burrowes 1997). It is heavily forested and humid, and contains very large granite boulder formations covered with vegetation. No surface running water is present, but humidity is maintained through percolation from underground water. All PCEs are found within this unit. The presence of the species and PCEs at this site was confirmed by the Service in February 2007. Threats that may require special management considerations, due to Unit 14 being located in a private farm about 0.9 mi (1.5 km) from Rd 181, include changes in the composition and abundance of vegetation surrounding guajón habitat (PCEs 1 and 3), degradation of water quality due to agricultural practices (e.g., use of herbicides, fertilizers, or insecticides) and pollution of streams/underground aquifers caused by human and domestic animal refuse (PCE 2).

*Unit 15: Cueva Marcela Unit*

Unit 15 is referred to as Cuevas Doña Marcela by Burrowes (1997, 2000) and Burrowes and Joglar (1999), and consists of approximately 7.4 ac (3.02 ha) between PR-181 and Quebrada Verraco to the north, PR-181 to the west, and Río Grande de Loíza and the municipal boundary of Yabucoa to the south, within Espino Ward, San Lorenzo. It includes two drainages that are not connected and a guajón foraging area extending laterally 99 ft (30 m) from each side of each drainage. The north drainage is approximately 4.28 ac (1.73 ha), and the south drainage is approximately 3.2 ac (1.3 ha). This unit was occupied at the time of listing (Joglar 1996). Both drainages have large, vegetation-covered granite boulders that create caves within patchy secondary forest. There is no surface running water, but humidity is maintained through puddles and intermittent streams formed during rainy events. All PCEs are found within this unit. The presence of the species and PCEs at this site was confirmed by the Service in February 2007. Threats that may require special management considerations, due to Unit 15 being located on a private farm about 1.2 mi (2 km) from Road 181, include changes in the composition and abundance of vegetation surrounding guajón habitat (PCEs 1 and 3), degradation of water quality due to agricultural practices (e.g., use of herbicides, fertilizers, or insecticides) and pollution of streams or underground aquifers caused by human and domestic animal refuse (PCE 2).

*Unit 16: Ceiba Sur Unit*

Unit 16 consists of approximately 13.92 ac (5.63 ha) between Road PR-9934 to the east, and Road PR-919 to the west within Ceiba Sur Ward, Juncos. It includes 3,123 ft (951.91 m) of an intermittent stream that connects with the Río Valenciano, and a guajón foraging area extending laterally 99 ft

(30 m) on each side of the drainage. This unit was not known to be occupied at the time of listing. All PCEs are found within this unit. Presence of the species and PCEs at this site was confirmed by the Service in January 2007. The area has high humidity and contains densely forested stream banks, large sedimentary rocks, and vegetation-covered rocks. Unit 16 is essential to the conservation of the guajón for several reasons. The intermittent stream, large rocks, and closed canopy of Unit 16 provide habitat essential to the guajón for food, shelter, breeding, foraging, and population expansion. The guajón was listed primarily due to its highly restricted geographical distribution and habitat requirements (Joglar 1998, p. 73). The habitat of this species is naturally fragmented and the majority of the known populations are on private land where the increased levels of land development currently occurring in southeastern Puerto Rico where the species occurs, threatens to further reduce and fragment the species habitat, distribution, and survival (Joglar 1998, p. 73).

Being a habitat specialist, the guajón is adapted to particular environmental conditions, and abrupt changes in these conditions could result in population declines. Additionally, fragmenting habitat through human intrusions such as roads makes populations less resilient to natural population declines (Pechman et al. 1991, p. 895). Protection of existing populations of the guajón is extremely important due to its limited distribution and the specialized habitat it occupies.

*Unit 17: Playita Unit*

Unit 17 consists of approximately 5.27 ac (2.13 ha), between PR-900 to the north and east and the municipal boundary of Maunabo to the south, within Calabazas Ward, Yabucoa. It includes 1,208.9 ft (368.47 m) of a forested stream that connect with Río

Guayabo, and a guajón foraging area extending laterally 99 ft (30 m) on each side of the drainage. This unit was occupied at the time of listing (Joglar, pers. comm., 2007). It is sparsely forested and humid, and it contains very large, vegetation-covered granite boulder formations. All PCEs are found within this unit. The presence of the species and PCEs at this site was confirmed by the Service in February 2007. Threats that may require special management considerations, due to Unit 17 being located adjacent to private homes and close to an ancillary road to PR-900, include changes in the composition and abundance of vegetation surrounding guajón habitat (PCEs 1 and 3), degradation of water quality due to use of herbicides, fertilizers, or insecticides, and pollution of the stream caused by human and domestic animal refuse (PCE 2).

The majority of the known populations of this species are on private land where increased levels of land development threaten to further reduce and fragment the species habitat, distribution, and survival (Joglar 1998, p. 73). Additionally, fragmentation of the habitat through human intrusions, such as roads, makes populations less resilient to natural population declines (Pechman et al. 1991, p. 895).

The five additional proposed units total 43.4 ac (17.5 ha). As a result of these additions, and revisions to acreage figures from the original proposed rule presented in Table 1 below, the proposed critical habitat now encompasses 260.6 ac (105.6 ha) in 17 units. Table 1 contains the corrected acreage (and hectare) values, including the 43.4 additional ac (17.5 ha), we now propose for inclusion. Other than the changes described in this document, the proposed rule of October 5, 2006 (71 FR 58954), remains intact. We will submit for publication in the **Federal Register** a final critical habitat designation guajón on or before October 1, 2007.

TABLE 1. AREAS PROPOSED AS CRITICAL HABITAT FOR THE GUAJÓN  
[Area estimates reflect all land within critical habitat unit boundaries.]

Proposed critical habitat unit	Land ownership	Area (ac/ha)
1. Mariana, Humacao, PR	Private	23.6 (9.6)
2. Montones, Las Piedras, PR	Private	31.1 (12.6)
3. Tejas, Las Piedras, PR	Private	5.2 (2.1)
4. Emajagua, Maunabo, PR	Private	33.0 (13.4)
5. Jacaboa, Patillas, PR	Private	10.3 (4.2)
6. Calabazas, Yabucoa, PR	Private	13.8 (5.6)
7. Guayanés, Yabucoa, PR	Private	7.9 (3.2)
8. Panduras, Yabucoa, PR	Private	28.6 (11.6)
9. Talante, Yabucoa, PR	Private	23.5 (9.5)
10. Guayabota, Yabucoa, PR	Private	13.1 (5.3)
11. Guayabito, Yabucoa, PR	Private	17.3 (7.0)
12. Guayabo, Yabucoa, PR	Private	9.8 (3.9)

TABLE 1. AREAS PROPOSED AS CRITICAL HABITAT FOR THE GUAJÓN—Continued

[Area estimates reflect all land within critical habitat unit boundaries.]

Proposed critical habitat unit	Land ownership	Area (ac/ha)
13. El Cielito, Maunabo, PR .....	Private .....	7.84 (3.17)
14. Verraco, San Lorenzo, PR .....	Private .....	8.9 (3.6)
15. Cueva Marcela, San Lorenzo, PR .....	Private .....	7.47 (3.02)
16. Ceiba Sur, Juncos, PR .....	Private .....	13.92 (5.63)
17. Playita, Yabucoa, PR .....	Private .....	5.27 (2.13)
Total .....	.....	260.6 ac (105.6 ha)

### Economic Analysis

Section 4(b)(2) of the Act requires that we designate or revise critical habitat based upon the best scientific and commercial 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 have prepared a draft economic analysis based on the October 5, 2006, proposed rule (71 FR 58954) plus the five additional units described in this document.

The draft economic analysis considers the potential economic effects of all actions related to the conservation of the guajón, including costs associated with sections 4, 7, and 10 of the Act, as well as those attributable to designating critical habitat. It further considers the economic effects of protective measures taken as a result of other Federal, State, and local laws that aid habitat conservation for the guajón in proposed critical habitat areas. The draft analysis considers both economic efficiency and distributional effects. In the case of habitat conservation, efficiency effects generally reflect lost economic opportunities associated with restrictions on land use (opportunity costs). This analysis also addresses how potential economic impacts are likely to be distributed, including an assessment of any local or regional impacts of habitat conservation and the potential effects of conservation activities on small entities and the energy industry. This information can be used by decision makers to assess whether the effects of the designation might unduly burden a particular group or economic sector. Finally, this draft analysis looks retrospectively at costs that have been incurred since the date this species was listed as threatened (June 11, 1997; 62 FR 31757), and considers those costs that may occur in the 20 years following designation of critical habitat (i.e., 2007–2026).

The draft economic analysis is intended to quantify the economic

impacts of all potential conservation efforts for the guajón; some of these costs will likely be incurred regardless of whether critical habitat is designated. Over the 20 year period 2007–2026, the draft economic analysis finds that costs associated with conservation activities for the guajón are estimated at \$4.34 million in undiscounted dollars, \$4.28 million when discounted at 3 percent, and \$4.23 when discounted at 7 percent. Annualized future costs are \$288,000 using a 3 percent discount rate and \$399,000 using a 7 percent discount rate.

As stated earlier, we solicit data and comments from the public on this draft economic analysis, as well as on all aspects of the proposal. We may revise the proposal, or its supporting documents, to incorporate or address new information received during the comment period.

### Required Determinations—Amended Regulatory Planning and Review

In accordance with Executive Order 12866, this document is a significant rule because it may raise novel legal and policy issues. Based on our draft economic analysis of the proposed designation of critical habitat for the guajón, costs related to conservation activities for the guajón pursuant to sections 4, 7, and 10 of the Act are estimated to be approximately \$4.34 million in undiscounted dollars. Discounted future costs are estimated to be \$4.28 million (\$288,000 annually) at a 3 percent discount rate, or \$4.23 million (\$399,000 annually) at a 7 percent discount rate. Therefore, based on our draft economic analysis, we have determined that the proposed designation of critical habitat for the guajón would not result in an annual effect on the economy of \$100 million or more or affect the economy in a material way. Due to the timeline for publication in the **Federal Register**, the Office of Management and Budget (OMB) has not formally reviewed the

proposed rule or accompanying economic analysis.

Further, Executive Order 12866 directs Federal agencies promulgating regulations to evaluate regulatory alternatives (Office of Management and Budget, Circular A–4, September 17, 2003). Pursuant to Circular A–4, once it has been determined that the Federal regulatory action is appropriate, the agency will need to consider alternative regulatory approaches. Since the determination of critical habitat is a statutory requirement pursuant to the Act, we must then evaluate alternative regulatory approaches, where feasible, when promulgating a designation of critical habitat.

In developing our designations of critical habitat, we consider economic impacts, impacts to national security, and other relevant impacts pursuant to section 4(b)(2) of the Act. Based on the discretion allowable under this provision, we may exclude any particular area from the designation of critical habitat providing that the benefits of such exclusion outweigh the benefits of specifying the area as critical habitat and that such exclusion would not result in the extinction of the species. We believe that the evaluation of the inclusion or exclusion of particular areas, or combination thereof, in a designation constitutes our regulatory alternative analysis.

### 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 (SBREFA) (5 U.S.C. 802(2)), 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 effect of the rule on small entities (i.e., small businesses, small organizations, and small governmental jurisdictions). However, no regulatory flexibility

analysis is required if the head of an agency certifies the rule will not have a significant economic impact on a substantial number of small entities. In our proposed rule, we withheld our determination of whether this designation would result in a significant effect as defined under SBREFA until we completed our draft economic analysis of the proposed designation so that we would have the factual basis for our determination.

According to the Small Business Administration (SBA), small entities include small organizations, such as independent nonprofit organizations, and small governmental jurisdictions, including school boards and city and town governments that serve fewer than 50,000 residents, as well as 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 guajón critical habitat designation would affect a substantial number of small entities, we considered the number of small entities affected within particular types of economic activities (e.g., residential and commercial development and agriculture). We considered each industry or category individually to determine if certification is appropriate. In estimating the numbers of small entities potentially affected, we also considered whether their activities have any Federal involvement; some kinds of activities are unlikely to have any Federal involvement and so will not be affected by the designation of critical habitat. Designation of critical habitat only affects activities conducted, funded, permitted, or authorized by Federal agencies; non-Federal activities are not affected by the designation.

In our draft economic analysis of the proposed critical habitat designation, we evaluated the potential economic effects on small business entities

resulting from conservation actions related to the listing of the guajón and proposed designation of its critical habitat. This analysis estimated prospective economic impacts due to the implementation of guajón conservation efforts in four categories: (a) Deforestation and earth movement near streams for road construction; (b) agricultural practices (e.g., use of herbicides, fertilizers, or insecticides); (c) urban and rural development; and (d) degradation of water quality from illegal garbage dumping, untreated sewage, and fishing with chemicals. We determined from our analysis that in the economic impacts of the designation are expected to be borne primarily by the Puerto Rico Highway and Transportation Authority, an agency of the Commonwealth of Puerto Rico, during construction of PR Highway 53. However, the government of the Commonwealth does not fit the SBA criteria for a small entity. Consequently, we certify that the designation of critical habitat for the guajón will not result in a significant economic impact on a substantial number of small business entities. Please see the "Economic Analysis" section above and the draft economic analysis itself for a more detailed discussion of potential economic impacts.

*Executive Order 13211—Energy Supply, Distribution, or Use*

On May 18, 2001, the President issued Executive Order 13211 on regulations that significantly affect energy supply, distribution, or use. Executive Order 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. This proposed designation of critical habitat for guajón is considered a significant regulatory action under Executive Order 12866 because it raises novel legal and policy issues. OMB has provided guidance for implementing this Executive Order that outlines nine outcomes that may constitute "a significant adverse effect" when compared without the regulatory action under consideration. The draft economic analysis finds that none of these criteria are relevant to this analysis. Thus, based on information in the draft economic analysis, energy-related impacts associated with guajón conservation activities within proposed critical habitat are not expected. As such, the proposed designation of critical habitat is not expected to significantly affect energy supplies, distribution, or use and a Statement of Energy Effects is required.

*Unfunded Mandates Reform Act (2 U.S.C. 1501 et seq.)*

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501), the Service makes the following findings:

(a) This rule will not produce a Federal mandate. In general, a Federal mandate is a provision in legislation, statute, or regulation that would impose an enforceable duty upon State, local, or Tribal governments, or the private sector, and includes both "Federal intergovernmental mandates" and "Federal private sector mandates." These terms are defined in 2 U.S.C. 658(5)–(7). "Federal intergovernmental mandate" includes a regulation that "would impose an enforceable duty upon State, local, or tribal governments," with two exceptions. It excludes "a condition of federal assistance." It also excludes "a duty arising from participation in a voluntary Federal program," unless the regulation "relates to a then-existing Federal program under which \$500,000,000 or more is provided annually to State, local, and tribal governments under entitlement authority," if the provision would "increase the stringency of conditions of assistance" or "place caps upon, or otherwise decrease, the Federal Government's responsibility to provide funding" and the State, local, or tribal governments "lack authority" to adjust accordingly. At the time of enactment, these entitlement programs were: Medicaid; Aid to Families with Dependent Children work programs; Child Nutrition; Food Stamps; Social Services Block Grants; Vocational Rehabilitation State Grants; Foster Care, Adoption Assistance, and Independent Living; Family Support Welfare Services; and Child Support Enforcement. "Federal private sector mandate" includes a regulation that "would impose an enforceable duty upon the private sector, except (i) a condition of Federal assistance; or (ii) a duty arising from participation in a voluntary Federal program."

The designation of critical habitat does not impose a legally binding duty on non-Federal government entities or private parties. Under the Act, the only regulatory effect is that Federal agencies must ensure that their actions do not destroy or adversely modify critical habitat under section 7. Non-Federal entities that receive Federal funding, assistance, permits, or otherwise require approval or authorization from a Federal agency for an action, may be indirectly impacted by the designation of critical habitat. However, the legally binding duty to avoid destruction or adverse

modification of critical habitat rests squarely on the Federal agency. Furthermore, to the extent that non-Federal entities are indirectly impacted because they receive Federal assistance or participate in a voluntary Federal aid program, the Unfunded Mandates Reform Act would not apply; nor would critical habitat shift the costs of the large entitlement programs listed above onto State governments.

(b) As discussed in the draft economic analysis of the proposed designation of critical habitat for the guajón, the impacts on nonprofits and small governments are expected to be negligible. It is likely that small governments involved with developments and infrastructure projects will be interested parties or involved with projects involving section 7 consultations for the guajón within their jurisdictional areas. Any costs associated with this activity are likely to represent a small portion of a local government's budget. Consequently, we do not believe that the designation of critical habitat for this species will significantly or uniquely affect these small governmental entities. As such, a Small Government Agency Plan is not required.

#### *Executive Order 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 proposing critical habitat for the guajón. Critical habitat designation does not affect landowner actions that do not require Federal funding or permits, nor does it preclude development of habitat conservation programs or issuance of incidental take permits to permit actions that do require Federal funding or permits to go forward. In conclusion, the designation of critical habitat for this species does not pose significant takings implications.

#### **Author**

The primary author of this notice is Dr. Jorge E. Saliva, Boquerón Field Office (see **ADDRESSES**).

#### **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

at 71 FR 58954, October 5, 2006, as follows:

#### **PART 17—[AMENDED]**

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. Critical habitat for the Guajón (*Eleutherodactylus cooki*) in § 17.95(d), which was proposed to be added on October 5, 2006, at 71 FR 58954, is proposed to be amended by revising paragraphs 1 and 5 and by adding new paragraphs 18 through 22 in the entry for “Guajón” to read as follows:

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

\* \* \* \* \*

#### (d) Amphibians

\* \* \* \* \*

Guajón (*Eleutherodactylus cooki*)

\* \* \* \* \*

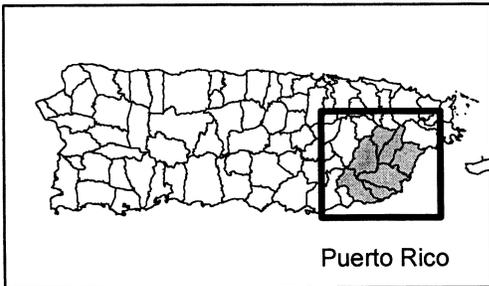
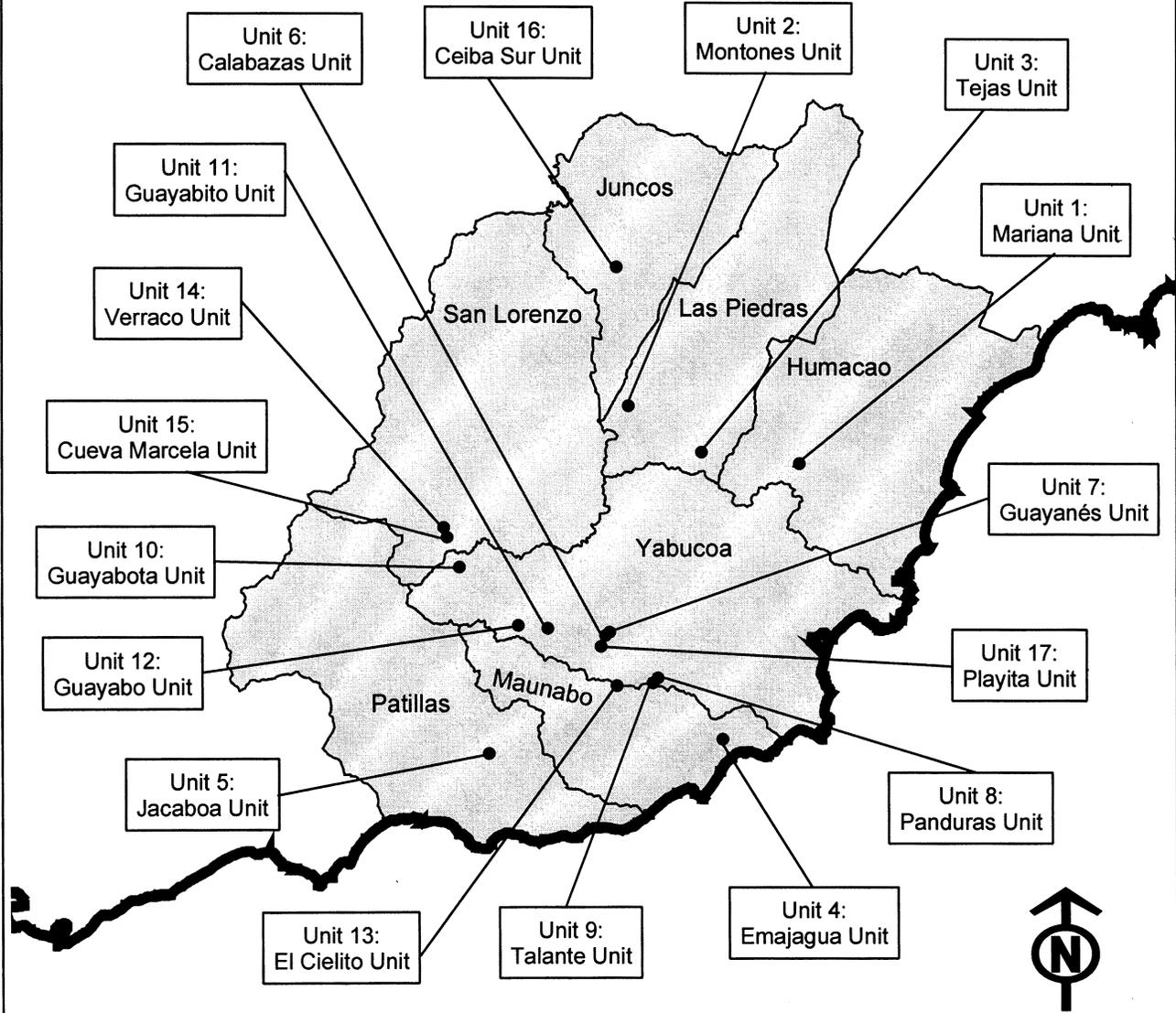
(1) Critical habitat units are depicted for Humacao, Las Piedras, Juncos, Maunabo, Patillas, San Lorenzo, and Yabucoa, Puerto Rico, on the maps below.

\* \* \* \* \*

(5) *Note:* Index map (Map 1) follows:

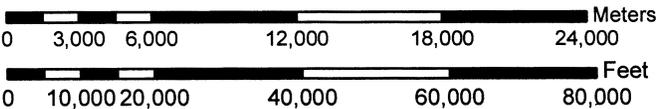
**BILLING CODE 4310–55–P**

# Map 1: Index Map of the Proposed Critical Habitat Units for the Guajón



### Legend

- Guajón Critical Habitat (general location)
- Municipal Boundaries
- ▬ Coastline



\* \* \* \* \*

(18) Unit 13: El Cielito, Maunabo, Puerto Rico.

(i) *General Description:* Unit 13 consists of approximately 7.84 ac (3.17

ha), between the municipal boundary of Yabucoa to the north, PR-759 to the south and west, and PR-3 to the east, within Talante Ward, Maunabo.

(ii) *Coordinates*: From Yabucoa USGS 1:20,000 quadrangle map. Unit 13 bounded by the following UTM 19 NAD 83 coordinates (E, N):

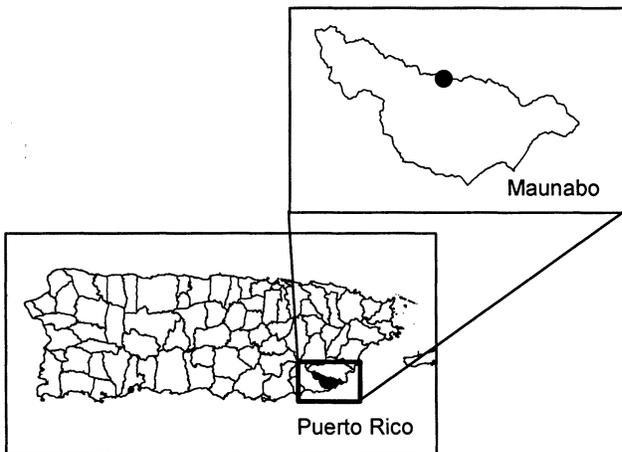
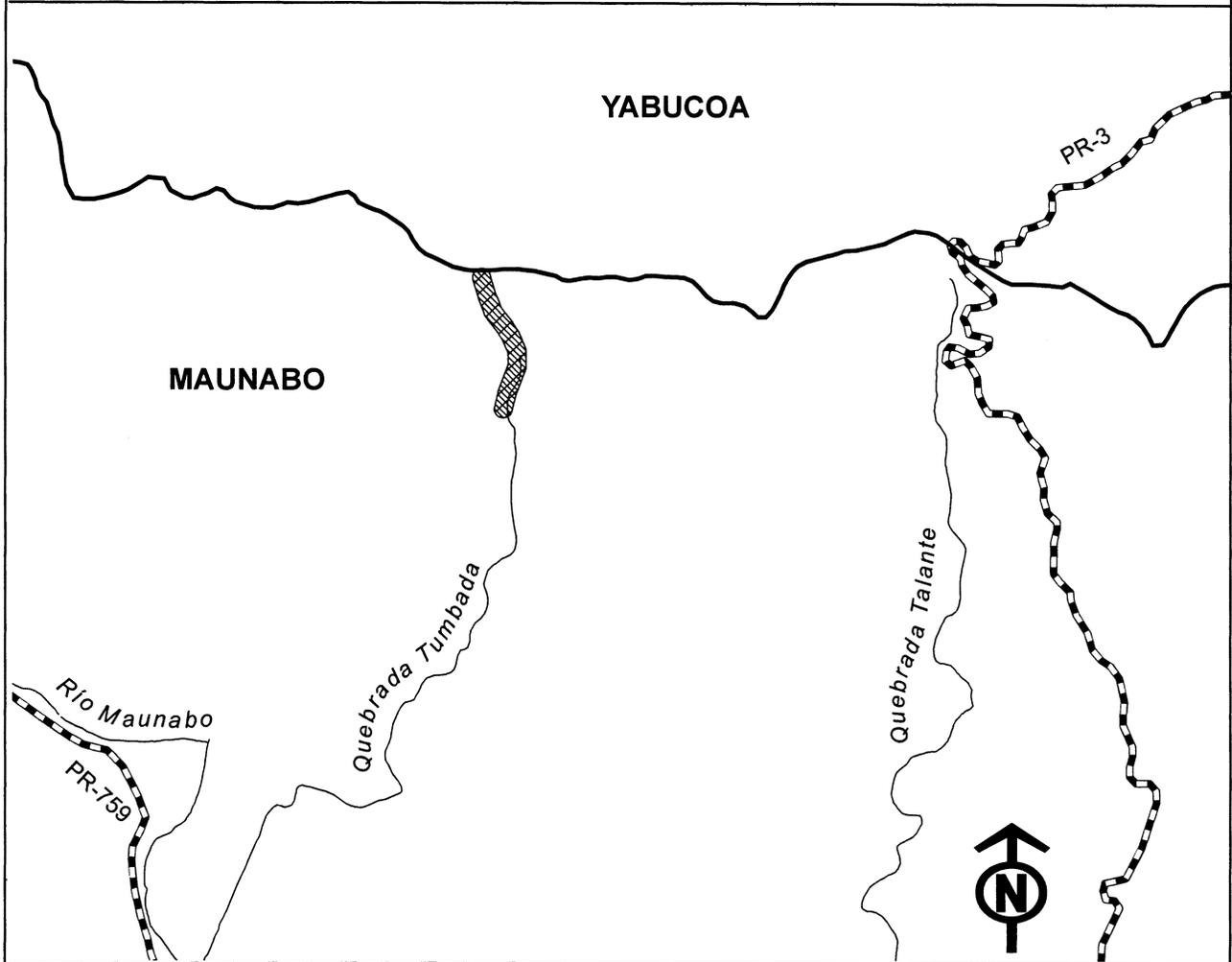
825982.02, 1996690.65; 825982.05, 1996692.62; 825982.22, 1996694.58; 825982.51, 1996696.52; 825982.93, 1996698.44; 825983.48, 1996700.33; 825984.14, 1996702.18; 825984.93, 1996703.98; 825985.83, 1996705.72; 825986.85, 1996707.40; 825987.97, 1996709.02; 825989.19, 1996710.55; 825990.52, 1996712.01; 825991.93, 1996713.37; 825993.43, 1996714.64; 825995.01, 1996715.80; 825996.67, 1996716.86; 825998.39, 1996717.81; 826000.17, 1996718.65; 826002.00, 1996719.37; 826003.87, 1996719.96; 826005.78, 1996720.44; 826007.71, 1996720.78; 826009.66, 1996721.00; 826011.63, 1996721.09; 826013.59, 1996721.06; 826015.55, 1996720.89; 826017.49, 1996720.60; 826019.41, 1996720.18; 826021.30, 1996719.63; 826023.15, 1996718.97; 826024.95, 1996718.18; 826026.69, 1996717.28; 826028.38, 1996716.27; 826029.99, 1996715.14; 826031.53, 1996713.92; 826032.98, 1996712.59; 826034.34, 1996711.18; 826035.61, 1996709.68; 826036.77, 1996708.10; 826037.84, 1996706.44; 826038.79, 1996704.72; 826039.62, 1996702.94; 826040.34,

1996701.11; 826040.80, 1996699.72; 826058.80, 1996639.86; 826064.87, 1996626.21; 826065.02, 1996625.87; 826065.62, 1996624.39; 826077.68, 1996591.67; 826117.27, 1996543.05; 826117.56, 1996542.70; 826118.72, 1996541.12; 826119.34, 1996540.18; 826137.43, 1996511.67; 826137.87, 1996510.96; 826138.82, 1996509.24; 826139.63, 1996507.52; 826162.49, 1996454.74; 826162.51, 1996454.69; 826163.23, 1996452.86; 826163.82, 1996450.98; 826164.30, 1996449.08; 826164.64, 1996447.14; 826164.86, 1996445.19; 826164.96, 1996443.23; 826165.66, 1996392.36; 826165.62, 1996390.40; 826165.46, 1996388.44; 826165.16, 1996386.49; 826164.74, 1996384.58; 826164.20, 1996382.69; 826163.81, 1996381.55; 826132.56, 1996296.82; 826120.53, 1996241.20; 826120.29, 1996240.18; 826119.75, 1996238.29; 826119.08, 1996236.44; 826118.30, 1996234.64; 826117.39, 1996232.89; 826116.38, 1996231.21; 826115.26, 1996229.60; 826114.03, 1996228.06; 826112.71, 1996226.61; 826111.29, 1996225.25; 826109.79, 1996223.98; 826108.21, 1996222.81; 826106.56, 1996221.75; 826104.84, 1996220.80; 826103.06, 1996219.97; 826101.23, 1996219.25; 826099.36, 1996218.65; 826097.45, 1996218.18; 826095.51, 1996217.83; 826093.56, 1996217.61; 826091.60, 1996217.52; 826089.63, 1996217.56; 826087.68, 1996217.72; 826085.73, 1996218.02;

826083.81, 1996218.44; 826081.93, 1996218.98; 826080.08, 1996219.65; 826078.28, 1996220.43; 826076.53, 1996221.34; 826074.85, 1996222.35; 826073.24, 1996223.47; 826071.70, 1996224.70; 826070.25, 1996226.02; 826068.88, 1996227.44; 826067.62, 1996228.94; 826066.45, 1996230.52; 826065.39, 1996232.17; 826064.44, 1996233.89; 826063.60, 1996235.67; 826062.89, 1996237.50; 826062.29, 1996239.37; 826061.82, 1996241.28; 826061.47, 1996243.21; 826061.25, 1996245.17; 826061.16, 1996247.13; 826061.20, 1996249.09; 826061.36, 1996251.05; 826061.65, 1996253.00; 826061.83, 1996253.89; 826074.31, 1996311.58; 826074.55, 1996312.60; 826075.09, 1996314.49; 826075.48, 1996315.62; 826105.53, 1996397.10; 826104.99, 1996436.39; 826085.46, 1996481.49; 826069.59, 1996506.50; 826027.95, 1996557.62; 826027.67, 1996557.98; 826026.50, 1996559.56; 826025.44, 1996561.21; 826024.49, 1996562.93; 826023.65, 1996564.71; 826023.06, 1996566.20; 826009.61, 1996602.69; 826003.16, 1996617.18; 826003.01, 1996617.52; 826002.29, 1996619.34; 826001.84, 1996620.74; 825983.29, 1996682.42; 825983.15, 1996682.90; 825982.68, 1996684.80; 825982.33, 1996686.74; 825982.11, 1996688.69; 825982.02, 1996690.65.

(iii) *Note*: Map of Unit 13 (Map 11) follows:

# Map 11. Proposed Critical Habitat for the Guajón: El Cielito Unit: Talante Ward, Maunabo, Puerto Rico



## Legend

-  Rivers and Creeks
-  Roads
-  Municipal Boundaries
-  El Cielito Unit (Unit 13)

0 175 350 700 1,050 1,400 Meters

0 625 1,250 2,500 3,750 5,000 Feet

(19) Unit 14: Verraco, San Lorenzo, Puerto Rico.

(i) *General Description*: Unit 14 consists of approximately 8.9 ac (3.6 ha), between PR-181 to the north and west, Río Grande de Loíza to the east and south, and the municipal boundary of Yabucoa to the south, within Espino Ward, San Lorenzo.

(ii) *Coordinates*: From Yabucoa and Patillas USGS 1:20,000 quadrangle maps. Unit 14 bounded by the following UTM 19 NAD 83 coordinates (E, N):

818021.78, 2003743.38; 818021.82, 2003745.35; 818021.98, 2003747.31; 818022.27, 2003749.25; 818022.69, 2003751.17; 818023.24, 2003753.06; 818023.90, 2003754.90; 818024.69, 2003756.71; 818025.59, 2003758.45; 818026.61, 2003760.13; 818027.41, 2003761.31; 818041.40, 2003780.81; 818041.72, 2003781.25; 818042.95, 2003782.78; 818044.27, 2003784.24; 818045.68, 2003785.60; 818047.19, 2003786.87; 818048.77, 2003788.03; 818050.42, 2003789.09; 818051.64, 2003789.78; 818072.66, 2003801.02; 818073.16, 2003801.29; 818074.94, 2003802.12; 818076.77, 2003802.84; 818078.64, 2003803.44; 818080.55, 2003803.91; 818082.48, 2003804.26; 818084.44, 2003804.48; 818086.40, 2003804.57; 818088.36, 2003804.53; 818089.35, 2003804.46; 818118.63, 2003801.99; 818119.61, 2003801.89; 818121.55, 2003801.60; 818123.47, 2003801.18; 818125.20, 2003800.69; 818179.90, 2003783.29; 818180.06, 2003783.24; 818181.91, 2003782.58; 818183.71, 2003781.79; 818183.86, 2003781.72; 818240.72, 2003754.27; 818242.32, 2003753.44; 818244.00, 2003752.42; 818245.61, 2003751.30; 818247.15, 2003750.08; 818248.60, 2003748.75; 818249.96, 2003747.34; 818251.23, 2003745.84; 818252.40, 2003744.26; 818253.46, 2003742.60; 818254.41, 2003740.88; 818255.24, 2003739.10; 818255.96, 2003737.28; 818256.56, 2003735.40; 818257.03, 2003733.50; 818257.38, 2003731.56; 818257.60, 2003729.61; 818257.69, 2003727.65; 818257.65, 2003725.68; 818257.49, 2003723.73; 818257.19, 2003721.78; 818256.77, 2003719.86; 818256.23, 2003717.97; 818255.56, 2003716.13; 818254.78, 2003714.33; 818253.88, 2003712.58; 818252.86, 2003710.90; 818251.74, 2003709.28; 818250.51, 2003707.75; 818249.19, 2003706.30; 818247.78, 2003704.93; 818246.27, 2003703.67; 818244.69, 2003702.50; 818243.04, 2003701.44; 818241.32, 2003700.49; 818239.54, 2003699.65; 818237.71, 2003698.93; 818235.84, 2003698.34; 818233.93, 2003697.87; 818232.00, 2003697.52; 818230.05, 2003697.30; 818228.08,

2003697.21; 818226.12, 2003697.24; 818224.16, 2003697.41; 818222.22, 2003697.70; 818220.30, 2003698.12; 818218.41, 2003698.67; 818216.56, 2003699.33; 818214.76, 2003700.12; 818214.61, 2003700.19; 818187.94, 2003713.06; 818216.83, 2003685.69; 818233.41, 2003672.94; 818247.97, 2003666.94; 818249.43, 2003666.29; 818251.18, 2003665.38; 818252.86, 2003664.37; 818254.47, 2003663.25; 818256.01, 2003662.02; 818257.46, 2003660.70; 818258.83, 2003659.29; 818260.09, 2003657.78; 818261.26, 2003656.20; 818262.32, 2003654.55; 818263.27, 2003652.83; 818264.11, 2003651.05; 818264.82, 2003649.22; 818265.42, 2003647.35; 818265.89, 2003645.44; 818266.24, 2003643.51; 818266.46, 2003641.56; 818266.55, 2003639.59; 818266.51, 2003637.63; 818266.35, 2003635.67; 818266.06, 2003633.73; 818265.64, 2003631.81; 818265.09, 2003629.92; 818264.43, 2003628.07; 818263.64, 2003626.27; 818262.74, 2003624.53; 818261.72, 2003622.84; 818260.60, 2003621.23; 818259.38, 2003619.69; 818258.05, 2003618.24; 818256.64, 2003616.88; 818255.14, 2003615.61; 818253.56, 2003614.44; 818251.90, 2003613.38; 818250.18, 2003612.43; 818248.40, 2003611.60; 818246.57, 2003610.88; 818244.70, 2003610.28; 818242.80, 2003609.81; 818240.86, 2003609.46; 818238.91, 2003609.24; 818236.95, 2003609.15; 818236.49, 2003609.16; 818236.87, 2003608.20; 818237.46, 2003606.33; 818237.94, 2003604.42; 818238.28, 2003602.49; 818238.50, 2003600.54; 818238.59, 2003598.57; 818238.56, 2003596.61; 818238.39, 2003594.65; 818238.10, 2003592.71; 818237.68, 2003590.79; 818237.13, 2003588.90; 818236.47, 2003587.05; 818235.68, 2003585.25; 818234.78, 2003583.51; 818233.77, 2003581.82; 818232.64, 2003580.21; 818231.42, 2003578.67; 818230.10, 2003577.22; 818229.24, 2003576.35; 818227.83, 2003574.98; 818226.33, 2003573.72; 818224.75, 2003572.55; 818223.09, 2003571.49; 818221.37, 2003570.54; 818219.59, 2003569.70; 818217.76, 2003568.98; 818215.89, 2003568.39; 818213.99, 2003567.92; 818212.05, 2003567.57; 818210.10, 2003567.35; 818208.14, 2003567.26; 818206.17, 2003567.29; 818204.21, 2003567.46; 818202.27, 2003567.75; 818200.35, 2003568.17; 818198.46, 2003568.72; 818196.62, 2003569.38; 818194.81, 2003570.17; 818193.07, 2003571.07; 818191.39, 2003572.08; 818189.77, 2003573.21; 818188.24, 2003574.43; 818186.87, 2003575.67; 818119.61, 2003627.58; 818118.47, 2003628.50; 818117.02, 2003629.82; 818116.33,

2003630.51; 818088.04, 2003659.86; 818054.31, 2003681.68; 818054.28, 2003681.70; 818052.67, 2003682.82; 818051.13, 2003684.04; 818049.68, 2003685.37; 818048.32, 2003686.78; 818047.05, 2003688.28; 818046.58, 2003688.89; 818030.14, 2003710.85; 818029.44, 2003711.82; 818028.38, 2003713.48; 818027.43, 2003715.20; 818026.59, 2003716.97; 818025.88, 2003718.80; 818025.28, 2003720.68; 818024.81, 2003722.58; 818024.52, 2003724.15; 818022.15, 2003739.10; 818022.09, 2003739.47; 818021.87, 2003741.42; 818021.78, 2003743.38;

(iii) *Note*: The map depicting Unit 14 is provided at paragraph (20) (iii) of this entry.

(20) Unit 15: Cueva Marcela Unit, San Lorenzo, Puerto Rico.

(i) *General Description*: Unit 15 consists of approximately 7.47 ac (3.02 ha), between PR-181 and Quebrada Verraco to the north, PR-181 to the west, and Río Grande de Loíza and the municipal boundary of Yabucoa to the south, within Espino Ward, San Lorenzo.

(ii) *Coordinates*: From Yabucoa and Patillas USGS 1:20,000 quadrangle maps. Unit 15 bounded by the following UTM 19 NAD 83 coordinates (E, N):

818171.51, 2003361.29; 818171.55, 2003363.25; 818171.72, 2003365.21; 818172.01, 2003367.15; 818172.43, 2003369.07; 818172.97, 2003370.96; 818173.64, 2003372.81; 818174.42, 2003374.61; 818175.33, 2003376.36; 818176.34, 2003378.04; 818177.46, 2003379.65; 818178.69, 2003381.19; 818180.01, 2003382.64; 818181.43, 2003384.00; 818182.93, 2003385.27; 818184.51, 2003386.44; 818186.16, 2003387.50; 818187.88, 2003388.45; 818189.66, 2003389.28; 818191.49, 2003390.00; 818193.36, 2003390.60; 818195.27, 2003391.07; 818197.20, 2003391.42; 818199.16, 2003391.64; 818201.12, 2003391.73; 818203.08, 2003391.69; 818205.04, 2003391.53; 818206.98, 2003391.23; 818208.90, 2003390.81; 818210.79, 2003390.27; 818212.64, 2003389.60; 818214.44, 2003388.82; 818216.19, 2003387.92; 818217.87, 2003386.90; 818219.48, 2003385.78; 818219.89, 2003385.47; 818287.51, 2003333.26; 818288.65, 2003332.34; 818290.10, 2003331.02; 818291.46, 2003329.60; 818292.73, 2003328.10; 818293.05, 2003327.68; 818343.46, 2003261.48; 818344.31, 2003260.32; 818345.37, 2003258.66; 818346.32, 2003256.94; 818347.15, 2003255.17; 818347.87, 2003253.34; 818348.47, 2003251.46; 818348.94, 2003249.56; 818349.29, 2003247.62; 818349.51, 2003245.67; 818349.60, 2003243.71; 818349.56, 2003241.74;

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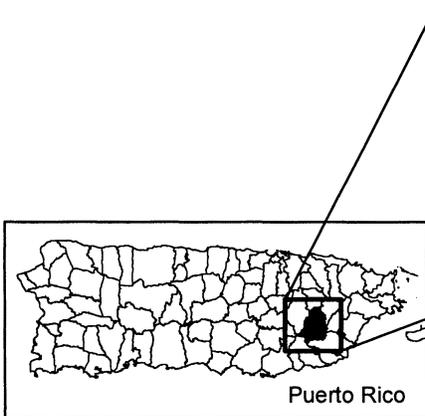
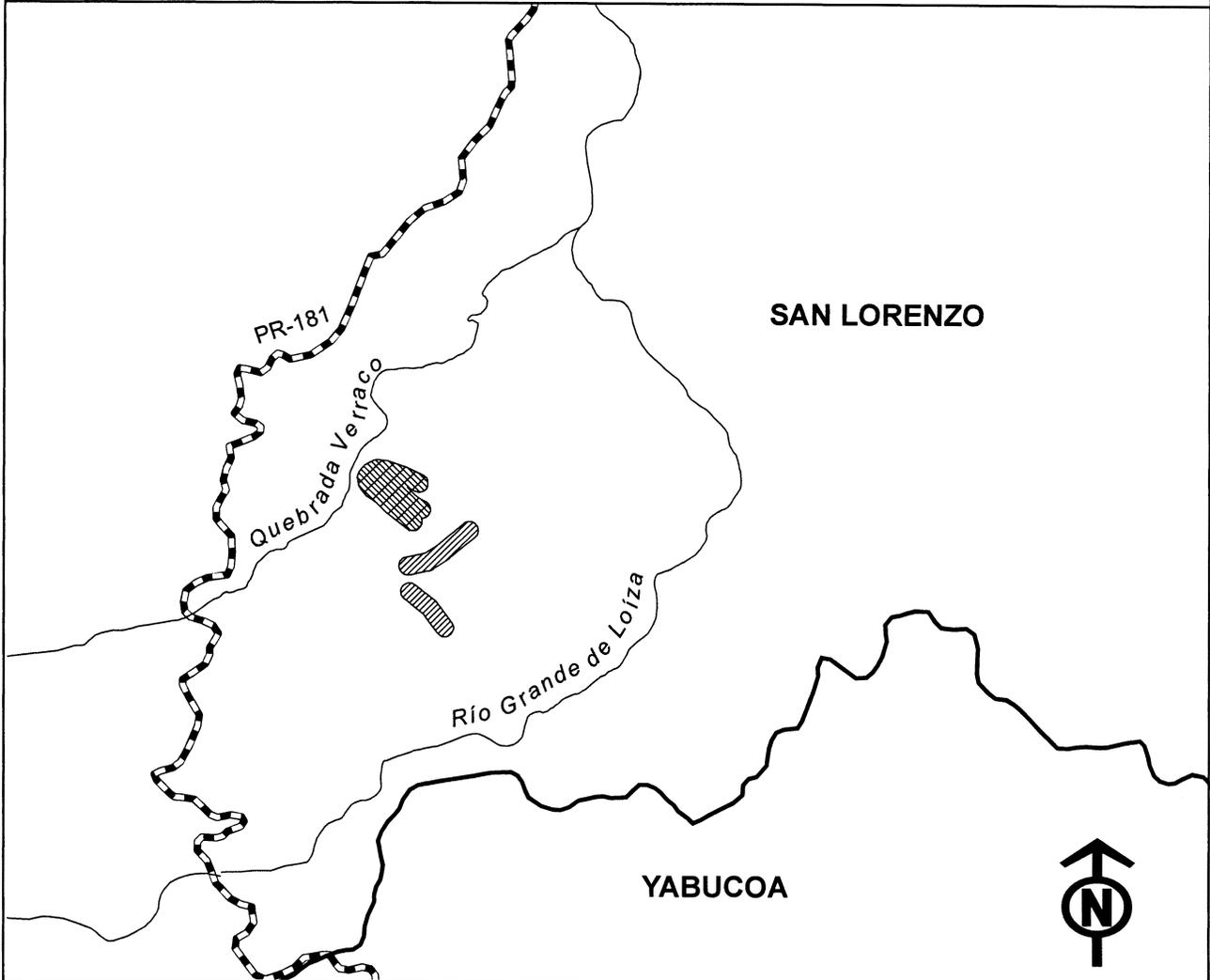
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818425.68, 2003564.18; 818425.14, 2003562.29; 818424.47, 2003560.44; 818423.69, 2003558.64; 818422.79, 2003556.89; 818421.77, 2003555.21; 818420.65, 2003553.60; 818419.42, 2003552.06; 818418.10, 2003550.61; 818416.69, 2003549.25; 818416.41, 2003549.00; 818334.93, 2003477.30; 818333.70, 2003476.28; 818332.12, 2003475.11; 818332.09, 2003475.09; 818280.35, 2003439.55; 818278.72, 2003438.50; 818277.00, 2003437.55; 818275.22, 2003436.72; 818273.39, 2003436.00; 818271.52, 2003435.40; 818270.02, 2003435.02; 818201.50, 2003419.40; 818201.09, 2003419.31; 818199.16, 2003418.97; 818197.21, 2003418.75; 818195.25, 2003418.66; 818193.28, 2003418.69; 818191.32, 2003418.86; 818189.38, 2003419.15; 818187.46, 2003419.57; 818185.57, 2003420.11; 818183.72, 2003420.78; 818181.92, 2003421.57; 818180.18, 2003422.47; 818178.49, 2003423.48; 818176.88, 2003424.61; 818175.35, 2003425.83; 818173.89, 2003427.15; 818172.53, 2003428.57; 818171.26, 2003430.07; 818170.10, 2003431.65; 818169.04, 2003433.31; 818168.09, 2003435.03; 818167.25, 2003436.80; 818166.53, 2003438.63; 818165.94, 2003440.50; 818165.46, 2003442.41; 818165.12, 2003444.35; 818164.90, 2003446.30; 818164.80, 2003448.26;

(iii) *Note:* Map of Units 14 and 15 (Map 12) follows:

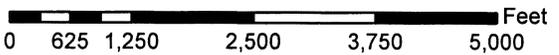
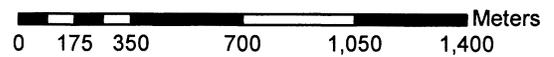
**BILLING CODE 4310-55-P**

Map 12. Proposed Critical Habitat for the Guajón: Cueva Marcela and Verraco Units: Espino Ward, San Lorenzo, Puerto Rico



**Legend**

-  Rivers and Creeks
-  Roads
-  Municipal Boundaries
-  Verraco Unit (Unit 14)
-  Cueva Marcela Unit (Unit 15)



(21) Unit 16: Ceiba Sur Unit, Juncos, Puerto Rico.

(i) *General Description*: Unit 16 consists of approximately 13.92 ac (5.63 ha) between Road PR-9934 to the east, and Road PR-919 to the west within Ceiba Sur Ward, Juncos.

(ii) *Coordinates*: From Juncos USGS 1:20,000 quadrangle map. Unit 16 bounded by the following UTM 19 NAD 83 coordinates (E, N):

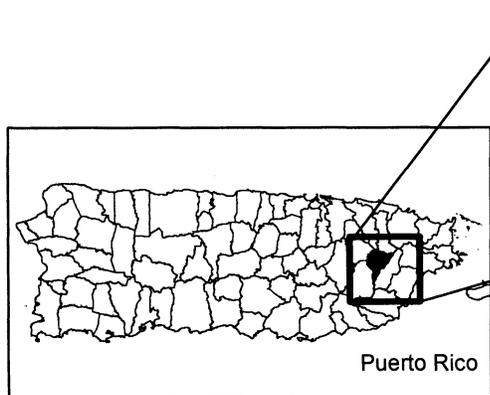
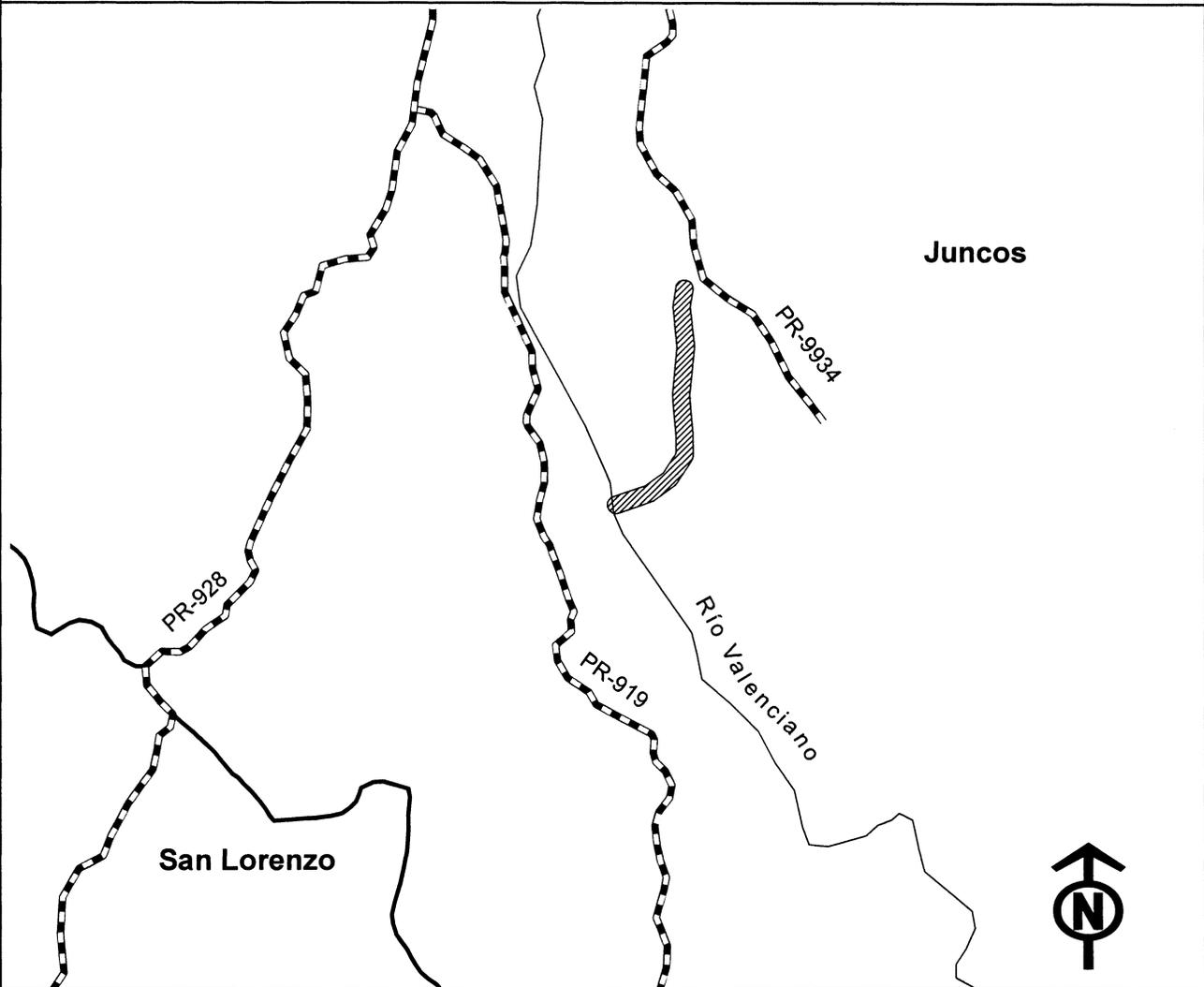
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2016501.61; 825724.22, 2016503.41; 825725.12, 2016505.16; 825726.13, 2016506.84; 825727.26, 2016508.45; 825728.48, 2016509.99; 825729.80, 2016511.44; 825731.22, 2016512.80; 825732.72, 2016514.07; 825734.30, 2016515.24; 825735.96, 2016516.30; 825737.68, 2016517.25; 825739.45, 2016518.09; 825741.28, 2016518.80; 825743.16, 2016519.40; 825745.06, 2016519.87; 825747.00, 2016520.22; 825748.95, 2016520.44; 825750.91, 2016520.53; 825752.88, 2016520.50; 825754.83, 2016520.33; 825756.78, 2016520.04; 825758.70, 2016519.62; 825760.59, 2016519.07; 825762.43, 2016518.41; 825764.24, 2016517.62; 825765.98, 2016516.72; 825767.66, 2016515.71; 825769.28, 2016514.58; 825770.81, 2016513.36; 825772.27, 2016512.04; 825773.63, 2016510.62; 825774.90, 2016509.12; 825776.06, 2016507.54; 825777.12, 2016505.88; 825778.08, 2016504.16; 825778.91, 2016502.39; 825779.63, 2016500.56; 825780.23, 2016498.69; 825780.70, 2016496.78; 825781.05, 2016494.84; 825781.27, 2016492.89; 825781.36, 2016490.93; 825781.32, 2016488.96; 825781.16, 2016487.01; 825781.07, 2016486.36; 825772.67, 2016426.13; 825788.89, 2016292.45; 825789.01, 2016291.22; 825789.11, 2016289.26; 825789.07, 2016287.29; 825788.99, 2016286.22; 825774.40, 2016119.05; 825788.38, 2015981.81; 825788.44, 2015981.16; 825788.53, 2015979.19; 825789.56, 2015905.38; 825789.53,

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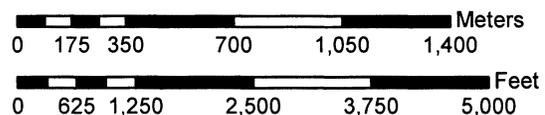
(iii) *Note*: Map of Unit 16 (Map 13) follows:

# Map 13. Proposed Critical Habitat for the Guajón: Ceiba Sur Unit: Ceiba Sur Ward, Juncos, Puerto Rico



## Legend

-  Rivers
-  Roads
-  Municipal Boundaries
-  Ceiba Sur Unit (Unit 16)



(22) Unit 17: Playita Unit, Yabucoa, Puerto Rico.

(i) *General Description*: Unit 17 consists of approximately 5.27 ac (2.13 ha), between PR-900 to the north and east and the municipal boundary of *Maunabo* to the south, within Calabazas Ward, Yabucoa.

(ii) *Coordinates*: From Yabucoa USGS 1:20,000 quadrangle map. Unit 17 bounded by the following UTM 19 NAD 83 coordinates (E, N):

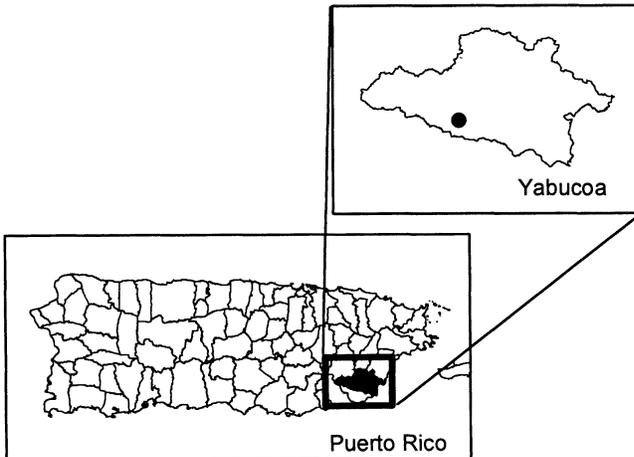
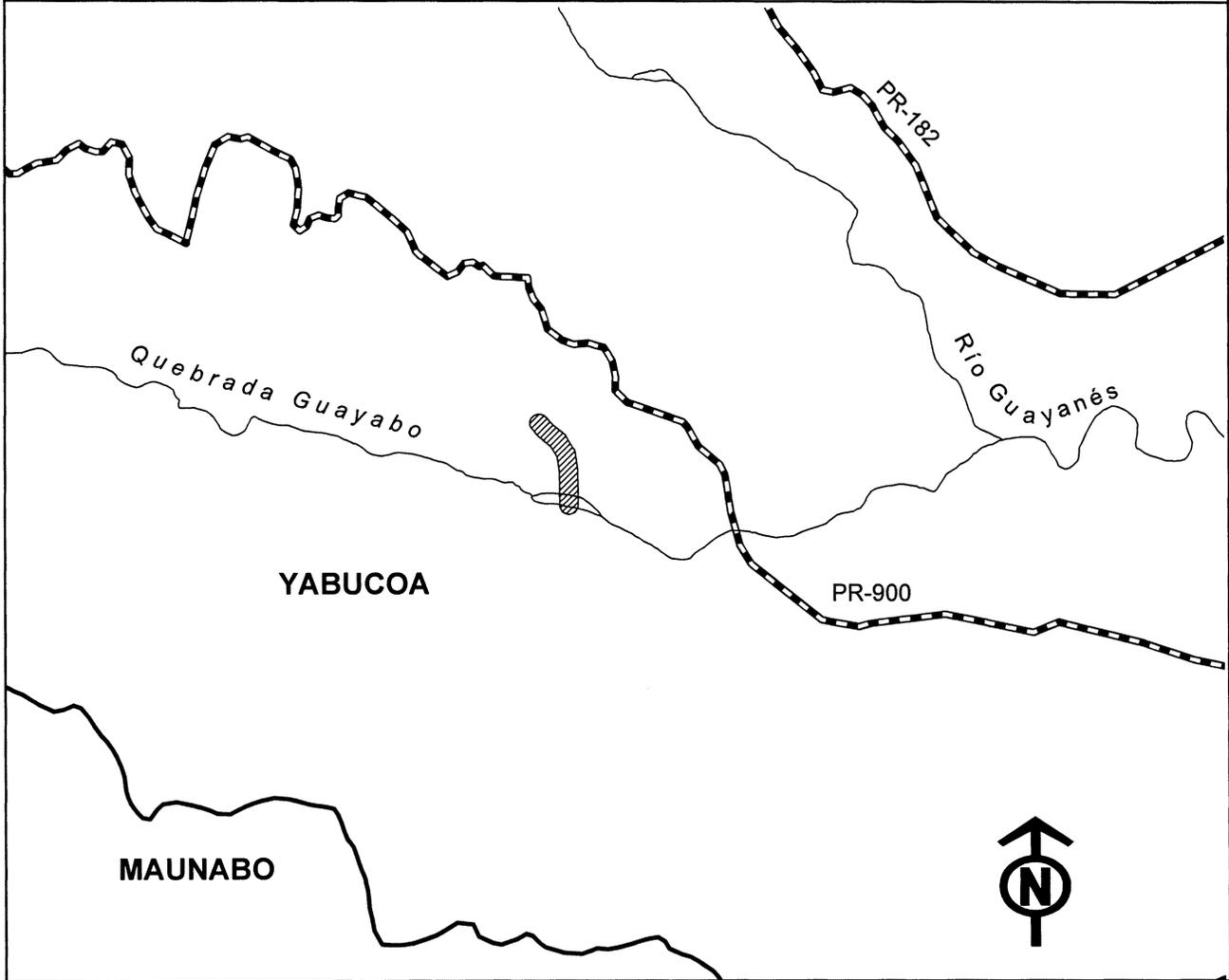
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(iii) *Note*: Map of Unit 17 (Map 14) follows:

# MAP 14. Proposed Critical Habitat for the Guajón: Playita Unit: Calabazas Ward, Yabucoa, Puerto Rico



## Legend

-  Rivers and Creeks
  -  Roads
  -  Municipal Boundaries
  -  Playita Unit (Unit 17)
- 0 175 350 700 1,050 1,400 Meters  
 0 625 1,250 2,500 3,750 5,000 Feet

\* \* \* \* \*

Dated: June 12, 2007.

**David M. Verhey,**Acting Assistant Secretary for Fish and  
Wildlife and Parks.

[FR Doc. 07-3031 Filed 6-15-07; 11:13 am]

BILLING CODE 4310-55-C

**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric  
Administration****50 CFR Part 679**

[Docket No. 070601115-7115-01]

RIN 0648-AU93

**Fisheries of the Exclusive Economic  
Zone Off Alaska; Groundfish, Crab,  
Salmon, and Scallop Fisheries of the  
Bering Sea and Aleutian Islands  
Management Area and Gulf of Alaska,  
Essential Fish Habitat Rule Correction****AGENCY:** National Marine Fisheries  
Service (NMFS), National Oceanic and  
Atmospheric Administration (NOAA),  
Commerce.**ACTION:** Proposed rule; request for  
comments.**SUMMARY:** NMFS issues this proposed  
rule to correct certain provisions of a  
June 28, 2006, essential fish habitat  
(EFH) rule for Alaska fisheries. This  
proposed rule would clarify that  
portions of EFH management areas in  
the vicinity of the Aleutian Islands are  
located in State of Alaska waters. This  
proposed action also would apply EFH  
vessel monitoring system (VMS) and  
closure requirements to federally  
permitted vessels operating in State of  
Alaska waters adjacent to the Gulf of  
Alaska (GOA) and Aleutian Islands  
subarea. This action is necessary to  
ensure federally permitted vessels  
operating in State of Alaska waters  
comply with EFH protection measures.**DATES:** Written comments must be  
received by July 19, 2007.**ADDRESSES:** Send comments to Sue  
Salveson, Assistant Regional  
Administrator, Sustainable Fisheries  
Division, Alaska Region, NMFS, Attn:  
Records Officer. Comments may be  
submitted by:

- Mail: P.O. Box 21668, Juneau, AK  
99802;
- Hand delivery: 709 West 9th Street,  
Room 420A, Juneau, AK;
- Fax: 907-586-7557;
- E-mail: VMS-PR-0648-

AU93@noaa.gov. Include in the subject  
line the following document identifier:  
"VMS PR." E-mail comments, with orwithout attachments, are limited to 5  
megabytes; or

- Webform at the Federal  
eRulemaking Portal: [http://  
www.regulations.gov](http://www.regulations.gov). Follow the  
instructions at that site for submitting  
comments.

Copies of the maps of EFH and habitat  
areas of particular concern (HAPC)  
management areas, the Environmental  
Impact Statement (EIS) for EFH  
Identification and Conservation, the  
Environmental Assessment/Regulatory  
Impact Review/Initial Regulatory  
Flexibility Analysis (EA/RIR/IRFA) for  
HAPCs and the RIR/IRFA for this action  
may be obtained from the mailing or  
street address stated above or from the  
Alaska Region NMFS website at [http://  
www.fakr.noaa.gov](http://www.fakr.noaa.gov).Written comments regarding the  
burden-hour estimates or other aspects  
of the collection-of-information  
requirements contained in this proposed  
rule may be submitted to the NMFS  
Alaska Region and by e-mail to  
[David\\_Rostker@omb.eop.gov](mailto:David_Rostker@omb.eop.gov), or fax to  
(202) 395-7285.**FOR FURTHER INFORMATION CONTACT:**  
Melanie Brown, 907-586-7228 or e-mail  
at [melanie.brown@noaa.gov](mailto:melanie.brown@noaa.gov).**SUPPLEMENTARY INFORMATION:** The  
groundfish, crab, scallop, and salmon  
fisheries in the exclusive economic zone  
(EEZ) off Alaska are managed under  
their respective fishery management  
plans (FMPs). The North Pacific Fishery  
Management Council (Council)  
prepared the FMPs under the authority  
of the Magnuson-Stevens Fishery  
Conservation and Management Act  
(Magnuson-Stevens Act), 16 U.S.C.  
1801, *et seq.* Regulations implementing  
the FMPs appear at 50 CFR parts 679  
and 680. General regulations governing  
U.S. fisheries also appear at 50 CFR part  
600.**Background**Section 303(a)(7) of the Magnuson-  
Stevens Act requires that each FMP  
describe and identify EFH, minimize to  
the extent practicable the adverse effects  
of fishing on EFH, and identify other  
measures to promote the conservation  
and enhancement of EFH. The Secretary  
of Commerce, acting through NMFS,  
approved the most recent EFH  
amendments to the FMPs on May 3,  
2006. These were Amendments 78 and  
65 to the FMP for Groundfish of the  
Bering Sea and Aleutian Islands  
Management Area (BSAI), Amendments  
73 and 65 to the FMP for Groundfish of  
the Gulf of Alaska (GOA), Amendments  
16 and 12 to the FMP for Bering Sea/  
Aleutian Islands King and Tanner Crabs,  
Amendments 7 and 9 to the FMP for theScallop Fishery off Alaska, and  
Amendments 7 and 8 to the FMP for  
Salmon Fisheries in the Exclusive  
Economic Zone off the Coast of Alaska.  
These amendments revised the FMPs by  
identifying and describing EFH and  
designating HAPC, and included  
measures to minimize to the extent  
practicable potential adverse effects of  
fishing on EFH.On June 28, 2006, NMFS issued a  
final rule implementing the EFH  
amendments (71 FR 36694). Additional  
background information regarding the  
EFH FMP and regulatory amendments is  
in the March 22, 2006, proposed rule  
(71 FR 14470) and in the EIS and EA/  
RIR/IRFA for HAPCs (see **ADDRESSES**).**Protection Area Definitions**The June 28, 2006, EFH rule contains  
definitions for the Aleutian Islands  
Habitat Conservation Area (AIHCA) and  
the Aleutian Islands Coral Habitat  
Protection Areas (AICHPA) and are  
described by coordinates listed in  
Tables 23 and 24 to 50 CFR part 679.  
Each table includes coordinates for  
locations within State of Alaska (State)  
waters, as intended by the Council and  
described in the EFH FMP amendments.  
The current regulatory definitions for  
these protection areas conflict with the  
FMP amendments and Tables 23 and 24  
by describing the protection areas as  
part of the Aleutian Islands subarea. The  
Aleutian Islands subarea is limited to  
waters of the EEZ, which does not  
include State waters (§ 679.2).To ensure that the definitions are  
consistent with the Council's intent, the  
FMP amendments, and Tables 23 and  
24, § 679.2 would be revised to define  
the protection areas as located in  
reporting areas of the Aleutian Islands,  
including adjacent State of Alaska  
waters. This revision would ensure that  
the AIHCA and AICHPA apply to  
federally permitted vessels operating in  
the EEZ and in State waters.**VMS Requirements**The June 28, 2006, EFH rule requires  
all federally permitted fishing vessels to  
operate a VMS when operating in the  
Aleutian Islands subarea or when  
operating in the GOA with mobile  
bottom contact gear onboard  
(§ 679.28(f)(6)). For the EFH rule, the  
Council intended that the VMS  
requirements apply to all federally  
permitted vessels operating in State or  
Federal waters. Specifically, the EFH  
rule should have required VMS  
operation for all federally permitted  
vessels operating in Federal waters of  
the Aleutian Islands subarea or adjacent  
State waters and operating with mobile  
bottom contact gear onboard in the GOA