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The Code of Federal Regulations is sold by the Superintendent of Documents.

FEDERAL LABOR RELATIONS AUTHORITY

5 CFR Parts 2421, 2422, 2426, and 2429

Meaning of Terms as Used in This Subchapter; Representation Proceedings; National Consultation Rights and Consultation Rights on Government-wide Rules or Regulations; Miscellaneous and General Requirements

AGENCY: Federal Labor Relations Authority.

ACTION: Interim final rule with request for comments.

SUMMARY: The Federal Labor Relations Authority (FLRA) intends to revise the regulations governing representation proceedings, as well as other related regulations, so as to provide parties in most cases with decisions from the Authority on all consequential issues in representation proceedings. Further, these changes will optimize the FLRA's workforce by streamlining the decision-making process in representation proceedings, consistent with E.O. 14,210. The FLRA finds that this interim final rule is not a substantive rule. Certain parts of this interim final rule concern interpretative rules, general statements of policy, or rules of agency organization, procedure, or practice. Other parts of this interim final rule concern minor or technical changes for which good cause exists to make notice and comment unnecessary.

DATES: This interim final rule is effective on April 23, 2026. Comments will be accepted if received by April 23, 2026.

ADDRESSES: You may send comments, which must include the caption ''Representation Proceedings,'' by emailing *FedRegComments@flra.gov.* Include ''Representation Proceedings'' in the subject line of the message.

- If you require an alternative means to comment, please contact Erica Balkum, Chief, Case Intake and Publication, at (771) 444–5805, Monday through Friday (except federal holidays), between 9:00 a.m. and 5:00 p.m. ET.

FOR FURTHER INFORMATION CONTACT: Thomas Tso, Solicitor, at *ttso@flra.gov* or at (771) 444–5779.

SUPPLEMENTARY INFORMATION:

I. Background

The Federal Service Labor-Management Relations Statute (the Statute), 5 U.S.C. 7101–7135, grants the Authority the power and responsibility to ''determine the appropriateness of units,'' *id.* 7105(a)(2)(A); ''supervise or conduct elections'' and ''otherwise administer the provisions . . . [of the Statute] relating to the according of exclusive recognition,'' *id.* 7105(a)(2)(B); ''prescribe criteria and resolve issues relating to the granting of national consultation rights,'' *id.* 7105(a)(2)(C); ''prescribe criteria relating to the granting of consultation rights with respect to conditions of employment,'' *id.* 7105(a)(2)(F); and ''take such other actions as are necessary and appropriate to effectively administer [the Statute],'' *id.* 7105(a)(2)(I). From 1979 until 1983, the Authority exercised those powers directly. But since 1983, the Authority has delegated to Regional Directors (RDs) its power and responsibility to determine whether a group of employees is an appropriate bargaining unit, to conduct investigations and to provide for hearings in representation matters, to determine whether a question of representation exists and to direct an election, and to supervise or conduct secret ballot elections and certify the results thereof. *See id.* 7105(e)(1); *Amendment to Memo. Describing the Authority & Assigned Responsibilities of the General Counsel of the FLRA,* 48 FR 28814 (June 23, 1983) (amending memorandum so as to delegate authority and responsibility to RDs in representation cases); *Processing of Cases; General Requirements,* 48 FR 40189 (Sept. 6, 1983) (revising regulations to implement the amendment to the memorandum). The Authority established a process to review the actions of RDs in those areas of delegated responsibility. *See* 5 U.S.C. 7105(f); *Processing of Cases; General Requirements,* 48 FR at 40190–95 (establishing § 7105(f) appeals process).

The delegation of authority to the RDs appears in section I.C. of a memorandum published as Appendix B to 5 CFR Chapter XIV. An amendment to section I.C. of Appendix B—published elsewhere in this issue of the **Federal Register**—will be effective on the date on which this interim final rule is effective.

The associated regulations appear in 5 CFR part 2421, which defines certain terms used in other regulations; parts 2422 and 2426, which, respectively, govern the processing of representation cases and consultation-rights cases by the Authority and the RDs; and part 2429, which establishes miscellaneous and general requirements for parties in cases before the Authority and the RDs. To simplify the discussion of these regulations, in the **SUPPLEMENTARY INFORMATION** only, both representation and consultation-rights cases will be referred to as ''representation matters.''

Under the current regulations, the Authority may review RDs' initial decisions in representation matters if an appeal is filed with the Authority. (Although the Authority's regulations refer to this appeal as an ''application for review,'' again for simplicity in the **SUPPLEMENTARY INFORMATION** only, ''appeal'' is sometimes used instead of ''application for review.'') However, the scope of the Authority's review is limited to the grounds set forth at 5 CFR 2422.31(c), and parties generally may not raise issues for review that they did not already present to the RD. In addition, under the existing process, in a representation matter that is appealed to the Authority, the parties must make their arguments twice—once to the RD before an initial decision, and again to the Authority on appeal of that decision.

After reexamination of its practices, the FLRA finds that the memorandum of delegated authorities and responsibilities to the RDs, and the related regulations governing representation matters, merit revision. The FLRA envisions a streamlined process in which representation matters are resolved through the collaborative efforts of the regional offices and the Authority—rather than a strict separation of an initial decision by an RD, followed by a possible appeal to, and potentially duplicative decision by, the Authority.

In this new process, parties will continue filing all representation petitions with the regional offices, who will begin processing those petitions.

When the processing of a case requires the exercise of one of the Authority's statutory responsibilities under § 7105(a) of the Statute, the Authority will make any determinations under § 7105(a)(2) that are required for the subsequent disposition of the case. Some representation matters may require the involvement of the Authority at several points in a case, whereas others may require a decision from the Authority only at the case's conclusion—such as when a decision and order issues.

Identifying the points within a case that require a decision by the Authority will be based on case-by-case considerations, but will always include the determinations specified in 5 U.S.C. 7105(e)(1). In the new process—after consultation with the regional offices—the Authority will: ''determine whether a group of employees is an appropriate unit,'' 5 U.S.C. 7105(e)(1)(A); authorize the regional offices or Authority staff to conduct all investigations and hearings, *see id.* 7105(e)(1)(B); ''determine whether a question of representation exists and . . . direct an election,'' *id.* 7105(e)(1)(C); and authorize the regional offices or Authority staff to ''supervise or conduct elections,'' after which the Authority will ''certify the results thereof,'' *id.* 7105(e)(1)(D).

Because the Authority will be performing these statutory functions itself, rather than delegating them to the RDs, an appeals process will no longer be necessary under § 7105(f) (except in no-quorum situations, which are addressed separately). In addition, parties will benefit from review by the Authority on all issues of importance in representation matters, without the parties needing to make their arguments twice, and without the need to file an appeal of an initial decision.

While the locus of ultimate decision-making will rest with the Authority, the Authority and regional offices will work collaboratively to resolve representation matters. For example, the Authority will consider the views of the regional offices when making decisions. As a result, the collective insights and experience of the regional offices and the Authority will shape the decisions that parties receive.

The FLRA anticipates that the regional offices will continue to conduct most investigations and hearings in representation matters after receiving the Authority's authorization, but Authority staff may also be assigned those duties as needed, consistent with § 7105(d) of the Statute. Further, the FLRA intends, in most cases, for the regional offices to continue conducting elections with the Authority's authorization, but the Authority will make decisions on election agreements and directions of election. Whereas, in most elections, the regional offices will continue to tally ballots and make determinations on election observers, the Authority will certify the results of elections. The Authority will address determinative challenged ballots in elections, and will decide all election objections concerning either the election process itself, or conduct that may have otherwise improperly affected the results of the election.

The FLRA recognizes, however, that this new process will not function as intended if the Authority loses a quorum—that is, in the event that the Authority has one or zero Members. This circumstance is a ''special and temporary'' condition. *See United States* v. *Arthrex, Inc.,* 594 U.S. 1, 22 (2021) (citing *United States* v. *Eaton,* 169 U.S. 331, 343 (1898)). Consequently, the Authority is maintaining the current two-layered structure of initial decision and potential appeal only for representation matters that arise when the Authority lacks a quorum. In this way, the loss of an Authority quorum will not prevent parties from having their representation matters addressed.

Parties involved in representation matters that arise when the Authority lacks a quorum will have the right to file an appeal of an RD's action under 5 U.S.C. 7105(f), but that appeal can be addressed only when an Authority quorum is restored. *See FDIC,* 68 FLRA 260, 262 (2015) (finding that the Authority has sixty days while having a quorum to ''undertake to grant review of [an] RD's decision,'' or else ''the RD's decision bec[o]me[s] 'the action of the Authority''' (quoting 5 U.S.C. 7105(f))), *vacating on reconsideration,* 67 FLRA 430 (2014).

So that parties do not need to read through all the regulations to find the rules that apply only to matters that arise when the Authority lacks a quorum, the Authority has collected all of these special rules into their own sections in parts 2422 and 2426.

To implement the new process for representation matters, the FLRA must revise its regulations. Further, the FLRA is amending some regulations to make explicit how they operate. These changes, including those that make explicit the operation of some regulations, are set forth in this document.

In addition, the Authority must revoke its current delegation to the RDs in representation matters, and adopt a new delegation that is tailored to representation matters that arise when the Authority lacks a quorum. To accomplish those purposes, as previously stated, an amendment to section I.C. of Appendix B to 5 CFR Chapter XIV—published elsewhere in this issue of the **Federal Register**—will be effective on the date on which this interim final rule is effective.

The FLRA is also currently reexamining the manner in which it adjudicates unfair labor practices (ULPs), including who will hold hearings and draft recommended decisions in ULP cases. Nevertheless, the FLRA anticipates that those topics could be the subject of separate rulemaking. Accordingly, some of the regulations in parts 2421 and 2429 that concern administrative law judges (ALJs) and ULPs are left unchanged at this time because they could be addressed in future rulemaking, if necessary. There are two regulations concerning ALJs and ULPs that are being revised in this rulemaking because those regulations appear in part 2422, which primarily concerns representation matters. But all other changes concerning ALJs and ULPs will await possible future rulemaking.

The section below explains each change to the regulations in greater detail. The explanation of the amendment to section I.C. of Appendix B to 5 CFR Chapter XIV appears in the separate document published elsewhere in this issue of the **Federal Register** concerning that amendment.

II. Interim Rule and Analysis

Almost all of the explanations below assume that the Authority is functioning with a quorum, and the explanations should be read with that assumption in mind. But for regulations that apply *only* to representation matters that arise when the Authority lacks a quorum—that is, when the Authority has one or zero Members—see the discussions under §§ 2422.35 and 2426.21.

PART 2421

Section 2421.6 Regional Director

Section 2421.6 adds a sentence to the definition of ''Regional Director.'' This additional sentence explicitly reflects that when an RD acts to process representation matters on the Authority's behalf, the RD acts pursuant to an assignment of duties from the Authority under 5 U.S.C. 7105(d). Section 7105(d) allows the Authority to ''delegate to officers and employees . . . authority to perform such duties . . . as may be necessary.'' 5 U.S.C. 7105(d).

Section 2421.20 Election agreement

''FLRA'' replaces ''Regional Director'' as the entity approving an election

agreement to reflect that, while RDs will continue processing petitions that prompt elections and RDs will continue assisting parties in drafting election agreements, the Authority will make all final decisions on approving election agreements.

Section 2421.23 FLRA

Section 2421.23 adds a new definition of ''FLRA'' that applies only to § 2421.20 and parts 2422 and 2426. This definition explains that, as a matter of agency organization, the use of ''FLRA'' in these places could indicate the involvement of employees or officials from either the Authority (including Members) or the regional offices (including RDs), or a combination of the two. Parties should generally file all documents with the appropriate RD, and parties will be informed in the course of their specific cases if they must file their documents with, or serve their documents on the Authority—instead of, or in addition to—the regional office (or RD). The one exception is motions for reconsideration under § 2429.17, which must always be filed directly with the Authority.

PART 2422

Section 2422.3 What information should you include in your petition?

Section 2422.3(c) is amended to correct an inadvertent typographical error. The current regulation refers to the U.S. Code, but it should refer to the *Code of Federal Regulations.* Specifically, the current regulation says that ''showing of interest'' is ''defined at 5 U.S.C. 2421.16,'' but no such section exists. The reference should be to ''5 CFR 2421.16,'' so this correction is adopted in the revised paragraph (c).

Section 2422.4 What service requirements must you meet when filing a petition or other documents?

Section 2422.4's heading is amended to clarify that, as a matter of agency procedure, the section applies to not only petitions, but also supporting documents. The wording of the section is amended to clarify certain information that a party should *not* serve on other parties in order to protect the identities of individuals engaged in specified protected activities. ''Application for review'' is removed from the list of documents covered by the section because applications for review are no longer necessary. A separate regulation—§ 2422.35(f)—addresses service requirements for applications for review in representation matters that arise when the Authority lacks a quorum.

Section 2422.5 Where do you file petitions?

Section 2422.5(c) is amended to clarify, as a matter of agency procedure, how an RD will determine when a petition is deemed filed based on whether the filing is electronic or by facsimile or other method, the time and date on which the filing is received, and whether a petition is received on a business day or during the region's business hours.

Section 2422.6 How are parties notified of the filing of a petition?

Section 2422.6(a) is amended to state explicitly that, although the RD makes reasonable efforts to identify or notify parties affected by the issues raised in a petition, parties have their own, independent notification and service obligations that they must satisfy. The regulations have never suggested that the RD's reasonable efforts relieve a party of its own notification and service obligations.

Section 2422.7 Will an activity or agency post a notice of filing of a petition?

Section 2422.7(a) is amended to replace ''Regional Director'' with ''FLRA'' to account for the possibility that the Authority may direct the posting of notices.

Section 2422.9 How is the adequacy of a showing of interest determined?

Section 2422.9(b) replaces ''Regional Director'' in all the places it appears with ''FLRA'' to account for the Authority approving all investigations, and the Authority issuing all decisions and orders in such cases. The possibility of an appeal is deleted because appeals are no longer necessary. However, it remains true that a determination on the adequacy of a showing of interest is not subject to collateral or direct challenge to the RD or the Authority.

Section 2422.10 How do you challenge the validity of a showing of interest?

Section 2422.10(b) is amended to replace ''Regional Director'' with ''FLRA'' to account for the Authority potentially challenging the validity of a showing of interest.

Section 2422.10(e) replaces ''Regional Director'' in all the places it appears with ''FLRA'' to account for the Authority approving all investigations, and the Authority issuing all decisions and orders in such cases. The possibility of an appeal is deleted because appeals are no longer necessary. However, it remains true that a determination on the validity of a showing of interest is not subject to collateral or direct challenge to the RD or the Authority.

Section 2422.12 What circumstances does the FLRA consider to determine whether your petition is timely filed?

Section 2422.12's heading is amended to replace ''Region'' with ''FLRA'' to account for the possibility of the Authority making determinations regarding the timeliness of a petition.

The regulations have always contemplated that the general term ''election'' may cover a ''decertification election,'' where appropriate. Paragraphs (a), (b), (c), (d), (e), (g), and (h) are amended to reflect where, in the provisions governing the various bars to petitions seeking elections, ''election'' includes a ''decertification election.'' This matter was raised and settled in *NASA, Goddard Space Flight Center, Wallops Island, Virginia,* 67 FLRA 670, 676–77 (2014) (*Wallops Island*). *See id.* at 677 (referring to ''the plain wording of § 2422.12(d)''). Although that decision concerned only the ''contract bar,'' the decision's rationale applies equally to other sections of § 2422.12 with the same ''plain wording.'' *See U.S. Dep't of the Interior, Nat'l Park Serv., Blue Ridge Parkway, N.C.,* 73 FLRA 526, 530–31 (2023) (*Blue Ridge*) (applying *Wallops Island* to the ''certification bar''). The FLRA wants to make explicit in these regulations when the term ''election,'' as a matter of plain wording, includes a ''decertification election'' so as to avoid confusion on this point. However, the clarification that ''election'' includes a ''decertification election'' does not preclude the Authority from making case-specific determinations in future representation matters about how *other* regulations that refer to elections apply to decertification elections.

Section 2422.12(b) is further amended to reflect *Blue Ridge's* holding that ''§ 2422.12(b) . . . applies—and has applied—to petitions filed within twelve months of a consolidation certification, *regardless* of whether the Authority conducted an election before issuing the certification.'' *Id.* at 532 (emphasis added) (footnote omitted).

Section 2422.13 How are issues raised by your petition resolved?

Section 2422.13(a) is amended to replace ''a representative of the appropriate Regional Office'' with ''an FLRA representative'' to account for the possibility that the Authority may participate in meetings before a representation petition is filed. The choice about which officers or employees will participate in any such meeting lies exclusively with the FLRA.

Section 2422.13(b) is amended to replace ''Regional Director'' with ''FLRA'' to account for the possibility of the Authority requiring parties to meet to narrow and resolve issues after a petition is filed.

Section 2422.14 What is the effect of your withdrawal or the FLRA's dismissal of a petition?

Section 2422.14's heading is amended to replace ''Regional Director'' with ''FLRA'' to account for the Authority dismissing petitions.

Paragraphs (a)(1) and (b) are amended to clarify where ''election'' includes a ''decertification election,'' for substantially similar reasons as those discussed in connection with § 2422.12 above.

Elsewhere in § 2422.14, ''FLRA'' replaces ''Regional Director'' to account for the change in the internal decision-making structure in the new process for representation matters. However, ''Regional Director'' is purposely maintained where it first appears in § 2422.14(b) because the FLRA anticipates that parties will always submit withdrawal requests to an RD.

Paragraph (a)(1) is further amended to make clear that the reference to ''another petition'' plainly means ''another petition from you''—that is, the same party that withdraws a timely filed petition, or whose timely filed petition the FLRA dismisses, within the meaning of § 2422.14(a)(1). This procedural clarification reflects that the rule is not intended to allow one party's withdrawn or dismissed petition to render another party's petition untimely within the meaning of § 2422.14(a)(1).

Paragraph (a)(1)(ii) is amended to remove the possibility of an appeal as a consequence of the revocation of the current delegation to the RDs in representation matters, and paragraph (a)(1)(iii) is deleted for the same reason.

Section 2422.15 Do parties have a duty to provide information and cooperate after a petition is filed?

Section 2422.15 is amended so that ''FLRA'' replaces ''Regional Director'' to account for the change in the internal decision-making structure in the new process for representation matters. However, ''Regional Director'' is purposely maintained where it appeared (before revisions) for the second time in § 2422.15(b) because the FLRA anticipates that parties will always submit alphabetized lists of employees to an RD.

Section 2422.16 May parties enter into election agreements, and if they do not, will the FLRA direct an election?

Section 2422.16's heading, and paragraphs (b) and (c), replace ''Regional Director'' with ''FLRA'' because the Authority will now decide directions of elections and decide whether to conduct hearings. The Authority will also issue decisions and orders. When the Authority decides a hearing is warranted, the Authority will most often authorize regional office staff to conduct those hearings, although Authority staff may also conduct hearings.

Section 2422.17 What are a Notice of Hearing and prehearing conference?

In § 2422.17, paragraphs (a) and (b) are amended so that ''FLRA'' replaces ''Regional Director'' to account for the change in the internal decision-making structure in the new process for representation matters.

Paragraph (d) is deleted because it refers to appeals, which are no longer necessary.

Section 2422.18 What is the purpose of a representation hearing and what procedures are followed?

Section 2422.18(c) is amended so that the ''FLRA assigns a Hearing Officer,'' rather than the ''Regional Director appoints a Hearing Officer,'' to account for the change in the internal decision-making structure in the new process for representation matters. In § 2422.18(d), the phrase ''working hours'' is changed to its equivalent term, ''business hours,'' to be consistent with other uses of ''business hours'' in this part of the regulations.

Section 2422.19 When is it appropriate for a party to file a motion at a representation hearing?

Section 2422.19 is amended so that ''FLRA'' replaces ''Regional Director'' to account for the change in the internal decision-making structure in the new process for representation matters.

In § 2422.19(a), the sentence ''The Regional Director or Hearing Officer may treat challenges and other filings referenced in other sections of this subpart as a motion'' is deleted because regulatory authorization is not procedurally required to treat challenges or other filings as motions, and the provision already places full discretion for this determination with the FLRA. This deletion should not change the way hearings are conducted.

In § 2422.19(b), the sentence ''The Regional Director may rule on the motion or refer the motion to the Hearing Officer'' is deleted because the process for deciding motions or referring them to a Hearing Officer need not be specified in regulation, and the provision already places full discretion for this determination with the FLRA. This deletion should not change the way hearings are conducted.

In § 2422.19(c), the sentence ''When appropriate, the Hearing Officer will rule on motions made at the hearing or referred to the Hearing Officer by the Regional Director'' is deleted because this matter need not be specified in regulation, and the provision already places full discretion for this determination with the FLRA. This deletion should not change the way hearings are conducted.

Section 2422.20 What rights do parties have at a hearing?

Section 2422.20(d) is amended so that ''FLRA'' replaces ''Regional Director'' to account for the change in the internal decision-making structure in the new process for representation matters. Section 2422.20(d) is further amended so that parties will now be provided the opportunity to file reply briefs as a matter of course, without requesting permission first. Parties will have ten days from another party's filing of an initial brief to file a reply brief. In each case, parties will be notified whether to file their briefs with the Hearing Officer, the RD, or the Authority. The requirement to file multiple copies of briefs is eliminated.

Section 2422.21 What are the duties and powers of the Hearing Officer?

Section 2422.21(a) is amended to delete the sentence ''The Hearing Officer may make recommendations on the record to the Regional Director.'' This matter need not be specified in regulation, as the determination is committed fully to the FLRA's discretion.

Section 2422.21(b) is amended so that ''FLRA'' replaces ''Regional Director'' to account for the change in the internal decision-making structure in the new process for representation matters.

Section 2422.23 What election procedures are followed?

In § 2422.23, paragraph (a); paragraph (b); paragraph (c); paragraph (e)'s last sentence; paragraph (f)'s last sentence; paragraph (g)'s last sentence; and paragraph (h)(5) are amended so that ''FLRA'' replaces ''Regional Director'' to account for the change in the internal decision-making structure in the new process for representation matters. However, ''Regional Director'' is purposely maintained in the following paragraphs for the following reasons:

the first two places it appears in § 2422.23(e) because parties are still expected to file withdrawal requests with an RD; the first sentence of § 2422.23(f) because parties are still expected to file disclaimers of interest with an RD; the first sentence of § 2422.23(g) because parties are still expected to file withdrawal requests with an RD; those paragraphs of § 2422.23(h) where it appears (except for (h)(5)) because the FLRA intends for RDs to handle most matters concerning election observers in order to prevent delays to elections. However, ''FLRA'' has replaced ''Regional Director'' in § 2422.23(h)(5) because the Authority will decide any formal objections that are filed in accordance with § 2422.23(h)(4). Section 2422.23(h)(5) is further amended to remove the reference to an application for review because appeals are no longer necessary.

Section 2422.24 What are challenged ballots?

Section 2422.24 is amended so that ''FLRA'' replaces ''Regional Director'' and ''Region'' because the Authority may challenge voter eligibility, for good cause, under § 2422.24(a); and because the Authority may be involved in addressing challenged ballots under § 2422.24(b). The Authority will always be involved in addressing determinative challenged ballots.

Section 2422.25 When does the FLRA tally the ballots?

Section 2422.25's heading, and paragraphs (a) and (b), are amended so that ''FLRA'' replaces ''Regional Director'' and ''Region'' because the Authority may tally ballots or serve the tally of ballots in some elections.

Section 2422.26 How are objections to the election processed?

In § 2422.26, paragraphs (a) and (b) maintain the use of ''Regional Director'' rather than ''FLRA'' because the FLRA intends for parties to continue filing election objections and supporting evidence with the regional offices.

Paragraph (a) is amended to eliminate the requirement for filing duplicate copies of objections.

Section 2422.27 How does the FLRA address determinative challenged ballots and objections?

Section 2422.27's heading, and paragraphs (a) and (c), replace ''Regional Director'' and ''Region'' with ''FLRA'' to account for the Authority approving all investigations, and taking appropriate action on determinative challenged ballots and objections.

Paragraph (d), concerning consolidated hearings, is deleted. As discussed in greater detail earlier, the FLRA is reexamining the manner in which it adjudicates unfair labor practices (ULPs), and this paragraph concerns hearings about both determinative challenged ballots and ULPs. Whether to provide this type of hearing is committed fully to the FLRA's discretion. If necessary, the FLRA will revisit this topic in future rulemaking, once the reexamination of ULP adjudication is complete. Paragraph (e) is deleted for similar reasons because it concerns filing exceptions to a recommended decision that resolves ULP allegations.

Section 2422.28 When is a runoff election required?

Section 2422.28(a) replaces ''Regional Director'' with ''FLRA'' to account for the Authority ruling on all objections to elections and determinative challenged ballots.

Section 2422.29 How does the FLRA address an inconclusive election?

Section 2422.29's heading—and paragraphs (a)(4), (b), (c), and (d)—replace ''Regional Director'' and ''Region'' with ''FLRA'' to account for the Authority's involvement in elections and the certification of results.

Section 2422.30 When does the FLRA investigate a petition, issue a Notice of Hearing, take action, and issue a Decision and Order?

Section 2422.30's heading—and paragraphs (a), (b), and (c)—replace ''Regional Director'' with ''FLRA'' because the Authority will approve all investigations and hearings, as well as direct all elections, approve all election agreements, and issue all decisions and orders, in furtherance of its responsibilities under § 7105(a)(2) of the Statute.

Paragraphs (d) and (e) are deleted because they concern appeals, which are no longer necessary. The substance of paragraphs (d) and (e) is being transferred to the new § 2422.35, which will address how the new delegation of authority for representation proceedings applies when the Authority lacks a quorum. The specifics of those transferred provisions will be discussed in the analysis of § 2422.35 below.

Section 2422.31 [Reserved]

Section 2422.31 is currently titled ''When do you file an application for review of a Regional Director Decision and Order?'' Because applications for review are no longer necessary, the heading and text of this section are being deleted, and the section is reserved. However, the substance of many of this section's provisions are being transferred to the new § 2422.35, which will address how the new delegation of authority for representation proceedings applies when the Authority lacks a quorum. The specifics of those transferred provisions will be discussed in the analysis of § 2422.35 below.

Section 2422.32 When does the FLRA issue a certification or a revocation of certification?

Section 2422.32's heading, and paragraphs (a) and (b), replace ''Regional Director'' and ''Region'' with ''FLRA'' because the Authority will be taking appropriate action on all certifications, addressing election objections and determinative challenged ballots, issuing decisions and orders, and revoking recognitions or certifications.

Paragraph (a)(2) is further amended to delete certain wording because RDs will no longer be issuing decisions and orders that may ''become the action of the Authority.''

Paragraph (b)(2) is further amended to make explicit that the FLRA will not revoke a recognition or certification due to a substantial change in the character and scope of a unit that renders the unit no longer appropriate, unless a party first files a petition that gives rise to a representation proceeding concerning that unit. This amendment merely codifies existing procedural practice in the regulation.

Section 2422.33 Relief Under Part 2423 of This Chapter

Section 2422.33 is amended to remove the reference to consolidated hearings, for the same reasons stated earlier in connection with § 2422.27(d).

Section 2422.34 What are the parties' rights and obligations when a representation proceeding is pending?

Section 2422.34 is amended to clarify its operation and reformat certain citations.

The existing wording of § 2422.34(a) is amended, and redesignated as § 2422.34(a)(1), to make explicit that the reference to the period ''when a representation proceeding is pending'' means when such a proceeding is pending ''before the FLRA.'' This amendment makes explicit that the section does not apply when a representation matter has been appealed to court, or raised in any other forum over which the FLRA lacks jurisdiction. Further, the newly designated § 2422.34(a)(1) is amended so that it is

subject to the clarification that appears in newly created § 2422.34(a)(2).

Section 2422.34(a)(2) makes explicit that the principles set forth in 5 CFR 2429.17—concerning motions for reconsideration—apply to the operation of § 2422.34. Thus, the filing of a motion for reconsideration or stay does not relieve the parties of their obligations to comply with a final decision or order of the Authority, unless so ordered by the Authority. For example, § 2422.34 does not require parties to maintain existing recognitions, follow the terms and conditions of existing collective-bargaining agreements, or fulfill other representational and bargaining responsibilities, when a final decision or order of the Authority permits or directs the parties to do otherwise—even when a party files a motion for reconsideration or stay of that final decision or order. In addition, this amendment makes explicit that, if a final decision or order of the Authority issues, or directs the issuance of, a certification, then the parties are required to act consistent with that certification, even if a party filed a motion for reconsideration or stay of the final decision or order.

Section 2422.34(b) is amended to change citation formatting. The statutory cites in § 2422.34(b) are being rewritten as ''3 U.S.C. 431(d)(2), and 5 U.S.C. 7103(a)(2), 7112(b), and 7112(c).'' However, these are the same cites that appeared before, in a different format.

Section 2422.35 How do representation proceedings change when the Authority lacks a quorum?

This newly created section addresses how the FLRA's new delegation of authority for processing representation matters will apply in proceedings that arise when the Authority lacks a quorum. The Authority lacks a quorum when it has one or zero Members. *See* 5 U.S.C. 7104(a) (''The Federal Labor Relations Authority is composed of three members . . . .''), (d) (''A vacancy in the Authority shall not impair the right of the remaining members to exercise all of the powers of the Authority.''). The FLRA has determined that, in order to avoid delay in the processing of representation matters when the Authority lacks a quorum, under such special and temporary circumstances, RDs are delegated the power and responsibility to process representation matters under 5 U.S.C. 7105(e)(1). But parties involved in representation matters that arise when the Authority lacks a quorum will have the right to file an appeal of an RD's action under 5 U.S.C. 7105(f). That appeal can be addressed only when an Authority quorum is restored, however. Almost all of the provisions of this section closely resemble the regulations that govern the current two-layered structure of RD initial decisions and potential Authority review.

Section 2422.35(a) explains that the section applies to representation matters that arise when the Authority lacks a quorum, and it explains that the Authority lacks a quorum when it has one or zero Members. Further, paragraph (a) explains that the section is intended to operate in a manner consistent with the newly adopted section I.C. of Appendix B to 5 CFR Chapter IV. That appendix is titled, ''Memorandum Describing the Authority and Assigned Responsibilities of the General Counsel of the Federal Labor Relations Authority,'' and newly adopted section I.C. concerns case handling in representation matters that arise when the Authority lacks a quorum.

Section 2422.35(b) replaces § 2422.14(a) in representation matters that arise when the Authority lacks a quorum. Note that § 2422.14(b) and (c) will still apply to representation matters that arise when the Authority lacks a quorum.

Section 2422.35(b)(2) explains the circumstances under which the withdrawal or dismissal of a petition less than sixty days before a contract expiration will render a later filed petition untimely, and paragraphs (b)(2)(i) through (b)(2)(iv) provide the four possible actions that could trigger the running of the ninety-day period of untimeliness discussed in (b)(2). Unlike the actions described in § 2422.14(a)(1), those set forth in § 2422.35(b)(2) account for the possibility of appeals because appeals will be available for representation matters that arise when the Authority lacks a quorum. Thus, the circumstances described in § 2422.35(b)(2) are similar to those described in § 2422.14(a)(1)'s procedural rule, but the circumstances in § 2422.35(b)(2) are adapted to a no-quorum situation.

Section 2422.35(c) is intended to have the same effect as current § 2422.17(d)—which is being deleted.

Section 2422.35(d) is intended to have the same effect as current § 2422.30(d)—which is being deleted.

Section 2422.35(e) is intended to have the same effect as current § 2422.30(e)—which is being deleted. But the FLRA has determined, as a matter of procedure, that the first sentence—providing that ''all material submitted to, and considered by, the Regional Director during an investigation becomes part of the record''—will not be limited to cases ''when there has not been a hearing,'' as it was limited in current § 2422.30(e). The introductory description has been changed from ''Contents of the Record'' to ''Contents of the record for appeal'' for clarity.

Section 2422.35(f) is intended to have the same effect as current § 2422.31(a)—which is being deleted.

Section 2422.35(g) is intended to have the same effect as current § 2422.31(b)—which is being deleted. However, the introductory description has been changed from ''Contents'' to ''Contents of the Application for Review'' for clarity. Note that, just as current § 2422.31(b) does, § 2422.35(g) will prohibit an application from ''rais[ing] any issue or rely[ing] on any facts not timely presented to the Hearing Officer or Regional Director.''

Section 2422.35(h) is intended to have the same effect as current § 2422.31(c)—which is being deleted.

With one exception, § 2422.35(i) (concerning oppositions to applications to review) is intended to have the same effect as current § 2422.31(d)—which is being deleted. The exception is that the FLRA is adding a new procedural prohibition to § 2422.35(i) that does not appear in current § 2422.31(d). Under § 2422.35(i), an opposition ''may not raise any issue or rely on any facts not timely presented to the Hearing Officer or Regional Director.'' This prohibition is intended to mirror a restriction that applies to applications for review. The effect of this prohibition is currently achieved through the application of 5 CFR 2429.5 to oppositions, but as will be discussed later in connection with that section, the FLRA is revising § 2429.5 so that it will no longer apply to matters not previously presented to a Hearing Officer or Regional Director. Thus, as applied to oppositions, the FLRA is relocating this prohibition from § 2429.5 to § 2422.35(i).

Section 2422.35(j) is intended to have the same effect as current § 2422.31(e)—which is being deleted—but two clarifications are provided. In the first clarification, § 2422.35(j)(2), which is modeled after current § 2422.31(e)(2), states that the sixty-day period during which the Authority must undertake to grant review of an RD's decision and order—in order to prevent the RD's action from becoming the action of the Authority by operation of law—runs only while the Authority has a quorum. *See FDIC,* 68 FLRA at 262 (finding that the Authority has sixty days while having a quorum to ''undertake to grant review of [an] RD's decision,'' or else ''the RD's decision bec[o]me[s] 'the action of the Authority''' (quoting 5 U.S.C. 7105(f))). In the second

clarification, § 2422.35(j)(3), which is modeled after current § 2422.31(e)(3), explains that when an application for review is filed while the Authority lacks a quorum, the Authority cannot resolve the application for review until it has a quorum.

Section 2422.35(k) is intended to have the same effect as current § 2422.31(f)—which is being deleted—but one clarification is adopted. For clarity, whereas § 2422.31(f)'s second sentence says, ''Neither filing nor granting an application for review will stay any action ordered by the Regional Director unless specifically ordered by the Authority,'' § 2422.35(k)'s second sentence says, ''Neither a party filing, nor the Authority granting, an application for review will stay any action ordered by the Regional Director unless specifically ordered by the Authority.''

Section 2422.35(l) is intended to have the same effect as current § 2422.31(g)—which is being deleted—but one additional procedural requirement is mentioned. The procedural requirement is that a party filing a brief under § 2422.35(l) ''must serve a copy on the Regional Director and all other parties, and must also file a statement of service with the Authority.'' The same procedural requirement is mentioned in § 2422.35(f) concerning filing an application for review, and in § 2422.35(i) concerning filing an opposition.

Section 2422.35(m) explains that the provisions governing the service and processing of papers in § 2429.12(a), (b), and (c) will apply to RDs' decisions and orders in representation matters that arise when the Authority lacks a quorum. As will be discussed later in connection with § 2429.12, the FLRA is revising that section so that it will no longer explicitly refer to RDs' decisions and orders. However, through the operation of § 2422.35(m), § 2429.12(a), (b), and (c) will apply to RDs' decisions and orders in representation matters that arise when the Authority lacks a quorum.

Section 2422.35(n) replaces § 2422.32(a) in representation matters that arise when the Authority lacks a quorum. Note that § 2422.32(b) will still apply to representation matters that arise when the Authority lacks a quorum.

Section 2422.35(n)(1) is intended to have the same effect as current § 2422.32(a)(1). Within § 2422.35, paragraphs (n)(2) and (3) are intended to have the same effect as similar wording in current § 2422.32(a)(2), except that current § 2422.32(a)(2)'s reference to 5 CFR 2422.31(e) is replaced with a reference to new section § 2422.35(j). Because current § 2422.32(a)(2) describes two different circumstances, those circumstances were divided into two new paragraphs: § 2422.35(n)(2) and (3).

PART 2426

Section 2426.2 Requests; Petition and Procedures for Determination of Eligibility for National Consultation Rights

Section 2426.2(b) currently says that consultation-rights issues will be referred ''to the Authority'' for determination. The phrase ''to the Authority'' is deleted because, in instances where the Authority lacks a quorum, this determination will be made in the first instance by an RD, just as occurs under the current process. However, in instances where the Authority has a quorum, the Authority will make this determination under the new process.

Section 2426.2(b)(2) changes ''Authority'' to ''FLRA'' to conform to the new definition of ''FLRA'' added in § 2421.23.

Paragraphs (b)(2)(i), (b)(2)(iv), and (b)(2)(v) are updated to require the petitioner to provide email addresses.

Section 2426.2(b)(3)(ii) is amended to eliminate the need to file multiple copies.

Section 2426.2(b)(3)(vii) changes ''Regional Director'' to ''FLRA'' to account for the Authority approving all investigations, issuing all decisions and orders, and determining whether hearings are warranted. The paragraph is further amended to delete the reference to appeals because appeals are no longer necessary. The final sentence of (b)(3)(vii) is further amended to correct the citations to other regulations in the subchapter because those citations have been incorrect since revised representation regulations took effect in 1996.

Section 2426.12 Requests; Petition and Procedures for Determination of Eligibility for Consultation Rights on Government-Wide Rules or Regulations

Section 2426.12(b) currently says that consultation-rights issues will be referred ''to the Authority'' for determination. The phrase ''to the Authority'' is deleted because, in instances when the Authority lacks a quorum, this determination will be made in the first instance by an RD, just as occurs under the current process. However, in instances where the Authority has a quorum, the Authority will make this determination under the new process.

Section 2426.12(b)(2) changes ''Authority'' to ''FLRA'' to conform to the new definition of ''FLRA'' added in § 2421.23.

Paragraphs (b)(2)(i), (b)(2)(iv), and (b)(2)(v) are updated to require the petitioner to provide email addresses.

Section 2426.12(b)(3)(ii) is amended to eliminate the need for multiple copies.

Section 2426.12(b)(3)(vii) changes ''Regional Director'' to ''FLRA'' to account for the Authority approving all investigations, issuing all decisions and orders, and determining whether hearings are warranted. The paragraph is further amended to delete the reference to appeals because appeals are no longer necessary. The final sentence of (b)(3)(vii) is further amended to correct the citations to other regulations in the subchapter because those citations have been incorrect since revised representation regulations took effect in 1996.

Subpart C—Consultation Rights When the Authority Lacks a Quorum

Section 2426.21 Changes When the Authority Lacks a Quorum

This newly created section, within a newly created subpart, addresses how the FLRA's new delegation of authority for processing representation matters will apply in proceedings that arise when the Authority lacks a quorum, but this section is specific to consultation-rights cases. The Authority lacks a quorum when it has one or zero Members. The FLRA has determined that, in order to avoid delay in the processing of representation matters when the Authority lacks a quorum, under such special and temporary circumstances, RDs are delegated the power and responsibility to process representation matters under 5 U.S.C. 7105(e)(1). But parties involved in representation matters that arise when the Authority lacks a quorum will have the right to file an appeal of an RD's action under 5 U.S.C. 7105(f). That appeal can be addressed only when an Authority quorum is restored, however. Almost all of the provisions of this section closely resemble the regulations that govern the current two-layered structure of RD initial decisions and potential Authority review.

Section 2426.21(a) explains that the section applies to representation matters that arise when the Authority lacks a quorum, and it explains that the Authority lacks a quorum when it has one or zero Members. Further, paragraph (a) explains that the section is intended to operate in a manner consistent with the newly adopted

section I.C. of Appendix B to 5 CFR Chapter IV. That appendix is titled, ''Memorandum Describing the Authority and Assigned Responsibilities of the General Counsel of the Federal Labor Relations Authority,'' and newly adopted section I.C. concerns case handling in representation matters that arise when the Authority lacks a quorum.

Section 2426.21(b) replaces current § 2426.2(b)(3)(vii) in representation matters that arise when the Authority lacks a quorum. Note that the remaining paragraphs of § 2426.2(b), as well as § 2426.2(a), will still apply to representation matters that arise when the Authority lacks a quorum.

Further, § 2426.21(b) is intended to have the same effect as current § 2426.2(b)(3)(vii) (before the revisions discussed in this document). However, § 2426.21(b) changes citations to other regulations in the subchapter because the relevant provisions are being relocated as part of this interim final rule, or because the citations currently in § 2426.2(b)(3)(vii) have been incorrect since revised representation regulations took effect in 1996.

Section 2426.21(c) is intended to have the same effect as current § 2426.12(b)(3)(vii) (before the revisions discussed in this document). However, § 2426.21(c) changes citations to other regulations in the subchapter because the relevant provisions are being relocated as part of this interim final rule, or because the citations currently in § 2426.12(b)(3)(vii) have been incorrect since revised representation regulations took effect in 1996.

PART 2429

Section 2429.2 Transfer and Consolidation of Cases

Section 2429.2 replaces ''Regional Director'' with ''the FLRA'' to allow for the possibility that the Authority will be consolidating or transferring cases.

Section 2429.5 Matters Not Previously Presented; Official Notice

Section 2429.5 is amended so that it no longer applies to matters not previously presented to a ''Regional Director'' or ''Hearing Officer.'' This general regulation is not needed to enforce its prohibitions in representation matters because the same prohibitions have been incorporated into the more-specific regulations that govern applications for review and oppositions (in representation matters that arise when the Authority lacks a quorum)—new § 2422.35(g) and (i), respectively.

Section 2429.7 Subpoenas

Within § 2429.7, paragraphs (c) and (e)(1) are amended to make explicit that those procedural provisions concerning subpoenas in representation matters arising under part 2422 also apply to representation matters arising under part 2426.

Section 2429.12 Service of Process and Papers by the Authority

Section 2429.12(a) is amended to remove a reference to ''decisions and orders of Regional Directors'' because the Authority will issue decisions and orders. However, as discussed earlier in connection with new § 2422.35(m), § 2422.35(m) makes § 2429.12(a), (b), and (c) applicable to RDs' decisions and orders in representation matters that arise when the Authority lacks a quorum.

Section 2429.22 Additional Time for Filing With the FLRA if You Are Filing in Response to a Document That Has Been Served on You by First-Class Mail or Commercial Delivery

Section 2429.22(c) is amended to change the citation in ''applications for review filed under 5 CFR 2422.31'' so that the citation now refers to ''applications for review filed under 5 CFR 2422.35.'' New § 2422.35 will contain the provisions governing applications for review in representation matters that arise when the Authority lacks a quorum.

Section 2429.24 Place and Method of Filing; Acknowledgement

Within § 2429.24, paragraphs (f)(1) and (2) are amended so that their citations refer to the correct paragraphs after the changes in this document take effect.

Paragraphs (f)(7) and (9) change ''Agency statement'' and ''Agency replies'' to ''Agencies' statements'' and ''Agencies' replies'' for grammatical correctness.

III. Procedural Issues and Regulatory Review

The FLRA finds that this interim final rule is not a substantive rule. *Chrysler Corp.* v. *Brown,* 441 U.S. 281, 301–02 (1979) (citing 5 U.S.C. 553(b), (d)) (stating that a substantive or legislative rule is one that ''affect[s] individual rights or obligations'' (quoting *Morton* v. *Ruiz,* 415 U.S. 199, 232 (1974) (internal quotations marks omitted)). The FLRA finds that the revisions in this interim final rule are excepted from 5 U.S.C. 553's requirements for notice and comment as ''interpretative rules, general statements of policy, or rules of agency organization, procedure, or practice,'' 5 U.S.C. 553(b)(A), or because ''good cause'' applies, *id.* 553(b)(B). The revisions necessary to reflect a changed delegation of authority to perform defined duties within the FLRA are rules of ''agency organization.'' *Id.* 553(b)(A). Similarly, the revisions that alter the manner in which parties present their positions to the FLRA are rules of ''agency . . . procedure.'' *Id.* Further, § 553 provides an exception from notice and comment if an agency finds good cause that notice and comment are ''unnecessary.'' *Id.* 553(b)(B). The FLRA has determined that certain revisions are merely minor or technical changes, and ''good cause'' for an exception under § 553(b)(B) exists. Such revisions primarily correct inadvertent errors and omissions, and make minor wording changes to improve clarity and consistency. These technical revisions do not impose any new material requirements or increase compliance obligations.

Nevertheless, the FLRA will accept comments on this interim final rule.

Executive Order 12,866

Pursuant to E.O. 12,866 (''Regulatory Planning and Review''), as amended by E.O. 14,215, a determination must be made whether a regulatory action is significant and therefore subject to review by the Office of Management and Budget (OMB) in accordance with the requirements of the Executive Order.

E.O. 13,563 (''Improving Regulation and Regulatory Review'') supplements and reaffirms the principles, structures, and definitions governing contemporary regulatory review established in E.O. 12,866.

This interim final rule was drafted and reviewed in accordance with E.O. 12,866 and E.O. 13,563. OMB has determined that this interim final rule is not a ''significant regulatory action'' as defined in section 3(f)(1) of E.O. 12,866. This interim final rule will reduce the burden on parties to brief issues twice before obtaining a decision from the Authority and reduce prior limitations on parties seeking review. Moreover, the majority of this interim final rule deals with ''agency organization, management, or personnel matters'' and, therefore, E.O. 12,866 would not apply.

E.O. 14,192 (''Unleashing Prosperity Through Deregulation'') requires that any new incremental costs associated with new regulations shall, to the extent permitted by law, be offset by the elimination of existing costs associated with at least 10 prior regulations. This interim final rule is expected to be a deregulatory action for purposes of E.O. 14,192. This interim final rule is also not significant under E.O. 12,866.

Regulatory Flexibility Act Certification

Pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Chairman of the FLRA has determined that this interim final rule will not have a significant impact on a substantial number of small entities, because this interim final rule applies only to federal agencies, federal employees, and labor organizations representing those employees.

Executive Order 13,132, Federalism

The FLRA is an independent regulatory agency, and as such, is not subject to the requirements of E.O. 13,132.

This interim final rule will not have substantial direct effects on the states, on the relationship between the national government and the states, or on distribution of power and responsibilities among the various levels of government. Therefore, in accordance with E.O. 13,132, this interim final rule does not have sufficient federalism implications to warrant preparation of a federalism assessment.

Executive Order 12,988, Civil Justice Reform

This interim final rule meets the applicable standard set forth in section 3(a) and (b)(2) of Executive Order 12,988.

Executive Order 13,175, Consultation and Coordination With Indian Tribal Governments

This interim final rule does not have tribal implications under E.O. 13,175, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the federal government and Indian tribes, or on the distribution of power and responsibilities between the federal government and Indian tribes.

Executive Order 14,294, Overcriminalization of Federal Regulations

E.O. 14,294 requires agencies promulgating regulations with criminal regulatory offenses potentially subject to criminal enforcement to explicitly describe the conduct subject to criminal enforcement, the authorizing statutes, and the mens rea standard applicable to each element of those offenses. This interim final rule does not impose a criminal regulatory penalty and is thus exempt from E.O. 14,924's requirements.

Unfunded Mandates Reform Act of 1995

This interim final rule will not result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This action is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This interim final rule will not result in an annual effect on the economy of $100,000,000 or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

Paperwork Reduction Act of 1995

The amended regulations contain no additional information collection or record-keeping requirements under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501, *et seq.*

List of Subjects

5 CFR Part 2421

Federal employees, Labor management relations, Administrative practice and procedure, Meaning of Terms as Used in This Subchapter, Federal Labor Relations Authority.

5 CFR Part 2422

Federal employees, Labor management relations, Administrative practice and procedure, Representation Proceedings, Federal Labor Relations Authority.

5 CFR Part 2426

Federal employees, Labor management relations, Administrative practice and procedure, National Consultation Rights and Consultation Rights on Government-wide Rules or Regulations, Federal Labor Relations Authority.

5 CFR Part 2429

Federal employees, Labor management relations, Administrative practice and procedure, Miscellaneous and General Requirements, Federal Labor Relations Authority.

For the reasons stated in the preamble, the Federal Labor Relations Authority amends 5 CFR parts 2421, 2422, 2426, and 2429 as follows:

PART 2421—MEANING OF TERMS AS USED IN THIS SUBCHAPTER

■ 1. The authority citation for part 2421 continues to read as follows:

Authority: 3 U.S.C. 431; 5 U.S.C. 7134.

■ 2. Revise § 2421.6 to read as follows:

§ 2421.6 Regional Director.

Regional Director means the Director of a region of the Authority with geographical boundaries as fixed by the Authority. When used in parts 2422 and 2426 of this subchapter, a *Regional Director* performs duties on behalf of the Authority, consistent with the Authority's assignment of those duties under 5 U.S.C. 7105(d).

■ 3. Revise § 2421.20 to read as follows:

§ 2421.20 Election agreement.

Election agreement means an agreement under part 2422 of this subchapter signed by all the parties, and approved by the FLRA, concerning the details and procedures of a representation election in an appropriate unit.

■ 4. Add § 2421.23 to read as follows:

§ 2421.23 FLRA.

When used in § 2421.20 and in parts 2422 and 2426 of this subchapter, the term *FLRA* means employees or officials of the Authority (including Members of the Authority) or of the Office of the General Counsel (including Regional Directors).

PART 2422—REPRESENTATION PROCEEDINGS

■ 5. The authority citation for part 2422 continues to read as follows:

Authority: 3 U.S.C. 431; 5 U.S.C. 7134.

■ 6. Amend § 2422.3 by revising paragraph (c) to read as follows:

§ 2422.3 What information should you include in your petition?

* * * * *

(c) *Showing of interest supporting a representation petition (defined at 5 CFR 2421.16).* When filing a petition requiring a showing of interest, you must:

(1) So indicate on the petition form;

(2) Submit with the petition a showing of interest of not less than thirty percent (30%) of the employees in the unit involved in the petition; and

(3) Include an alphabetical list of the names constituting the showing of interest.

* * * * *

■ 7. Revise § 2422.4 to read as follows:

§ 2422.4 What service requirements must you meet when filing a petition or other documents?

You must serve every petition, motion, brief, request, challenge, or written objection—as well as all supporting documentation—on all parties affected by issues raised in the filing. But the service should *not* include any of the following: a showing of interest; evidence supporting challenges to the validity of a showing of interest; evidence supporting objections to an election; the names of voters or attendees at an election to effectuate a merger or change in affiliation; or other evidence that would reveal the identity of an employee engaged in an election proceeding. You must submit a statement of service to the Regional Director.

■ 8. Amend § 2422.5 by revising paragraph (c) to read as follows:

§ 2422.5 Where do you file petitions?

* * * * *

(c) *Date of filing.* When a Regional Director receives a petition, it is deemed filed, subject to the following conditions. A petition received electronically or by facsimile on a business day—even if it is received outside a Region's business hours—is deemed filed on the day on which it is received (either by the Regional Office fax machine or by the eFiling system), using the local time in the Region where it is filed. A petition received electronically or by facsimile on a non-business day is deemed filed on the next business day after it is received (either by the Regional Office fax machine or by the eFiling system), using the local time in the Region where it is filed. When a Region receives a petition by any other method during its business hours, it is deemed filed that day. But when a Region receives a petition by any other method after the close of the business day, or on a non-business day, it will be deemed filed on the next business day after it is received. The business hours for each of the Regional Offices are set forth at *https://www.flra.gov.*

■ 9. Amend § 2422.6 by revising paragraph (a) to read as follows:

§ 2422.6 How are parties notified of the filing of a petition?

(a) *Notification to parties.* After you file a petition, the Regional Director will notify any labor organization, agency, or activity identified as being affected by issues raised by the petition, that a petition has been filed. The Regional Director will also make reasonable efforts to identify and notify any other party affected by the issues raised by the petition. However, the Regional Director's reasonable efforts do not relieve you of your own notification and service obligations.

* * * * *

■ 10. Amend § 2422.7 by revising paragraph (a) to read as follows:

§ 2422.7 Will an activity or agency post a notice of filing of a petition?

(a) *Posting notice of petition.* After you file a petition, when appropriate, the FLRA will direct the agency or activity to post copies of a notice to all employees in places where notices are normally posted for the employees affected by issues raised in the petition and/or distribute copies of a notice in a manner by which notices are normally distributed.

* * * * *

■ 11. Amend § 2422.9 by revising paragraph (b) to read as follows:

§ 2422.9 How is the adequacy of a showing of interest determined?

* * * * *

(b) *FLRA investigation of showing of interest and Decision and Order.* The FLRA will conduct an investigation if deemed appropriate. An FLRA determination that the showing of interest is adequate is not subject to collateral or direct attack. If the FLRA determines that a showing of interest is inadequate, then the FLRA will issue a Decision and Order dismissing the petition, or denying the request to intervene.

■ 12. Amend § 2422.10 by revising paragraphs (b) and (e) to read as follows:

§ 2422.10 How do you challenge the validity of a showing of interest?

* * * * *

(b) *Validity challenge.* The FLRA or any party may challenge the validity of a showing of interest.

* * * * *

(e) *FLRA investigation and Decision and Order.* The FLRA will conduct an investigation if deemed appropriate. An FLRA determination that a showing of interest is valid is not subject to collateral or direct attack. If the FLRA finds that the showing of interest is not valid, the FLRA will issue a Decision and Order dismissing the petition, or denying the request to intervene.

■ 13. Amend § 2422.12 by revising the section heading and paragraphs (a) through (e), (g), and (h) to read as follows:

§ 2422.12 What circumstances does the FLRA consider to determine whether your petition is timely filed?

(a) *Election bar.* Where there is no certified exclusive representative, a petition seeking an election will not be considered timely if filed within twelve (12) months of a valid election, including a decertification election, involving the same unit or a subdivision of the same unit.

(b) *Certification bar.* Where there is a certified exclusive representative of employees, a petition seeking an election, including a decertification election, will not be considered timely if filed within twelve (12) months after the certification—with or without an election—of the exclusive representative of the employees in an appropriate unit. If a collective bargaining agreement covering the claimed unit is pending agency head review under 5 U.S.C. 7114(c) or is in effect, paragraphs (c), (d), or (e) of this section apply.

(c) *Bar during 5 U.S.C. 7114(c) agency head review.* A petition seeking an election, including a decertification election, will not be considered timely if filed during the period of agency head review under 5 U.S.C. 7114(c). This bar expires upon either the passage of thirty (30) days absent agency head action, or upon the date of any timely agency head action.

(d) *Contract bar where the contract is for three (3) years or less.* Where a collective bargaining agreement is in effect covering the claimed unit and has a term of three (3) years or less from the date it became effective, a petition seeking an election, including a decertification election, will be considered timely if filed not more than one hundred and five (105) and not less than sixty (60) days before the expiration of the agreement.

(e) *Contract bar where the contract is for more than three (3) years.* Where a collective bargaining agreement is in effect covering the claimed unit and has a term of more than three (3) years from the date on which it became effective, a petition seeking an election, including a decertification election, will be considered timely if filed not more than one hundred and five (105) and not less than sixty (60) days before the expiration of the initial three (3) year period, and any time after the expiration of the initial three (3) year period.

* * * * *

(g) *Premature extension.* Where a collective bargaining agreement with a term of three (3) years or less has been extended before sixty (60) days before its expiration date, the extension will not serve as a basis for dismissal of a petition seeking an election, including a decertification election, filed in accordance with this section.

(h) *Contract requirements.* Collective bargaining agreements, including agreements that go into effect under 5

U.S.C. 7114(c) and those that automatically renew without further action by the parties, are not a bar to a petition seeking an election, including a decertification election, under this section unless a clear effective date, renewal date where applicable, duration, and termination date are ascertainable from the agreement and relevant accompanying documentation.

■ 14. Revise § 2422.13 to read as follows:

§ 2422.13 How are issues raised by your petition resolved?

(a) *Meetings before filing a representation petition.* All parties affected by the representation issues that may be raised in a petition are encouraged to meet before the filing of the petition to discuss their interests and narrow and resolve the issues. If requested by all parties, an FLRA representative will participate in these meetings.

(b) *Meetings to narrow and resolve the issues after the petition is filed.* The FLRA may require all affected parties to meet to narrow and resolve the issues raised in the petition.

■ 15. Amend § 2422.14 by revising the section heading and paragraphs (a) and (b) to read as follows:

§ 2422.14 What is the effect of your withdrawal or the FLRA's dismissal of a petition?

(a) *Withdrawal/dismissal less than sixty (60) days before contract expiration.* (1) If you withdraw a timely filed petition seeking an election, including a decertification election, or the FLRA dismisses the petition less than sixty (60) days before the existing agreement between the incumbent exclusive representative and the agency or activity expires, or any time after the agreement expires, another petition from you that seeks an election will not be considered timely if filed within a ninety (90) day period beginning with either:

(i) The date on which the FLRA approves the withdrawal; or

(ii) The date on which the FLRA dismisses the petition.

(2) Other pending petitions that have been timely filed under this part will continue to be processed.

(b) *Withdrawal by petitioner.* If you submit a withdrawal request for a petition seeking an election, including a decertification election, that the Regional Director receives after the Notice of Hearing issues or after approval of an election agreement, whichever occurs first, you will be barred from filing another petition seeking an election for the same unit or any subdivision of the unit for six (6) months from the date on which the FLRA approves the withdrawal.

* * * * *

■ 16. Revise § 2422.15 to read as follows:

§ 2422.15 Do parties have a duty to provide information and cooperate after a petition is filed?

(a) *Relevant information.* After you file a petition, all parties must, upon request of the FLRA, provide the FLRA and serve all parties affected by issues raised in the petition with information concerning parties, issues, and agreements raised in or affected by the petition.

(b) *Inclusions and exclusions.* After you file a petition seeking an election, the FLRA may direct the agency or activity to provide the Regional Director and all parties affected by issues raised in the petition with a current alphabetized list of employees and job classifications included in and/or excluded from the existing or claimed unit affected by issues raised in the petition.

(c) *Cooperation.* All parties are required to cooperate in every aspect of the representation process. This obligation includes cooperating fully with the FLRA, submitting all required and requested information, and participating in prehearing conferences and hearings. The FLRA may take appropriate action, including dismissal of the petition or denial of intervention, if parties fail to cooperate in the representation process.

■ 17. Amend § 2422.16 by revising the section heading and paragraphs (b) and (c) to read as follows:

§ 2422.16 May parties enter into election agreements, and if they do not, will the FLRA direct an election?

* * * * *

(b) *FLRA directed election.* If the parties are unable to agree on procedural matters, specifically, the eligibility period, method of election, dates, hours, or locations of the election, the FLRA will decide election procedures and issue a Direction of Election, without prejudice to the rights of a party to file objections to the procedural conduct of the election.

(c) *Opportunity for a hearing.* Before directing an election, the FLRA will provide affected parties an opportunity for a hearing on non-procedural matters, and then may:

(1) Issue a Decision and Order; or

(2) If there are no questions regarding unit appropriateness, issue a Direction of Election without a Decision and Order.

* * * * *

■ 18. Amend § 2422.17 by revising the section heading and paragraphs (a) and (b), and removing paragraph (d) to read as follows:

§ 2422.17 What are a Notice of Hearing and prehearing conference?

(a) *Purpose of a Notice of Hearing.* The FLRA may issue a Notice of Hearing involving any issues raised in the petition.

(b) *Contents.* The Notice of Hearing will advise affected parties about the hearing. The FLRA will also notify affected parties of the issues raised in the petition and establish a date for the prehearing conference.

* * * * *

■ 19. Amend § 2422.18 by revising paragraphs (c) and (d) to read as follows:

§ 2422.18 What is the purpose of a representation hearing and what procedures are followed?

* * * * *

(c) *Hearing Officer.* The FLRA assigns a Hearing Officer to conduct a hearing. Another Hearing Officer may be substituted for the presiding Hearing Officer at any time.

(d) *Transcript.* An official reporter will make the official transcript of the hearing. Copies of the official transcript may be examined in the appropriate Regional Office during normal business hours. Parties should contact the official hearing reporter to purchase copies of the official transcript.

■ 20. Revise § 2422.19 to read as follows:

§ 2422.19 When is it appropriate for a party to file a motion at a representation hearing?

(a) *Purpose of a motion.* After the FLRA issues a Notice of Hearing in a representation proceeding, a party who seeks a ruling, an order, or relief must do so by filing or raising a motion stating the ruling, order, or relief sought and the grounds in support.

(b) *Prehearing motions.* Parties must file prehearing motions in writing with the FLRA. Any response must be filed with the FLRA within five (5) days after service of the motion.

(c) *Motions made at the hearing.* During the hearing, parties may make oral motions on the record to the Hearing Officer unless required to be in writing. Responses may be oral on the record or in writing, but must be provided before the hearing closes, absent permission of the Hearing Officer.

(d) *Posthearing motions.* Parties must file motions made after the hearing

closes in writing with the FLRA. Any response to a posthearing motion must be filed with the FLRA within five (5) days after service of the motion.

■ 21. Amend § 2422.20 by revising paragraph (d) to read as follows:

§ 2422.20 What rights do parties have at a hearing?

* * * * *

(d) *Briefs.* A party will be given an opportunity to file briefs with the FLRA.

(1) A party must file an initial brief with the FLRA within thirty (30) days from the close of the hearing.

(2) Within ten (10) days from a party's filing of an initial brief, any other party may file with the FLRA a reply brief concerning the initial brief.

(3) A request for an extension of time to file a brief must be in writing and must be received by the FLRA no later than five (5) days before the date the brief is due.

■ 22. Revise § 2422.21 to read as follows:

§ 2422.21 What are the duties and powers of the Hearing Officer?

(a) *Duties of the Hearing Officer.* The Hearing Officer receives evidence and inquires fully into the relevant and material facts concerning the matters that are the subject of the hearing.

(b) *Powers of the Hearing Officer.* After the FLRA assigns a case to a Hearing Officer and before the close of the hearing, the Hearing Officer may take any action necessary to schedule, conduct, continue, control, and regulate the hearing, including ruling on motions when appropriate.

■ 23. Amend § 2422.23 by revising paragraphs (a) through (c) and (e) through (h) to read as follows:

§ 2422.23 What election procedures are followed?

(a) *FLRA conducts or supervises election.* The FLRA will decide to either conduct or supervise the election. In supervised elections, agencies will perform all acts as specified in the election agreement or Direction of Election.

(b) *Notice of Election.* Before the election, the activity posts a Notice of Election, prepared by the FLRA. The notice is posted in places where notices to employees are customarily posted and/or distributed in a manner by which notices are normally distributed. The Notice of Election contains the details and procedures of the election, including the appropriate unit; the eligibility period; the date(s), hour(s), and location(s) of the election; a sample ballot; and the effect of the vote.

(c) *Sample ballot.* The reproduction of any document that claims to be a copy of the official ballot and that suggests either directly or indirectly to employees that the FLRA endorses a particular choice in the election may constitute grounds for setting aside an election if objections are filed under § 2422.26.

* * * * *

(e) *Intervenor withdraws from ballot.* When two or more labor organizations are included as choices in an election, an intervening labor organization may, before the approval of an election agreement or before the Direction of Election, file a written request with the Regional Director to remove its name from the ballot. If the Regional Director does not receive the request before the approval of an election agreement or before the Direction of Election, the intervening labor organization will remain on the ballot, unless the parties and the FLRA agree otherwise.

(f) *Incumbent withdrawal from ballot in an election to decertify an incumbent representative.* When there is no intervening labor organization, an election to decertify an incumbent exclusive representative is not held if the incumbent provides the Regional Director with a written disclaimer of any representational interest in the unit. When there is an intervenor, an election is held if the intervening labor organization proffers a thirty percent (30%) showing of interest within the time period established by the FLRA.

(g) *Petitioner withdraws from ballot in an election.* When there is no intervening labor organization, an election is not held if the petitioner provides the Regional Director with a written request to withdraw the petition. When there is an intervenor, an election is held if the intervening labor organization presents a thirty percent (30%) showing of interest within the time period established by the FLRA.

(h) *Observers.* Subject to the Regional Director's approval, all parties may select representatives to observe at the polling location(s).

(1) A party who wants to name observers must file a written request with specific names with the Regional Director. This request must be filed at least fifteen (15) days before an election. The Regional Director may grant an extension of time to file a request for named observers for good cause where a party requests an extension or on the Regional Director's own motion. The request must name and identify the observers requested.

(2) An agency or activity may use as its observers any employees who are not eligible to vote in the election, except:

(i) Supervisors or management officials;

(ii) Employees who have any official connection with any of the labor organizations involved; or

(iii) Non-employees of the Federal government.

(3) A labor organization may use as its observers any employees eligible to vote in the election, except:

(i) Employees on leave without pay status who are working for the labor organization involved; or

(ii) Employees who hold an elected office in the labor organization.

(4) Within five (5) days after service of the request for observers, any party that objects must file an objection with the Regional Director that states the reasons.

(5) The FLRA's ruling on requests for and objections to observers is final and binding.

■ 24. Revise § 2422.24 to read as follows:

§ 2422.24 What are challenged ballots?

(a) *Filing challenges.* A party or the FLRA may, for good cause, challenge the eligibility of any person to participate in the election.

(b) *Challenged ballot procedure.* An individual whose eligibility to vote is in dispute will be given the opportunity to vote a challenged ballot. If the parties and the FLRA are unable to resolve the challenged ballot(s) before the tally of ballots, then the FLRA will impound and preserve the unresolved challenged ballot(s) until the FLRA makes a determination, if necessary.

■ 25. Amend § 2422.25 by revising the section heading and paragraphs (a) and (b) to read as follows:

§ 2422.25 When does the FLRA tally the ballots?

(a) *Tallying the ballots.* When the election is concluded, the FLRA will tally the ballots.

(b) *Service of the tally.* When the tally is completed, the FLRA will serve the tally of ballots on the parties in accordance with the election agreement or direction of election.

* * * * *

■ 26. Amend § 2422.26 by revising paragraph (a) to read as follows:

§ 2422.26 How are objections to the election processed?

(a) *Filing objections to the election.* Any party may file objections to the procedural conduct of the election or to conduct that may have improperly affected the results of the election. A party must file an objection and the Regional Director must receive it within five (5) days after the tally of ballots has been served. Any objections must be timely regardless of whether the

challenged ballots are sufficient in number to affect the results of the election. The objections must be supported by clear and concise reasons.

* * * * *

■ 27. Amend § 2422.27 by revising the section heading and paragraphs (a) and (c), and removing paragraphs (d) and (e) to read as follows:

§ 2422.27 How does the FLRA address determinative challenged ballots and objections?

(a) *Investigation.* The FLRA investigates objections and/or determinative challenged ballots that are sufficient in number to affect the results of the election.

* * * * *

(c) *FLRA action.* After investigation, the FLRA takes appropriate action consistent with § 2422.30.

■ 28. Amend § 2422.28 by revising paragraph (a) to read as follows:

§ 2422.28 When is a runoff election required?

(a) *When a runoff may be held.* A runoff election is required in an election involving at least three (3) choices, one of which is ''no union'' or ''neither,'' when no choice receives a majority of the valid ballots cast. However, a runoff may not be held until the FLRA has ruled on objections to the election and determinative challenged ballots.

* * * * *

■ 29. Revise § 2422.29 to read as follows:

§ 2422.29 How does the FLRA address an inconclusive election?

(a) *Inconclusive elections.* An inconclusive election is one where challenged ballots are not sufficient to affect the outcome of the election and one of the following occurs:

(1) The ballot provides for at least three (3) choices, one of which is ''no union'' or ''neither,'' and the votes are equally divided; or

(2) The ballot provides for at least three (3) choices, the choice receiving the highest number of votes does not receive a majority, and at least two other choices receive the next highest and same number of votes; or

(3) When a runoff ballot provides for a choice between two labor organizations and results in the votes being equally divided; or

(4) When the FLRA determines that there have been significant procedural irregularities.

(b) *Eligibility to vote in a rerun election.* The FLRA uses the latest payroll period to determine eligibility to vote in a rerun election.

(c) *Ballot.* If the FLRA determines that the election is inconclusive, then the election will be rerun with all the choices that appeared on the original ballot.

(d) *Number of reruns.* There will be only one rerun of an inconclusive election. If the rerun results in another inconclusive election, then the tally of ballots will show a majority of valid ballots has not been cast for any choice, and the FLRA will issue a certification of results. If necessary, a runoff may be held when an original election is rerun.

■ 30. Revise § 2422.30 to read as follows:

§ 2422.30 When does the FLRA investigate a petition, issue a Notice of Hearing, take action, and issue a Decision and Order?

(a) *FLRA investigation.* The FLRA will investigate the petition and any other matter as the FLRA deems necessary.

(b) *FLRA Notice of Hearing.* The FLRA will issue a Notice of Hearing to inquire into any matter about which a material issue of fact exists, and any time there is reasonable cause to believe a question exists regarding unit appropriateness.

(c) *FLRA action.* After investigation or hearing, the FLRA can direct an election, or approve an election agreement, or issue a Decision and Order.

§ 2422.31 [Removed and Reserved]

■ 31. Remove and reserve § 2422.31.

■ 32. Revise § 2422.32 to read as follows:

§ 2422.32 When does the FLRA issue a certification or a revocation of certification?

(a) *Certifications.* The FLRA issues an appropriate certification when:

(1) After an election, runoff, or rerun:

(i) No party files an objection or challenged ballots are not determinative; or

(ii) The FLRA decides and resolves objections and determinative challenged ballots; or

(2) The FLRA issues a Decision and Order requiring a certification.

(b) *Revocations.* Without prejudice to any rights and obligations that may exist under the Statute, the FLRA revokes a recognition or certification, as appropriate, and provides a written statement of reasons when:

(1) An incumbent exclusive representative files, during a representation proceeding, a disclaimer of any representational interest in the unit; or

(2) A petition is filed and, due to a substantial change in the character and scope of the unit, the unit is no longer appropriate and an election is not warranted.

■ 33. Revise § 2422.33 to read as follows:

§ 2422.33 Relief under part 2423 of this chapter.

Remedial relief that was or could have been obtained as a result of a motion, objection, or challenge filed or raised under this subpart, may not be the basis for similar relief under part 2423 of this chapter.

■ 34. Revise § 2422.34 to read as follows:

§ 2422.34 What are the parties' rights and obligations when a representation proceeding is pending?

(a) *Existing recognitions, agreements, and obligations under the Statute.* (1) Except for the circumstances described in paragraph (a)(2) of this section, when a representation proceeding is pending before the FLRA, parties must maintain existing recognitions, follow the terms and conditions of existing collective bargaining agreements, and fulfill all other representational and bargaining responsibilities under the Statute.

(2) The filing of a motion for reconsideration or motion for a stay does not relieve parties of their obligations to comply with a final decision or order of the Authority, unless so ordered by the Authority.

(b) *Unit status of individual employees.* A party may take action based on its position regarding the bargaining unit status of individual employees, under 3 U.S.C. 431(d)(2), and 5 U.S.C. 7103(a)(2), 7112(b), and 7112(c), but its actions may be challenged, reviewed, and remedied where appropriate.

■ 35. Add § 2422.35 to read as follows:

§ 2422.35 How do representation proceedings change when the Authority lacks a quorum?

(a) *When the Authority lacks a quorum.* The Authority lacks a quorum when the Authority has one or zero Members. The provisions of this section apply to proceedings that arise when the Authority lacks a quorum, consistent with section I.C. of appendix B to 5 CFR chapter XIV.

(b) *Withdrawal/dismissal of a petition less than sixty (60) days before contract expiration.* (1) Instead of § 2422.14(a), this paragraph (b) applies to proceedings that arise when the Authority lacks a quorum.

(2) If you withdraw a timely filed petition seeking an election, including a decertification election, or the FLRA dismisses the petition less than sixty (60) days before the existing agreement between the incumbent exclusive representative and the agency or activity

expires, or any time after the agreement expires, another petition from you that seeks an election will not be considered timely if filed within a ninety (90) day period beginning with either:

(i) The date on which the FLRA approves the withdrawal; or

(ii) The date on which the Authority dismisses the petition; or

(iii) The date on which the Regional Director dismisses the petition when the Authority does not receive an application for review; or

(iv) The date on which the Authority rules on an application for review.

(3) Other pending petitions that have been timely filed under this part will continue to be processed.

(c) *No interlocutory appeal of hearing determination.* No party may file an interlocutory appeal with the Authority concerning a Regional Director's determination of whether to issue a Notice of Hearing.

(d) *Appeal of Regional Director's Decision and Order.* A party may file with the Authority an application for review of a Regional Director's Decision and Order.

(e) *Contents of the record for appeal.* All material submitted to, and considered by, the Regional Director during an investigation becomes part of the record. In addition, when a hearing has been held, the transcript and all material entered in evidence, as well as any posthearing briefs, become part of the record.

(f) *Filing an application for review.* A party must file an application for review with the Authority within sixty (60) days of a Regional Director's Decision and Order. The sixty (60) day time limit under 5 U.S.C. 7105(f) may not be extended or waived. The filing party must serve a copy on the Regional Director and all other parties, and must also file a statement of service with the Authority.

(g) *Contents of the application for review.* An application for review must be sufficient for the Authority to rule on the application without looking at the record. However, the Authority may, in its discretion, examine the record in evaluating the application. An application must specify the matters and rulings to which exception is taken, include a summary of evidence relating to any issue raised in the application, and cite specific pages in the transcript if a hearing was held. An application may not raise any issue or rely on any facts not timely presented to the Hearing Officer or Regional Director.

(h) *Review.* The Authority may grant an application for review only when the application demonstrates that review is warranted on one or more of the following grounds:

(1) The decision raises an issue for which there is an absence of precedent;

(2) Established law or policy warrants reconsideration; or,

(3) There is a genuine issue over whether the Regional Director has:

(i) Failed to apply established law;

(ii) Committed a prejudicial procedural error; or

(iii) Committed a clear and prejudicial error concerning a substantial factual matter.

(i) *Opposition.* A party may file with the Authority an opposition to an application for review within ten (10) days after the party is served with the application. An opposition may not raise any issue or rely on any facts not timely presented to the Hearing Officer or Regional Director. The opposing party must serve a copy on the Regional Director and all other parties, and must also file a statement of service with the Authority.

(j) *Regional Director's Decision and Order becomes the Authority's action.* A Decision and Order of a Regional Director becomes the action of the Authority when:

(1) No party files an application for review with the Authority within sixty (60) days after the date of the Regional Director's Decision and Order; or

(2) A party files a timely application for review with the Authority and, while the Authority has a quorum, the Authority does not undertake to grant review of the Regional Director's Decision and Order within sixty (60) days; or

(3) A party files a timely application for review with the Authority and, after the Authority regains a quorum, the Authority denies an application for review of the Regional Director's Decision and Order.

(k) *Authority grant of review and stay.* The Authority may rule on the issue(s) in an application for review in its order granting the application for review. Neither a party filing, nor the Authority granting, an application for review will stay any action ordered by the Regional Director unless specifically ordered by the Authority.

(l) *Briefs if review is granted.* If the Authority does not rule on the issue(s) in the application for review in its order granting review, the Authority may, in its discretion, give the parties an opportunity to file briefs. The briefs will be limited to the issue(s) referenced in the Authority's order granting review. A party filing such a brief must serve a copy on the Regional Director and all other parties, and must also file a statement of service with the Authority.

(m) *Service of process and Regional Directors' Decisions and Orders.* Decisions and Orders of Regional Directors are subject to the requirements of § 2429.12(a), (b), and (c) of this subchapter.

(n) *Certifications.* Instead of § 2422.32(a), this paragraph (n) applies to proceedings that arise when the Authority lacks a quorum. The Regional Director issues an appropriate certification when:

(1) After an election, runoff, or rerun,

(i) No party files an objection or challenged ballots are not determinative, or

(ii) The Regional Director decides and resolves objections and determinative challenged ballots; or

(2) The Regional Director issues a Decision and Order requiring a certification, and the Decision and Order becomes the action of the Authority under paragraph (j) of this section; or

(3) The Authority directs the issuance of a certification.

PART 2426—NATIONAL CONSULTATION RIGHTS AND CONSULTATION RIGHTS ON GOVERNMENT-WIDE RULES OR REGULATIONS

■ 36. The authority citation for part 2426 continues to read as follows:

Authority: 5 U.S.C. 7134.

■ 37. Amend § 2426.2 by revising paragraph (b) to read as follows:

§ 2426.2 Requests; petition and procedures for determination of eligibility for national consultation rights.

* * * * *

(b) Issues relating to a labor organization's eligibility for, or continuation of, national consultation rights shall be referred for determination as follows:

(1) A petition for determination of the eligibility of a labor organization for national consultation rights under criteria set forth in § 2426.1 may be filed by a labor organization.

(2) A petition for determination of eligibility for national consultation rights shall be submitted on a form prescribed by the FLRA and shall set forth the following information:

(i) Name and affiliation, if any, of the petitioner and its address, telephone number, and email address;

(ii) A statement that the petitioner has submitted to the agency or the primary national subdivision and to the Assistant Secretary a roster of its officers and representatives, a copy of its constitution and bylaws, and a statement of its objectives;

(iii) A declaration by the person signing the petition, under the penalties of the Criminal Code (18 U.S.C. 1001), that its contents are true and correct to the best of such person's knowledge and belief;

(iv) The signature of the petitioner's representative, including such person's title, telephone number, and email address;

(v) The name, address, telephone number, and email address of the agency or primary national subdivision in which the petitioner seeks to obtain or retain national consultation rights, and the persons to contact and their titles, if known;

(vi) A showing that the petitioner holds adequate exclusive recognition as required by § 2426.1; and

(vii) A statement as appropriate:

(A) That such showing has been made to and rejected by the agency or primary national subdivision, together with a statement of the reasons for rejection, if any, offered by that agency or primary national subdivision;

(B) That the agency or primary national subdivision has served notice of its intent to terminate existing national consultation rights, together with a statement of the reasons for termination; or

(C) That the agency or primary national subdivision has failed to respond in writing to a request for national consultation rights made under § 2426.2(a) within fifteen (15) days after the date the request is served on the agency or primary national subdivision.

(3) The following paragraphs (b)(3)(i) through (vii) of this section govern petitions filed under this section:

(i) A petition for determination of eligibility for national consultation rights shall be filed with the Regional Director for the region wherein the headquarters of the agency or the agency's primary national subdivision is located.

(ii) A statement of any other relevant facts and of all correspondence shall be filed.

(iii) Copies of the petition together with the attachments referred to in paragraph (b)(3)(ii) of this section shall be served by the petitioner on all known interested parties, and a written statement of such service shall be filed with the Regional Director.

(iv) A petition shall be filed within thirty (30) days after the service of written notice by the agency or primary national subdivision of its refusal to accord national consultation rights pursuant to a request under § 2426.2(a) or its intention to terminate existing national consultation rights. If an agency or a primary national subdivision fails to respond in writing to a request for national consultation rights made under § 2426.2(a) within fifteen (15) days after the date the request is served on the agency or primary national subdivision, a petition shall be filed within thirty (30) days after the expiration of such fifteen (15) day period.

(v) If an agency or primary national subdivision wishes to terminate national consultation rights, notice of its intention to do so shall include a statement of its reasons and shall be served not less than thirty (30) days prior to the intended termination date. A labor organization, after receiving such notice, may file a petition within the time period prescribed, and thereby cause to be stayed further action by the agency or primary national subdivision pending disposition of the petition. If no petition has been filed within the provided time period, an agency or primary national subdivision may terminate national consultation rights.

(vi) Within fifteen (15) days after the receipt of a copy of the petition, the agency or primary national subdivision shall file a response thereto with the Regional Director raising any matter which is relevant to the petition.

(vii) The FLRA shall make such investigations as the FLRA deems necessary and thereafter shall issue and serve on the parties a Decision and Order with respect to the eligibility for national consultation rights. The FLRA, if appropriate, may cause a Notice of Hearing to be issued to all interested parties where substantial factual issues exist warranting a hearing. Hearings shall be conducted by a Hearing Officer in accordance with §§ 2422.17 through 2422.22 of this subchapter, and after the close of the hearing, the FLRA shall issue a Decision and Order in accordance with § 2422.30 of this subchapter.

■ 38. Amend § 2426.12 by revising paragraph (b) to read as follows:

§ 2426.12 Requests; petition and procedures for determination of eligibility for consultation rights on Government-wide rules or regulations.

* * * * *

(b) Issues relating to a labor organization's eligibility for, or continuation of, consultation rights on Government-wide rules or regulations shall be referred for determination as follows:

(1) A petition for determination of the eligibility of a labor organization for consultation rights under criteria set forth in § 2426.11 may be filed by a labor organization.

(2) A petition for determination of eligibility for consultation rights shall be submitted on a form prescribed by the FLRA and shall set forth the following information:

(i) Name and affiliation, if any, of the petitioner and its address, telephone number, and email address;

(ii) A statement that the petitioner has submitted to the agency and to the Assistant Secretary a roster of its officers and representatives, a copy of its constitution and bylaws, and a statement of its objectives;

(iii) A declaration by the person signing the petition, under the penalties of the Criminal Code (18 U.S.C. 1001), that its contents are true and correct to the best of such person's knowledge and belief;

(iv) The signature of the petitioner's representative, including such person's title, telephone number, and email address;

(v) The name, address, telephone number, and email address of the agency in which the petitioner seeks to obtain or retain consultation rights on Government-wide rules or regulations, and the persons to contact and their titles, if known;

(vi) A showing that the petitioner meets the criteria as required by § 2426.11; and

(vii) A statement, as appropriate:

(A) That such showing has been made to and rejected by the agency, together with a statement of the reasons for rejection, if any, offered by that agency;

(B) That the agency has served notice of its intent to terminate existing consultation rights on Government-wide rules or regulations, together with a statement of the reasons for termination; or

(C) That the agency has failed to respond in writing to a request for consultation rights on Government-wide rules or regulations made under § 2426.12(a) within fifteen (15) days after the date the request is served on the agency.

(3) The following paragraphs (b)(3)(i) through (vii) of this section govern petitions filed under this section:

(i) A petition for determination of eligibility for consultation rights on Government-wide rules or regulations shall be filed with the Regional Director for the region wherein the headquarters of the agency is located.

(ii) A statement of any other relevant facts and of all correspondence shall be filed.

(iii) Copies of the petition together with the attachments referred to in paragraph (b)(3)(ii) of this section shall be served by the petitioner on the agency, and a written statement of such

service shall be filed with the Regional Director.

(iv) A petition shall be filed within thirty (30) days after the service of written notice by the agency of its refusal to accord consultation rights on Government-wide rules or regulations pursuant to a request under § 2426.12(a) or its intention to terminate such existing consultation rights. If an agency fails to respond in writing to a request for consultation rights on Government-wide rules or regulations made under § 2426.12(a) within fifteen (15) days after the date the request is served on the agency, a petition shall be filed within thirty (30) days after the expiration of such fifteen (15) day period.

(v) If an agency wishes to terminate consultation rights on Government-wide rules or regulations, notice of its intention to do so shall be served not less than thirty (30) days prior to the intended termination date. A labor organization, after receiving such notice, may file a petition within the time period prescribed, and thereby cause to be stayed further action by the agency pending disposition of the petition. If no petition has been filed within the provided time period, an agency may terminate such consultation rights.

(vi) Within fifteen (15) days after the receipt of a copy of the petition, the agency shall file a response thereto with the Regional Director raising any matter which is relevant to the petition.

(vii) The FLRA shall make such investigations as the FLRA deems necessary and thereafter shall issue and serve on the parties a Decision and Order with respect to the eligibility for consultation rights. The FLRA, if appropriate, may cause a Notice of Hearing to be issued where substantial factual issues exist warranting a hearing. Hearings shall be conducted by a Hearing Officer in accordance with §§ 2422.17 through 2422.22 of this subchapter, and after the close of the hearing, the FLRA shall issue a Decision and Order in accordance with § 2422.30 of this subchapter.

■ 39. Add subpart C, consisting of § 2426.21, to read as follows:

Subpart C—Consultation Rights When the Authority Lacks a Quorum

§ 2426.21 Changes when the Authority lacks a quorum.

(a) The Authority lacks a quorum when the Authority has one or zero Members. The provisions of this section apply to proceedings that arise when the Authority lacks a quorum, consistent with section I.C. of appendix B to 5 CFR chapter XIV.

(b) Instead of § 2426.2(b)(3)(vii), this paragraph (b) applies to proceedings that arise when the Authority lacks a quorum. The Regional Director shall make such investigations as the Regional Director deems necessary and thereafter shall issue and serve on the parties a Decision and Order with respect to the eligibility for national consultation rights that shall be final: *Provided, however,* that an application for review of the Regional Director's Decision and Order may be filed with the Authority in accordance with the procedure set forth in § 2422.35 of this subchapter. A determination by the Regional Director to issue a Notice of Hearing shall not be subject to the filing of an application for review. The Regional Director, if appropriate, may cause a Notice of Hearing to be issued to all interested parties where substantial factual issues exist warranting a hearing. Hearings shall be conducted by a Hearing Officer in accordance with §§ 2422.17 through 2422.22 of this subchapter, and after the close of the hearing, the Regional Director shall issue a Decision and Order in accordance with § 2422.30 of this subchapter.

(c) Instead of § 2426.12(b)(3)(vii), this paragraph (c) applies to proceedings that arise when the Authority lacks a quorum. The Regional Director shall make such investigations as the Regional Director deems necessary and thereafter shall issue and serve on the parties a Decision and Order with respect to the eligibility for consultation rights that shall be final: *Provided, however,* that an application for review of the Regional Director's Decision and Order may be filed with the Authority in accordance with the procedure set forth in § 2422.35 of this subchapter. A determination by the Regional Director to issue a Notice of Hearing shall not be subject to the filing of an application for review. The Regional Director, if appropriate, may cause a Notice of Hearing to be issued where substantial factual issues exist warranting a hearing. Hearings shall be conducted by a Hearing Officer in accordance with §§ 2422.17 through 2422.22 of this subchapter, and after the close of the hearing, the Regional Director shall issue a Decision and Order in accordance with § 2422.30 of this subchapter.

PART 2429—MISCELLANEOUS AND GENERAL REQUIREMENTS

■ 40. The authority citation for part 2429 continues to read as follows:

Authority: 5 U.S.C. 7134; § 2429.18 also issued under 28 U.S.C. 2112(a).

■ 41. Revise § 2429.2 to read as follows:

§ 2429.2 Transfer and consolidation of cases.

In any matter arising pursuant to parts 2422, 2423, and 2426 of this subchapter, whenever it appears necessary in order to effectuate the purposes of the Federal Service Labor-Management Relations Statute or to avoid unnecessary costs or delay, the FLRA may consolidate cases or may transfer cases to another region, for the purpose of investigation or consolidation with any proceedings which may have been instituted in, or transferred to, such region.

■ 42. Revise § 2429.5 to read as follows:

§ 2429.5 Matters not previously presented; official notice.

The Authority will not consider any evidence, factual assertions, arguments (including affirmative defenses), requested remedies, or challenges to an awarded remedy that could have been, but were not, presented in the proceedings before the Administrative Law Judge or arbitrator. The Authority may, however, take official notice of such matters as would be proper.

■ 43. Amend § 2429.7 by revising paragraphs (c) and (e)(1) to read as follows:

§ 2429.7 Subpoenas.

* * * * *

(c) A request for a subpoena by any person, as defined in 5 U.S.C. 7103(a)(1), shall be in writing and filed with the Regional Director, in proceedings arising under parts 2422 and 2426 of this subchapter, or with the Authority, in proceedings arising under parts 2424 and 2425 of this subchapter, not less than 10 days prior to the hearing, or with the appropriate presiding official(s) during the hearing. Requests for subpoenas made less than 10 days prior to the opening of the hearing shall be granted on sufficient explanation of why the request was not timely filed.

* * * * *

(e)(1) Any person served with a subpoena who does not intend to comply, shall, within 5 days after the date of service of the subpoena upon such person, petition in writing to revoke the subpoena. A copy of any petition to revoke a subpoena shall be served on the party on whose behalf the subpoena was issued. Such petition to revoke, if made prior to the hearing, and a written statement of service, shall be filed with the Regional Director in proceedings arising under parts 2422 and 2426 of this subchapter, and with the Authority, in proceedings arising under parts 2424 and 2425 of this

subchapter, for ruling. A petition to revoke a subpoena filed during the hearing, and a written statement of service, shall be filed with the appropriate presiding official(s).

* * * * *

■ 44. Amend § 2429.12 by revising paragraph (a) to read as follows:

§ 2429.12 Service of process and papers by the Authority.

(a) *Methods of service.* Notices of hearings, decisions and recommended orders of Administrative Law Judges, decisions of the Authority, complaints, amended complaints, withdrawals of complaints, written rulings on motions, and all other papers required by this subchapter to be issued by the Authority, the General Counsel, Regional Directors, Hearing Officers, Administrative Law Judges, and Regional Directors when not acting as a party under part 2423 of this subchapter, shall be served personally, by first-class mail, by facsimile transmission, by certified mail, or, as described in the final sentence of this paragraph (a) with respect to documents issued by the Authority, by electronic mail (''email''). Where facsimile equipment is available, rulings on motions; information pertaining to prehearing disclosure, conferences, orders, or hearing dates and locations; information pertaining to subpoenas; and other similar or time sensitive matters may be served by facsimile transmission. Where a party using the FLRA's eFiling system has consented to electronic service of documents issued by the Authority in a particular case, the Authority shall serve documents on that party exclusively by email to the email address provided by the party.

* * * * *

■ 45. Amend § 2429.22 by revising paragraph (c) to read as follows:

§ 2429.22 Additional time for filing with the FLRA if you are filing in response to a document that has been served on you by first-class mail or commercial delivery.

* * * * *

(c) *Exception for applications for review filed under 5 CFR 2422.35.* You do not get an additional 5 days to file an application for review of a Regional Director's Decision and Order under 5 CFR 2422.35, regardless of the method of service of that Decision and Order.

* * * * *

■ 46. Amend § 2429.24 by revising paragraphs (f)(1), (2), (7), and (9) to read as follows:

§ 2429.24 Place and method of filing; acknowledgement.

* * * * *

(f) * * *

(1) Applications for review under 5 CFR 2422.35(f) through (h);

(2) Oppositions to applications for review under 5 CFR 2422.35(i);

* * * * *

(7) Agencies' statements of position under 5 CFR 2424.24;

* * * * *

(9) Agencies' replies under 5 CFR 2424.26;

* * * * *

By the Authority

Thomas Tso,

Solicitor.

Note: The following will not appear in the *Code of Federal Regulations.*

Dissenting View of Member Anne Wagner

I support exploring revisions to the Federal Labor Relations Authority's (FLRA's) representation regulations, largely along the lines of those in today's rule (with exceptions noted below). However, I do not agree that we should make revisions using interim final rulemaking. Today's revisions reflect the biggest changes to the FLRA's representation case processing in nearly 43 years. I believe that our stakeholders deserve an opportunity to review and comment on *proposed* regulations, and that we should consider such comments, before we make such sweeping operational changes.

Using interim final rulemaking effectively tells our stakeholders that, although we welcome their comments, we will not necessarily consider them. In my view, this risks generating potentially undue skepticism among our stakeholders, and raising the likelihood of challenges. It also may weaken the end product. Comments on proposed regulations often improve those regulations, including by raising issues that the drafters have not considered. Absent a need for nearly immediate implementation—which is not present here—I believe we should engage in notice-and-comment rulemaking. I note, in this regard, that the draft notice does not contain a detailed description of how representation cases will be processed internally at the FLRA under the new regulations—undoubtedly because we are still in the process of making those determinations. That is another reason not to rush the process.

As for the contents of the rule, in the context of cases that arise when the Authority lacks a quorum (''no-quorum'' cases), I am not inclined to continue the current practice of prohibiting parties from raising issues that they did not raise before Regional Directors or Hearing Officers. The revised regulations—correctly, in my view—do not contain such a prohibition in representation cases that are processed when the Authority has a quorum. It thus seems incongruous to me to have such a prohibition in ''no-quorum'' cases. Therefore, I disagree with the pertinent wording in sections 2422.35(g) (concerning applications for review) and 2422.35(i) (concerning oppositions to such applications).

For the above reasons, I dissent from the majority's action today.

[FR Doc. 2026–05721 Filed 3–23–26; 8:45 am]

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FEDERAL LABOR RELATIONS AUTHORITY

5 CFR Chapter XIV

Amendment to Memorandum Describing the Authority and Assigned Responsibilities of the General Counsel of the Federal Labor Relations Authority

AGENCY: Federal Labor Relations Authority.

ACTION: Final rule.

SUMMARY: The Federal Labor Relations Authority (FLRA) amends Appendix B titled ''Memorandum Describing the Authority and Assigned Responsibilities of the General Counsel of the Federal Labor Relations Authority.'' The amendment revokes and deletes Appendix B's current section I.C., which delegates to Regional Directors (RDs) authority to process and determine representation matters. The amendment also adopts a new section I.C., which delegates to RDs authority to process and determine representation matters that arise when the Authority lacks a quorum.

DATES: The effective date of this amendment is April 23, 2026.

FOR FURTHER INFORMATION CONTACT: Thomas Tso, Solicitor, at *ttso@flra.gov* or at (771) 444–5779.

SUPPLEMENTARY INFORMATION: The Federal Service Labor-Management Relations Statute (the Statute), 5 U.S.C. 7101–7135, grants Members of the Authority the power and responsibility to ''determine the appropriateness of units,'' *id.* 7105(a)(2)(A); ''supervise or conduct elections'' and ''otherwise administer the provisions . . . [of the Statute] relating to the according of exclusive recognition,'' *id.* 7105(a)(2)(B); ''prescribe criteria and resolve issues relating to the granting of national consultation rights,'' *id.* 7105(a)(2)(C); ''prescribe criteria relating to the

granting of consultation rights with respect to conditions of employment,'' *id.* 7105(a)(2)(F); and ''take such other actions as are necessary and appropriate to effectively administer [the Statute],'' *id.* 7105(a)(2)(I). From 1979 until 1983, the Authority Members exercised those powers directly. But since 1983, the Authority has delegated to Regional Directors (RDs) its power and responsibility to determine whether a group of employees is an appropriate bargaining unit, to conduct investigations and to provide for hearings in representation matters, to determine whether a question of representation exists and to direct an election, and to supervise or conduct secret ballot elections and certify the results thereof. *See* 5 U.S.C. 7105(e)(1); *Amendment to Memo. Describing the Authority & Assigned Responsibilities of the General Counsel of the FLRA,* 48 FR 28814 (June 23, 1983) (amending memorandum so as to delegate authority and responsibility to RDs in representation cases); *Processing of Cases; General Requirements,* 48 FR 40189 (Sept. 6, 1983) (revising regulations to implement the amendment to the memorandum). The Authority also established a process to review the actions of RDs in those areas of delegated responsibility. *See* 5 U.S.C. 7105(f); *Processing of Cases; General Requirements,* 48 FR at 40190–95 (establishing § 7105(f) appeals process).

The delegation of authority to the RDs appears in section I.C. of a memorandum published as Appendix B to 5 CFR Chapter XIV.

For the reasons further explained in the interim final rule amending the FLRA's regulations—which is also published elsewhere in this issue of the **Federal Register**—the FLRA finds that the memorandum of delegated authorities and responsibilities to the RDs merits revision.

Accordingly, the FLRA, pursuant to a vote by the Members of the Authority, revokes and deletes the text of section I.C. of Appendix B to 5 CFR Chapter XIV—entitled ''Representation cases.'' Further, the FLRA adopts a new section I.C. of Appendix B to 5 CFR Chapter XIV that delegates authority and responsibility to RDs only in representation matters that arise when the Authority lacks a quorum. The text of the new section I.C. is set forth later in this notice.

The new section I.C. will be effective on the effective date of the interim final rule—published elsewhere in this issue of the **Federal Register**—amending parts 2421, 2422, 2426, and 2429 of the FLRA's regulations.

Further, the FLRA is reformatting the title of section III of Appendix B to 5 CFR Chapter XIV—''Personnel.'' This reformatting is intended to render the title text bold and italicized so that it mirrors the formatting of all other section titles in the Appendix. Two terms in section III are also updated to reflect the FLRA's current structure. Specifically, the term ''field offices'' is changed to ''Regional Offices,'' and ''Office of Administration'' is changed to ''Office of the Executive Director.'' No substantive changes are intended for this section.

Executive Order 12866

Pursuant to E.O. 12866 (''Regulatory Planning and Review''), as amended by E.O. 14215, a determination must be made whether a regulatory action is significant and therefore subject to review by the Office of Management and Budget (OMB) in accordance with the requirements of the Executive Order. E.O. 13563 (''Improving Regulation and Regulatory Review'') supplements and reaffirms the principles, structures, and definitions governing contemporary regulatory review established in E.O. 12866.

This amendment of an internal delegation deals with ''agency organization, management, or personnel matters,'' and, therefore, E.O. 12866 does not apply. E.O. 14192 (''Unleashing Prosperity Through Deregulation'') requires that any new incremental costs associated with new regulations shall, to the extent permitted by law, be offset by the elimination of existing costs associated with at least 10 prior regulations. This amendment of an internal delegation is expected to be a deregulatory action for purposes of E.O. 14192. This amendment of an internal delegation is also not significant under E.O. 12866.

Regulatory Flexibility Act Certification

Pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Chairman of the FLRA has determined that this amendment of an internal delegation will not have a significant impact on a substantial number of small entities, because this rule applies only to federal agencies, federal employees, and labor organizations representing those employees.

Executive Order 13132, Federalism

The FLRA is an independent regulatory agency, and as such, is not subject to the requirements of E.O. 13132.

This amendment of an internal delegation will not have substantial direct effects on the States, on the relationship between the national government and the states, or on distribution of power and responsibilities among the various levels of government. Therefore, in accordance with E.O. 13132, this amendment of an internal delegation does not have sufficient federalism implications to warrant preparation of a federalism assessment.

Executive Order 12988, Civil Justice Reform

This amendment of an internal delegation meets the applicable standard set forth in section 3(a) and (b)(2) of E.O. 12988.

Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

This amendment of an internal delegation does not have tribal implications under E.O. 13175 because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the federal government and Indian tribes, or on the distribution of power and responsibilities between the federal government and Indian tribes.

Executive Order 14294, Overcriminalization of Federal Regulations

E.O. 14294 requires agencies promulgating regulations with criminal regulatory offenses potentially subject to criminal enforcement to explicitly describe the conduct subject to criminal enforcement, the authorizing statutes, and the mens rea standard applicable to each element of those offenses. This amendment of an internal delegation does not impose a criminal regulatory penalty and is, thus, exempt from E.O. 14924's requirements.

Unfunded Mandates Reform Act of 1995

This amendment of an internal delegation will not result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This action is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This amendment

of an internal delegation will not result in an annual effect on the economy of $100,000,000 or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

Paperwork Reduction Act of 1995

The amended internal delegation contains no additional information collection or record-keeping requirements under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501, *et seq.*

List of Subjects in Appendix B to 5 CFR Chapter XIV

Federal employees, Labor management relations, Administrative practice and procedure, Representation Proceedings, Federal Labor Relations Authority.

For the reasons stated in the preamble, the Federal Labor Relations Authority amends appendix B to 5 CFR chapter XIV as follows:

Appendix B to 5 CFR Chapter XIV—Memorandum Describing the Authority and Assigned Responsibilities of the General Counsel of the Federal Labor Relations Authority

■ 1. Add an authority citation for appendix B to read as follows:

Authority: 3 U.S.C. 431; 5 U.S.C. 7105(d), 7134.

Section I.C. also issued under 5 U.S.C. 7105(e)(1), (f).

■ 2. Amend appendix B by revising sections I.C. and III to read as follows:

Appendix B to 5 CFR Chapter XIV—Memorandum Describing the Authority and Assigned Responsibilities of the General Counsel of the Federal Labor Relations Authority

* * * * *

I. * * *

C. *Representation cases.* The statutory authority of the Federal Labor Relations Authority to delegate to Regional Directors its authority to process and determine representation matters is set forth in section 7105(e)(1) and (f) of the Statute.

The Authority lacks a quorum when the Authority has one or zero Members. In proceedings that arise when the Authority lacks a quorum, in accordance with section 7105(e)(1) and (f) of the Statute, Regional Directors, who are directed and supervised by the General Counsel as provided by section III of this memorandum, are hereby delegated the authority to determine whether a group of employees is an appropriate unit, to conduct investigations and to provide for hearings, to determine whether a question of representation exists and to direct an election, and to supervise or conduct secret ballot elections and certify the results thereof.

In proceedings that arise when the Authority lacks a quorum, Regional Directors are authorized and have responsibility to receive and process, in accordance with decisions of the Authority and the rules and regulations of the Authority and the General Counsel, all petitions filed pursuant to sections 7111, 7112(d), 7113, 7115 and 7117(d) of the Statute.

In proceedings that arise when the Authority lacks a quorum, the authority and responsibility of Regional Directors shall extend to all phases of the investigation of petitions through the conclusion of the hearing to be conducted by a Regional Office employee (if a hearing should be necessary to resolve disputed issues), including decisional action by the Regional Director after such investigation or hearing.

In proceedings that arise when the Authority lacks a quorum, Regional Directors also are authorized and have responsibility to direct an election after a hearing pursuant to sections 7111 and 7112(d) of the Statute and to approve consent election agreements in accordance with section 7111(g) of the Statute.

In the event the Authority or a Regional Director directs an election or approves a consent election agreement, the Regional Director is authorized to supervise or conduct the election pursuant to sections 7111 and 7112(d) of the Statute when the Authority lacks a quorum. In such instances, Regional Directors are authorized and have responsibility to determine the validity of determinative challenges and objections to the conduct of the election and other similar matters. This authority and responsibility extends to all phases of the investigation of such determinative challenges and objections through the conclusion of a hearing to be conducted by a Regional Office employee (if a hearing should be necessary to resolve disputed issues), including decisional action by the Regional Director after such investigation or hearing.

In proceedings that arise when the Authority lacks a quorum, Decisions and Orders of Regional Directors made pursuant to this delegation of authority become the action of the Authority when:

(1) No interested person files an application for review with the Authority within sixty (60) days after the date of the Regional Director's Decision and Order; or

(2) An interested person files a timely application for review with the Authority and, while the Authority has a quorum, the Authority does not undertake to grant review of the Regional Director's Decision and Order within sixty (60) days; or

(3) An interested person files a timely application for review with the Authority and, after the Authority regains a quorum, the Authority denies an application for review of the Regional Director's Decision and Order.

If no interested person files an application for review with the Authority within sixty (60) days after the date of the Regional Director's Decision and Order; or if an interested person files a timely application for review with the Authority and, while the Authority has a quorum, the Authority does not undertake to grant review of the Regional Director's Decision and Order within sixty (60) days; or if an interested person files a timely application for review with the Authority and, after the Authority regains a quorum, the Authority denies an application for review of the Regional Director's Decision and Order, then the Regional Director's Decision and Order will become final and binding, and the Regional Director will certify to the parties the results of any election held or issue any clarification of unit, amendment of recognition or certification, determination of eligibility for dues allotment, or certification on consolidation of units as required.

The Authority will undertake to grant review of a Regional Director's Decision and Order upon the timely filing of an application for review only where compelling reasons exist therefor as set forth in the rules and regulations.

Neither an interested person filing, nor the Authority granting, an application for review of a Regional Director's Decision and Order will stay any action ordered by the Regional Director, unless specifically ordered by the Authority. If the Authority grants review, then the Authority may affirm, modify, or reverse any action reviewed.

* * * * *

III. *Personnel.* Under 5 U.S.C. 7105(d), the Authority is authorized to appoint Regional Directors. In order better to ensure the effective exercise of the duties and responsibilities of the General Counsel, the General Counsel is delegated authority to recommend the appointment, transfer, demotion, or discharge of any Regional Director. However, such actions may be taken only with the approval of the Authority. In the event of a vacant Regional Director position, the General Counsel may, without the approval of the Authority, detail personnel as acting Regional Director for a total period of up to 120 days commencing on the day the position becomes vacant. If the position remains vacant for more than 120 days, a detail must be approved by the Authority. Other details of personnel to act as Regional Director during periods when there is an incumbent in the position shall be accomplished by the General Counsel without the approval of the Authority. The General Counsel shall have authority to direct and supervise the Regional Directors. Under 5 U.S.C. 7104(f)(3), the General Counsel shall have direct authority over, and responsibility for all employees in the Office of the General Counsel and all personnel of the General Counsel in the Regional Offices of the Authority. This includes full and final authority subject to applicable laws and rules, regulations, and procedures of the Office of Personnel Management and the Authority over the selection, retention, transfer, promotion, demotion, discipline, discharge, and in all other respects of such personnel except the detail in the event of a vacancy for a period in excess of 120 days, appointment, transfer, demotion, or discharge of any Regional Director. Further,

the establishment, transfer, or elimination of any Regional Office or non-Regional Office duty location may be accomplished only with the approval of the Authority. The Authority will provide such administrative support functions, including personnel management, financial management, and procurement functions, through the Office of the Executive Director of the Authority as are required by the General Counsel to carry out the General Counsel's statutory and prescribed functions.

By the Authority

Thomas Tso,

Solicitor.

Note: The following will not appear in the *Code of Federal Regulations.*

Dissenting View of Member Anne Wagner

As discussed in my dissent to today's interim final rule completely overhauling the Federal Labor Relations Authority's (FLRA's) representation regulations, I would give the FLRA's stakeholders an opportunity to comment before we modify those regulations. Consequently, I would not revise the existing delegation to the FLRA's Regional Directors in representation matters until we have received and reviewed comments on the regulations. Accordingly, I dissent from today's amendment to Appendix B to 5 CFR Chapter XIV.

[FR Doc. 2026–05723 Filed 3–23–26; 8:45 am]

BILLING CODE 6727–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 40

[Docket No. RM25–8–000]

Order No. 918; Critical Infrastructure Protection Reliability Standard CIP–003–11—Cyber Security—Security Management Controls

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final action.

SUMMARY: The Federal Energy Regulatory Commission (Commission) approves the proposed Critical Infrastructure Protection (CIP) Reliability Standard CIP–003–11 (Cyber Security—Security Management Controls). The North American Electric Reliability Corporation (NERC), the Commission-certified Electric Reliability Organization (ERO), submitted the proposed Reliability Standard to mitigate risks posed by a coordinated cyberattack on low-impact facilities, the aggregate impact of which could be much greater.

DATES: This action is effective May 26, 2026.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

1. Pursuant to section 215(d)(2) of the Federal Power Act (FPA),[1] the Federal Energy Regulatory Commission (Commission) approves proposed Reliability Standard CIP–003–11, submitted by the North American Electric Reliability Corporation (NERC). We also approve the associated violation risk factors, violation severity levels, implementation plan, and effective date for the proposed Reliability Standard. In addition, we approve the retirement of the currently effective version of the proposed Reliability Standard upon the effective date of Reliability Standard CIP–003–11.[2] We approve proposed Reliability Standard CIP–003–11 because it improves the reliability of the bulk electric system (BES) by strengthening the cyber security protections for low impact BES Cyber Systems to reduce the risk of compromise.

2. Proposed CIP Reliability Standard CIP–003–11 specifies security management controls that establish responsibility and accountability to protect low impact BES Cyber Systems against compromise that could lead to misoperation or instability in the bulk electric system.[3] The proposed modifications to the Reliability Standard mitigate the risks posed by a coordinated attack utilizing distributed low impact BES Cyber Systems by adding controls to authenticate remote users, protecting authentication information in transit, and detecting malicious communications to or between assets containing low impact BES Cyber Systems with external routable connectivity.

I. Background

A. Section 215 of the FPA and Mandatory Reliability Standards

3. Section 215 of the FPA provides that the Commission may certify an Electric Reliability Organization (ERO), the purpose of which is to develop mandatory and enforceable Reliability Standards, subject to Commission review and approval.[4] Reliability Standards may be enforced by the ERO, subject to Commission oversight, or by the Commission independently.[5] Pursuant to section 215 of the FPA, the Commission established a process to select and certify an ERO,[6] and subsequently certified NERC.[7]

B. NERC Petition

4. On December 20, 2024, NERC submitted proposed Reliability Standard CIP–003–11 (Cyber Security—Security Management Controls) for Commission approval.[8] NERC stated that the purpose of proposed CIP Reliability Standard CIP–003–11 is to ''specify consistent and sustainable security management controls that establish responsibility and accountability to protect BES Cyber Systems (''BCS'') against compromise that could lead to misoperation or instability in the [BES].''[9] NERC explained that proposed CIP–003–11 is intended to ''mitigate the risks posed by a coordinated attack utilizing distributed low impact BES Cyber Systems'' by adding three specific categories of controls: ''controls to authenticate remote users; protecting the authentication information in transit; and detecting malicious communications to or between assets containing low impact BES Cyber Systems with external routable

[1] 16 U.S.C. 824o(d)(2).

[2] Concurrently in Docket No. RM24–8–000, we are issuing a final rule, in which we are approving, *inter alia,* the proposed Reliability Standard CIP–003–10. *Virtualization Reliability Standards,* 194 FERC ¶ 61,209 (2026). Here, we are approving the proposed Reliability Standard CIP–003–11, which will supersede Reliability Standard CIP–003–10. NERC explains that the proposed Reliability Standard CIP–003–11 incorporates and builds upon virtualization-related revisions in the proposed Reliability Standard CIP–003–10.

[3] NERC Petition at 1.

[4] 16 U.S.C. 824o(c).

[5] *Id.* 824o(e).

[6] *Rules Concerning Certification of the Elec. Reliability Org.; & Procs. for the Establishment, Approval, & Enf't of Elec. Reliability Standards,* Order No. 672, 71 FR 8662 (Feb. 17, 2006), 114 FERC ¶ 61,104, *order on reh'g,* Order No. 672–A, 71 FR 19814 (Apr. 18, 2006), 114 FERC ¶ 61,328 (2006); *see also* 18 CFR 39.4(b).

[7] *N. Am. Elec. Reliability Corp.,* 116 FERC ¶ 61,062, *order on reh'g & compliance,* 117 FERC ¶ 61,126 (2006), *aff'd sub nom. Alcoa, Inc.* v. *FERC,* 564 F.3d 1342 (D.C. Cir. 2009).

[8] The proposed Reliability Standard is not attached to this final rule. The proposed Reliability Standard is available on the Commission's eLibrary document retrieval system in Docket No. RM25–8–000 and on the NERC website, *www.nerc.com.*

[9] NERC Petition at 1.

connectivity.'' [10] In addition to seeking Commission approval of proposed Reliability Standard CIP–003–11, NERC requested that the Commission approve: (i) the associated implementation plan; (ii) the associated violation risk factors and violation severity levels; (iii) and the retirement of the proposed Reliability Standard CIP–003–10 or the version of Reliability Standard CIP–003 then in effect.[11]

C. Notice of Proposed Rulemaking

5. On September 18, 2025, the Commission issued a Notice of Proposed Rulemaking (NOPR) proposing to approve Reliability Standard CIP–003–11.[12] The Commission noted that under the tiered structure of the CIP Reliability Standards, most BES Cyber Systems are categorized as low impact and therefore are subject to fewer cybersecurity requirements than medium and high impact systems.[13] However, the Commission emphasized that ''low impact BES Cyber Systems may still introduce reliability risks of a higher impact when distributed low impact BES Cyber Systems are subjected to a coordinated cyber-attack.'' [14]

6. In the NOPR, the Commission sought comments on the continuing threats of compromise to low impact BES Cyber Systems and on whether it would be worthwhile to direct NERC to perform a study or develop a whitepaper on evolving threats as they relate to the potential exploitation of low impact BES Cyber Systems.[15] The Commission received comments from the following: NERC, the Trade Associations, Mr. Tammer Haddad, and Mr. Michael Ravnitzky.[16]

II. Discussion

A. Proposed Reliability Standard CIP–003–11

1. Comments

7. NERC and the Trade Associations support the Commission's proposal to approve Reliability Standard CIP–003–11 without modification. NERC states that proposed Reliability Standard CIP–003–11 ''would enhance reliability by mitigating the risk posed by a coordinated attack using distributed low impact BES Cyber Systems.'' [17] NERC reiterates that by adding controls to authenticate remote users, protect the authentication information in transit, and detect malicious communications to, from, or between assets containing low impact BES Cyber Systems with external routable connectivity, the BES Cyber Systems are more protected from the threat of a coordinated attack on dispersed low impact systems. NERC ''strongly encourages the Commission to move forward . . . expeditiously'' so that the reliability benefits of the proposed Standard ''may be realized as soon as possible.'' [18]

8. The Trade Associations state that the proposed modifications ''appropriately implements'' the Low Impact Criteria Review Report's recommendations, including requirements to permit only necessary access, authenticate users, protect credentials in transit, detect malicious communications, and control vendor access.[19] In their view, proposed Reliability Standard CIP–003–11 ''will improve the baseline cybersecurity requirements to mitigate against threats of a coordinated attack'' for low impact BES Cyber Systems and complements the protections already included in Reliability Standard CIP–005 and related Reliability Standards.[20]

9. Conversely, Mr. Haddad and Mr. Ravnitzky argue that the proposed Reliability Standard CIP–003–11 is incomplete and should not be approved without modification.[21] Mr. Haddad contends that the proposed Standard adopts a ''detection-only approach'' for low impact BES Cyber Systems that ''creates unacceptable vulnerabilities that sophisticated threat actors are actively exploiting.'' [22] Mr. Haddad cites the Volt Typhoon and Colonial Pipeline incidents as evidence that detection without response enables adversaries to persist and pivot. He recommends remanding the proposed Standard to NERC with directions to add response requirements, establish collaborative defense mechanisms such as Regional Security Operations Centers, provide support for small utilities, and accelerate implementation.[23]

10. Mr. Ravnitzky similarly argues that approving CIP–003–11 without additional requirements ''risks leaving exploitable gaps in the Bulk-Power System's defenses,'' [24] particularly because ''adversaries exploit weak, distributed targets to reach critical systems.'' [25] Mr. Ravnitzky further claims that ''[t]he NOPR does not contain an explicit requirement addressing lateral-movement risk.'' [26] He recommends conditioning approval on adding mandatory response timelines, clarifying definitions, mandating network segmentation or compensating controls, requiring cryptographic baselines, and enhancing vendor access, telemetry, and validation obligations.[27]

2. Commission Determination

11. We adopt the NOPR proposal and approve Reliability Standard CIP–003–11 as proposed by NERC. Based on the record in this proceeding, we find that Reliability Standard CIP–003–11 is just, reasonable, not unduly discriminatory or preferential, and in the public interest.[28] We also approve the associated violation risk factors, violation severity levels, implementation plan, and effective date for the proposed Reliability Standard. In addition, we approve the retirement of the currently effective version of the proposed Reliability Standard upon the effective date of Reliability Standard CIP–003–11.

12. We agree with NERC that Reliability Standard CIP–003–11 strengthens baseline cybersecurity protections for low impact BES Cyber Systems by addressing the risk of coordinated cyberattacks that exploit distributed, externally routable assets. We find that the new requirements to authenticate remote users, protect authentication information in transit, and detect malicious communications directly target the threat vectors identified in the Low Impact Criteria Review Report and represent a measured, risk-based enhancement to

[10] *Id.* at 1–2. *See also id.* at 8–9 (citing NERC, *Low Impact Criteria Review Report,* at v and 15 (Oct. 2022) (Low Impact Criteria Review Report), *https://www.nerc.com/globalassets/our-work/reports/white-papers/nerc_licrt_white_paper_clean.pdf.*

[11] *Id.* at 2.

[12] *Critical Infrastructure Protection Reliability Standard CIP–003–11—Cyber Sec.—Sec. Mgmt. Controls,* 192 FERC ¶ 61,227 (2025) (NOPR).

[13] *Id.* PP 5–6.

[14] *Id.* P 6.

[15] *Id.* P 16.

[16] The Trade Associations include: American Public Power Association, Edison Electric Institute, Electric Power Supply Association, Large Public Power Council, National Rural Electric Cooperative Association, and Transmission Access Policy Study Group.

[17] NERC Comments at 2. *See also* Trade Associations Comments at 1.

[18] NERC Comments at 2–3.

[19] Trade Associations Comments at 5–6 (citing the Low Impact Criteria Review Report).

[20] *Id.* at 12.

[21] Mr. Haddad Comments at 1; Mr. Ravnitzky Comments at 5.

[22] Mr. Haddad Comments at 1–2.

[23] *Id.* at 1–2, 4.

[24] Mr. Ravnitzky Comments at 5.

[25] *Id.* at 1.

[26] *Id.* at 2. ''Lateral movement'' is the set of techniques adversaries use *after gaining an initial foothold* in a network to move from one system, account, or network segment to another, with the goal of expanding access, escalating privileges, discovering critical assets, and positioning themselves for further actions (such as data theft, disruption, or impact). *See* MITRE ATT&CK, *Lateral Movement* (last updated Aug. 11, 2025), *https://attack.mitre.org/tactics/TA0008/.*

[27] Mr. Ravnitzky Comments at 1–3.

[28] *See* NOPR, 192 FERC ¶ 61,127 at P 12.

existing controls applicable to low impact BES Cyber Systems.[29] The expansion of detection requirements to include all traffic into or out of a low impact BES Cyber System, as opposed to just detecting malicious traffic in vendor-based electronic access, should mitigate the risk of malicious communications to or from a low impact BES Cyber System from going undetected.[30] Similarly, we agree with NERC that the new requirements to authenticate users and protect their authentication information should mitigate the risk of unauthorized users gaining access to low impact BES Cyber Systems or compromising legitimate credentials to gain access.[31] Together, these controls should improve the cybersecurity posture of the BES by protecting against potential coordinated attacks on multiple low impact BES Cyber Systems or using a compromised low impact BES Cyber System to move laterally and pivot to a medium or high impact BES Cyber System.

13. We acknowledge concerns raised by individual commenters that Reliability Standard CIP–003–11 does not impose explicit response or remediation requirements,[32] except in the event of a system disruption.[33] However, we decline to condition the approval of Reliability Standard CIP–003–11 on the addition of response-specific requirements. We find that NERC reasonably determined, through the Reliability Standards development process, that Reliability Standard CIP–003–11 should focus on baseline access controls, and authentication and detection enhancements for low impact BES Cyber Systems, while continuing to evaluate response-related issues through ongoing initiatives.[34] In particular, we note that NERC's CIP Roadmap, discussed further below, recommends developing guidance for improved cybersecurity incident response plans and associated playbooks,[35] and we encourage NERC to address both substantive response efforts and recommended timeline(s) for response as part of that effort. We also note that Reliability Standard CIP–003–11, Requirement R2 and Section 4 of Attachment 1 require entities to have Cyber Security Incident Response plans for low impact BES Cyber Systems, including identification, classification, and response to Cyber Security Incidents.[36]

B. Proposal for NERC Study

1. NOPR Proposal

14. In the NOPR, the Commission explained that NERC developed the proposed modifications to Reliability Standard CIP–003–11 based on the recommendations of the Low Impact Criteria Review Report. Noting cybersecurity threats that have emerged since the 2022 issuance of the Report, the Commission asked for comment on the merit of directing NERC to perform a study or develop a whitepaper on evolving threats as they relate to the potential exploitation of low impact BES Cyber Systems.[37]

2. Comments on Evolving Threats and an Additional Study

15. All commenters generally agree that coordinated attacks leveraging remote access to multiple low impact BES Cyber Systems present systemic reliability risks,[38] but differ in opinion as to whether the Commission should direct NERC to perform further study. NERC and the Trade Associations oppose a directive to require NERC to conduct a study—explaining that NERC already has multiple initiatives underway, including the Level 2 Alert on Cross-Border Remote Access and the CIP Roadmap, which is evaluating emerging cybersecurity and physical risk across the industry.[39] NERC asserts that requiring a study would duplicate existing efforts and interfere with NERC's multi-year planning process.[40]

16. NERC emphasizes that it has already conducted a comprehensive assessment of evolving cyber risks through the issuance of the Level 2 Alert on Cross-Border Remote Access and the development of the CIP Roadmap approved as part of the NERC's 2025 Work Plan Priorities.[41] NERC further states that the CIP Roadmap will ''evaluate standards against emerging cybersecurity and physical risks (*e.g.,* network intrusion, new registrants, emerging cyber threats, cloud usage, artificial intelligence, or other new technologies).'' [42] NERC explains that the results of the Level 2 Alert and CIP Roadmap will enable NERC and industry to prioritize risks and determine whether additional studies, guidance documents, or standards development projects are warranted.[43]

17. Similarly, Trade Associations claim that directing NERC to conduct an additional study would be inefficient and counterproductive given the ongoing industry efforts coordinated through NERC and its technical committees.[44] They note that industry participants are already engaged in multiple parallel initiatives addressing emerging cyber risks, including work on cloud security, artificial intelligence, internal network security monitoring, supply chain management and vendor incident response.[45]

18. However, Mr. Haddad and Mr. Ravnitzky raise issues concerning the adequacy of cybersecurity protections for low impact BES Cyber Systems, including the potential for pivoting from low-impact systems into medium and high impact systems or from non-BES Cyber Assets into low-impact systems.[46] Mr. Ravnitzky recommends that NERC be directed to publish an ''adversary-centric whitepaper mapping plausible attack chains from low-impact compromises to system effects.'' [47] He recommends that the study include measurable performance indicators for detection and response and be coordinated with federal partners such as the Cybersecurity and Infrastructure Security Agency (CISA) and the Department of Energy (DOE).[48] He contends that anonymized key performance indicator reporting could be used so that industry and regulators can measure systemic programs and provide guidance for future rulemakings.[49]

19. Mr. Haddad expresses concern that threat assessments can become obsolete due to the rapid evolution of cyber environments and threats.[50] Mr. Haddad argues that ''periodic re-

[29] *Id.* P 8; Low Impact Criteria Review Report at 15.

[30] NERC Petition at 16.

[31] *Id.* at 16–17.

[32] *See* Mr. Haddad Comments at 1–4; Mr. Ravnitzky Comments at 2–4.

[33] Proposed Reliability Standard CIP–003–11, Requirement R2 & Attach. 1, Sec. 4.

[34] *See* NERC Comments 4–8; *see also* NERC Petition at 6–7. *See infra* Section II.B (discussing NERC's proposed initiatives in its *Critical Infrastructure Protection Roadmap* (Jan. 2026) (CIP Roadmap), *https://www.nerc.com/globalassets/our-work/reports/special-reports/nerc_cip_roadmap_01122026.pdf.*

[35] CIP Roadmap at 9.

[36] Proposed Reliability Standard CIP–003–11, Requirement R2 & Attach. 1, Sec. 4.

[37] NOPR, 192 FERC ¶ 61,127 at P 16.

[38] Mr. Haddad Comments at 2; NERC Comments at 3–4; Mr. Ravnitzky Comments at 2; Trade Associations Comments at 5–6.

[39] NERC Comments at 1–2, 8; Trade Associations Comments at 1–2, 10–12 (citing NERC, *2025 Work Plan Priorities* (Dec. 10, 2024), *https://www.nerc.com/globalassets/who-we-are/2025-work-plan-priorities-approved-december-10-2024.pdf*); *see also* CIP Roadmap.

[40] NERC Comments at 8.

[41] *Id.* at 4–5.

[42] *Id.* at 6–7.

[43] *Id.* at 8; Trade Associations Comments at 11–12.

[44] Trade Associations Comments at 11–12.

[45] *Id.* at 11–13.

[46] Mr. Haddad Comments at 2, Mr. Ravnitzky Comments at 2.

[47] Mr. Ravnitzky Comments at 4.

[48] *Id.*

[49] *Id.*

[50] Mr. Haddad Comments, attach. at 6 (Literary Review).

evaluation of threat models must become standard practice, especially for sectors like energy where adversaries have demonstrated persistence and patience.'' [51] Beyond an additional study, Mr. Haddad recommends the Commission establish a federal task force for ''small utility cybersecurity'' including the Commission, DOE, CISA, and NERC, to develop and support the implementation of shared security services and capabilities for small utilities.[52]

3. Commission Determination

20. We decline to direct NERC to conduct an additional standalone study, or whitepaper, on evolving threats related to the potential exploitation of low impact BES Cyber Systems.

21. We are persuaded by NERC's explanation that it already has substantial and comprehensive efforts underway that are evaluating the risks to low impact BES Cyber Systems.[53] NERC explains that it will consider the ''collective findings from the Level 2 Alert and the CIP Roadmap to determine the most serious cyber security and physical risks to the BPS'' and that ''future actions will likely include studies, if it is determined more information is needed.'' [54] NERC explains that the CIP Roadmap will inform NERC's CIP Reliability Standards priorities over the next few years.[55]

22. In fact, since the issuance of the NOPR and submission of comments, NERC publicly issued its CIP Roadmap.[56] We note that the CIP Roadmap identifies several focus areas that directly affect low impact BES Cyber Systems, including risks associated with remote and third-party access, shared and cloud-managed infrastructure, lateral movement pathways, and the maturity of detection capabilities.[57] The CIP Roadmap emphasizes that low impact BES Cyber Systems may present increased system risk when leveraged as part of coordinated attacks and recommends that these risks be addressed through the prioritized, risk-based evolution of CIP Reliability Standards and supporting guidance, rather than isolated or duplicative studies.[58] While the CIP Roadmap does not establish fixed timelines for each recommendation, NERC asserts that it actively prioritizes these efforts based on risk significance, operational feasibility, and stakeholder input.[59]

23. Based on these considerations, we conclude that directing NERC to perform an additional study at this time is unnecessary. NERC's ongoing work under the CIP Roadmap, including the recommendations related to Reliability Standards development, provides an appropriate and efficient mechanism to address evolving threats to low impact BES Cyber Systems and related concerns.

24. We further encourage NERC to look at how it can achieve efficiencies in effort and time in the implementation of the recommendations outlined in the CIP Roadmap report. The recommendations, if implemented in a timely and efficient manner, present the opportunity to significantly advance the security of low impact BES Cyber Systems. We will continue to monitor NERC's progress and expect NERC to keep us informed of material findings from this work that may warrant future consideration.

25. Finally, we believe that our approval of Reliability Standard CIP–003–11 and NERC's ongoing initiatives will address some of these concerns raised by commenters, such as the risk of lateral movement.[60] In response to Mr. Haddad, we also decline to recommend a federal task force for ''small utility cybersecurity,'' as it is out of scope for this rulemaking.

III. Information Collection Statement

26. The Commission bases its paperwork burden estimates on the additional paperwork burden presented by the revisions to Reliability Standard that the Commission has approved. The approved revisions focus on mitigation risks posed by a coordinated attack on low-impact facilities. The Reliability Standard approved by this final rule is objective-based and provides requirements to address ongoing threats to the low impact BES Cyber Systems.

The Reliability Standard approved by this final rule does not require responsible entities to submit any filings with either the Commission or NERC as the ERO. Responsible entities, however, will be required to maintain documentation adequate to demonstrate compliance with the Reliability Standard approved by this final rule. Commission and NERC staff conduct periodic audits of registered entities, and auditors rely on the entity's documentation in determining compliance with Reliability Standards. While registered entities retain flexibility on how they choose to demonstrate compliance, the Reliability Standard includes compliance measures, which provide examples of the type of documentation an entity may want to develop and maintain to demonstrate compliance. The reporting burden below is based on the compliance measurements provided in the Reliability Standard approved by this final rule. As of June 2025, the NERC Compliance Registry identifies approximately 1,673 unique U.S. entities that are subject to mandatory compliance with CIP Reliability Standards. Entities are allowed to choose their compliance approach to most efficiently meet the requirements of the Reliability Standards. All 1,673 entities would need to conform to modifications in Reliability Standard CIP–003–11. Therefore, these entities will have an increased paperwork burden. Based on these assumptions, the estimated reporting burden is as follows:

TOTAL CHANGES PROPOSED BY THE NOPR IN DOCKET NO. RM25–8–000 [61]

	Number of respondents	Annual number of responses per respondent	Total number of responses	Average burden & cost per response [62]	Total annual burden hours & total annual cost	Cost per respondent ($)
	(1)	(2)	(1) * (2) = (3)	(4)	(3) * (4) = (5)	(5) ÷ (1)
Create one or more documented process(es) (R2).	1,673	1	1,673	1 hr.; $97	1,673 hrs.; $162,281	$97

[51] *Id.*

[52] Mr. Haddad Comments at 5.

[53] NERC Comments at 7–8.

[54] *Id.* at 8.

[55] *Id.* at 6–7.

[56] *See supra* note 35.

[57] CIP Roadmap at 3, 6, 8.

[58] *Id.* at 5 (citing the Low Impact Criteria Review Report).

[59] *Id.* at 2–3; *see also* NERC Comments at 8.

[60] *See supra* Section II.A.2 (explaining how Reliability Standard CIP–003–11 will strengthen protections for low impact BES Cyber Systems). *See supra* note 26; *see also* CIP Roadmap at 5, 8 (noting how multi-factor authentication can help mitigate the risk of lateral movement).

TOTAL CHANGES PROPOSED BY THE NOPR IN DOCKET NO. RM25–8–000[61]—Continued

	Number of respondents	Annual number of responses per respondent	Total number of responses	Average burden & cost per response[62]	Total annual burden hours & total annual cost	Cost per respondent ($)
	(1)	(2)	(1) * (2) = (3)	(4)	(3) * (4) = (5)	(5) ÷ (1)
R2, Attachment 1, Section 2, Physical Security Controls.	1,673	1	1,673	2 hrs.; $194	3346 hrs.; $324,562	194
R2, Attachment 1, Section 3, Electronic Access Controls.	1,673	1	1,673	1hr.; $97	1673 hrs.; $162,281	97
R2, Attachment 1, Section 3.1	1,673	1	1,673	5 hrs.; $485	8,365 hrs.; $811,405	485
R2, Attachment 1, Section 3.1.1	1,673	1	1,673	2 hrs.; $194	3346 hr.; $324,562	194
R2, Attachment 1, Section 3.1.2	1,673	1	1,673	20 hrs.; $1,940	33,460 hrs.; $3,245,620	1,940
R2, Attachment 1, Section 3.1.3	1,673	1	1,673	60 hrs.; $5,820	100,380 hrs.; $9,736,860	5,820
R2, Attachment 1, Section 3.1.4	1,673	1	1,673	60 hrs.; $5,820	100,380 hrs.; $9,736,860	5,820
R2, Attachment 1, Section 3.1.5	1,673	1	1,673	1 hr.; $97	1,673 hrs.; $162,281	97
R2, Attachment 1, Section 3.1.6	1,673	1	1,673	1 hr.; $97	1,673 hr.; $162,281	97
R2, Attachment 1, Section 3.2	1,673	1	1,673	1 hr.; $97	1,673 hrs.; $162,281	97
Total burden for FERC–725B(5) under CIP–003–11.			1,673		257,642 hrs.; $24,991,274	14,938

27. The responses and burden hours for Years 1–3 will total respectively as follows:

- *Year 1–3 total:* 1,673 responses; 257,642 hours.
- The annual cost burden for each year One to Three is $8,330,425.

28. *Title:* Mandatory Reliability Standards for Critical Infrastructure Protection (CIP).

Action: Revision to FERC–725B information collection.

OMB Control No.: 1902–0248.

Respondents: Businesses or other for-profit institutions, not-for-profit institutions.

Frequency of Responses: On Occasion.

Necessity of the information: This final rule approves the Reliability Standard CIP–003–11. As discussed above, the Commission approves Reliability Standard CIP–003–11 pursuant to section 215(d)(2) of the Federal Power Act because it mitigates risks posed by a coordinated cyberattack on low-impact facilities, the aggregate impact of which could be much greater.

Internal Review: The Commission has reviewed the proposed Reliability Standard and made a determination that its action is necessary to implement section 215 of the Federal Power Act.

29. Interested persons may obtain information on the reporting requirements by contacting the following: Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426 [Attention: Kayla Williams, Office of the Executive Director, email: *DataClearance@ferc.gov,* phone: (202) 502–8663, fax: (202) 273–0873].

30. For submitting comments concerning the collection(s) of information and the associated burden estimate(s), please send your comments to the Commission, and to the Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, DC 20503 [Attention: Desk Officer for the Federal Energy Regulatory Commission, phone: (202) 395–4638; fax: (202) 395–7285]. For security reasons, comments to the Office of Management and Budget should be submitted by email to: *oira_submission@omb.eop.gov.* Comments submitted to the Office of Management and Budget should include Docket No. RM25–8 and OMB Control Number 1902–0248.

IV. Environmental Analysis

31. The Commission is required to prepare an Environmental Assessment or an Environmental Impact Statement for any action that may have a significant adverse effect on the human environment.[63] The Commission has categorically excluded certain actions from this requirement as not having a significant effect on the human environment. Included in the exclusion are rules that are clarifying, corrective, or procedural or that do not substantially change the effect of the regulations being amended.[64] The action proposed herein falls within this categorical exclusion in the Commission's regulations.

V. Regulatory Flexibility Act

32. The Regulatory Flexibility Act of 1980 (RFA)[65] generally requires a description and analysis of final rules that will have significant economic impact on a substantial number of small entities. The Small Business Administration's (SBA) Office of Size Standards develops the numerical definition of a small business.[66] The SBA revised its size standard for electric utilities (effective March 17, 2023) to a standard based on the number of employees, including affiliates (from the prior standard based on megawatt hour sales).[67]

33. The SBA sets the threshold for what constitutes a small business. Under SBA's size standards, balancing authorities, generator operators, generator owners, reliability coordinators, transmission operators, and transmission owners all fall under the category of Electric Bulk Power Transmission and Control (NAICS code 221121), with a size threshold of 950 employees (including the entities and its associates). According to SBA guidance, the determination of significance of impact ''should be seen as relative to the size of the business, the size of the competitor's business, the number of filers received annually, and the impact this regulation has on larger competitors.'' [68]

34. The Reliability Standard CIP–003–11 is expected to impose an additional

[61] The paperwork burden estimate includes cost associated with the initial development of a policy to address the requirements.

[62] This burden applies in Year 1 to Year 3.

[63] *Reguls Implementing the Nat'l Env't Pol'y Act,* Order No. 486, 52 FR 47897 (Dec. 17, 1987), FERC Stats. & Regs. ¶ 30,783 (1987) (cross-referenced at 41 FERC ¶ 61,284).

[64] 18 CFR 380.4(a)(2)(ii).

[65] 5 U.S.C. 601–612.

[66] 13 CFR 121.101.

[67] *Id.* 121.201, Subsector 221 (Utilities).

[68] U.S. Small Business Admin., *A Guide for Government Agencies How to Comply with the Regulatory Flexibility Act* 18 (Aug. 2017), *https://advocacy.sba.gov/wp-content/uploads/2019/06/How-to-Comply-with-the-RFA.pdf.*

burden on 1,673 U.S. entities [69] (reliability coordinators, generator operators, generator owners, transmission operators, balancing authorities, transmission owners, and certain distribution providers).

Of the 1,673 affected entities discussed above, we estimate that 406 entities are small entities and, therefore, will be affected by the proposed modifications to CIP–003–11. We estimate that each of the 406 small entities to whom the proposed modifications of CIP–003–11 applies will incur one-time costs of approximately $19,000 per entity to implement this Standard, in addition to the ongoing paperwork burden reflected in the Information Collection Statement (a total of $14,938 per entity over Years 1–3), giving a total one-time cost of $33,938 per entity. We do not consider the estimated one-time costs for these 406 small entities to have a significant economic impact.

35. The Reliability Standard approved in this final rule requires minimal action by registered entities subject to compliance. As a result, we certify that the Reliability Standard approved in this final rule will not have a significant economic impact on small entities.

VI. Document Availability

36. In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*).

37. From the Commission's Home Page on the internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

38. User assistance is available for eLibrary and the Commission's website during normal business hours from FERC Online Support at 202–502–6652 (toll free at 1–866–208–3676) or email at *ferconlinesupport@ferc.gov,* or the Public Reference Room at (202) 502–8371, TTY (202) 502–8659. Email the Public Reference Room at *public.referenceroom@ferc.gov.*

[69] Public utilities may fall under one of several different categories, each with a size threshold based on the company's number of employees, including affiliates, the parent company, and subsidiaries. For the analysis in this NOPR, we are using a 500 employee threshold for each affected entity to conduct a comprehensive analysis.

VII. Regulatory Planning and Review

39. Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. The Office of Information and Regulatory Affairs (OIRA) has determined this regulatory action is not a ''significant regulatory action,'' under section 3(f) of Executive Order 12866, as amended. Accordingly, OIRA has not reviewed this regulatory action for compliance with the analytical requirements of Executive Order 12866.

VIII. Effective Date and Congressional Notification

40. This final rule is effective May 26, 2026. The Commission has determined, with the concurrence of the Administrator of the Office of Information and Regulatory Affairs of the Office of Management and Budget, that this action is not a ''major rule'' as defined in section 351 of the Small Business Regulatory Enforcement Fairness Act of 1996.

By the Commission.

Issued: March 19, 2026.

Carlos D. Clay,

Deputy Secretary.

[FR Doc. 2026–05711 Filed 3–23–26; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 40

[Docket No. RM24–8–000]

Order No. 919; Virtualization Reliability Standards

AGENCY: Federal Energy Regulatory Commission, Department of Energy.

ACTION: Final action.

SUMMARY: The Federal Energy Regulatory Commission (Commission) approves 11 modified Critical Infrastructure Protection (CIP) Reliability Standards. The Commission also approves four new definitions and 18 modified definitions in the North American Electric Reliability Corporation (NERC) Glossary of Terms Used in Reliability Standards. To address concerns regarding a proposed self-implementing exception phrase (''per system capability'') that appears in multiple provisions of the modified CIP Reliability Standards, the Commission directs NERC to develop a clear set of criteria that satisfies the fundamental needs for oversight, consistency, and alternative mitigation when a responsible entity invokes the per system capability exception. NERC, the Commission-certified Electric Reliability Organization (ERO), submitted the proposed modifications to update the CIP Reliability Standards to enable the application of virtualization and other new technologies in a secure manner.

DATES: his action is effective May 26, 2026.

FOR FURTHER INFORMATION CONTACT:

Mayur Manchanda (Technical Information), Office of Electric Reliability, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, (202) 502–6166, *Mayur.Manchanda@ferc.gov.*

Hampden T. Macbeth (Legal Information), Office of General Counsel, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, (202) 502–8957, *Hampden.Macbeth@ferc.gov.*

SUPPLEMENTARY INFORMATION:

1. Pursuant to section 215(d)(2) of the Federal Power Act (FPA),[1] the Federal Energy Regulatory Commission (Commission) approves 11 Critical Infrastructure Protection (CIP) Reliability Standards as well as the addition of four new and 18 proposed revisions to the North American Electric Reliability Corporation (NERC) Glossary of Terms Used in Reliability Standards (NERC Glossary). We also approve the associated violation risk factors, violation severity levels, implementation plans, and effective dates for the proposed Reliability Standards. In addition, we approve the retirement of the currently effective version of each proposed Reliability Standard. We approve the proposed definitions and 11 proposed Reliability Standards because collectively they will allow responsible entities the opportunity to adopt virtualization, improving the reliability of the Bulk-Power System by providing significant cyber security benefits and flexibility in responding to cyber threats.

2. NERC submitted the proposed modifications to update the CIP Reliability Standards to enable the

[1] 16 U.S.C. 824o(d)(2).

application of virtualization and other new technologies in a secure manner.[2] As stated in the notice of proposed rulemaking (NOPR),[3] we support NERC's efforts to update the CIP Reliability Standards to accommodate virtualization and other nascent technologies. These proposed updates will allow responsible entities to enhance their reliability and security posture by adapting to emerging risks with forward-looking security models. As NERC explains, ''[T]echnology supporting and enabling the industrial control systems that operate the Bulk-Power System has evolved rapidly.'' [4] To accommodate this evolution, NERC has updated the CIP Reliability Standards to provide responsible entities the flexibility to adopt virtualization and other new technologies ''to operate their systems effectively and efficiently while maintaining a robust security posture.'' [5] The proposed modifications do not obligate entities to adopt virtualization; rather, if approved, the proposed CIP Reliability Standards would accommodate responsible entities that choose to do so. We agree that these potential reliability benefits are worth pursuing, and we continue to support efforts by NERC and responsible entities to facilitate the use of technological advancements that enhance the reliability and security of the Bulk-Power System.

3. However, as explained in the NOPR, we remain concerned that the proposed language (repeated in multiple Requirements) that would replace the phrase ''where technically feasible'' [6] with the phrase ''per system capability'' [7] would eliminate transparency and meaningful Commission and NERC oversight by introducing a self-implementing exceptions process with no reporting obligations.[8] To address this concern, the Commission directs NERC to (1) develop a clear set of criteria that promote consistency and ensure that responsible entities understand the parameters for invoking the per system capability exception and the obligation to implement alternative mitigation; (2) develop mandatory reporting requirements to the Electric Reliability Organization (ERO) Enterprise (*i.e.,* the relevant Regional Entity, NERC, or both) for responsible entities that invoke the per system capability language; and (3) submit an annual report to the Commission that includes anonymized, aggregated data that indicates how entities are utilizing the exception language. These three elements will provide adequate ERO and Commission oversight, consistency in application, and assurance that entities implement appropriate alternative mitigation when invoking the per system capability exception. As discussed later, we are not directing NERC to modify the CIP Reliability Standards but rather leave to NERC's discretion the mechanism for development of the required criteria, *i.e.,* through changes to the NERC Rules of Procedure, changes to the NERC guidance documents, modifications to the Reliability Standards, or some other mechanism. Moreover, while we direct NERC to develop mandatory reporting, we do not require that NERC develop an approval process akin to the current CIP technical feasibility exception process.

I. Background

A. Section 215 of the FPA and Mandatory Reliability Standards

4. Section 215 of the FPA provides that the Commission may certify an ERO, the purpose of which is to develop mandatory and enforceable Reliability Standards, subject to Commission review and approval.[9] Reliability Standards may be enforced by the ERO, subject to Commission oversight, or by the Commission independently.[10] Pursuant to section 215 of the FPA, the Commission established a process to select and certify an ERO,[11] and subsequently certified NERC.[12]

B. Virtualization

5. Virtualization is the process of creating virtual, as opposed to physical, versions of computer hardware to minimize the amount of physical computer hardware resources required to perform various functions.[13] Virtualization allows the sharing of hardware, central processing units, memory, storage, and other resources among various operating systems (*i.e.,* guest operating systems).[14] A virtual machine is a software version of a single physical computer and performs all the same functions.[15] Containers are a virtualization concept and are considered software that encapsulate applications and their dependencies in isolated environments, separate from other applications or containers.[16]

C. Technical Feasibility Exceptions and Order No. 706

6. As implemented by NERC in its Rules of Procedure, a technical feasibility exception is an alternative to strict compliance with a CIP Requirement through compensating measures and/or mitigating measures that achieve a comparable level of security for the bulk electric system (BES).[17] Order No. 706 established technical feasibility exceptions to prevent the premature retirement or costly replacement of long-life, legacy operational technology that lacked the inherent technical capability to comply with Requirements in version 1 of the CIP Reliability Standards.[18] Further, to assure accountability, the Commission in Order No. 706 directed NERC to develop procedures for an entity to seek

[2] *See* NERC Petition at 2–5.

[3] *Virtualization Reliability Standards,* Notice of Proposed Rulemaking, 90 FR 45679 (Sept. 23, 2025), 192 FERC ¶ 61,228 (NOPR).

[4] NERC Petition at 2.

[5] *Id.*

[6] *See* NERC Rules of Procedure, app. 4(d) (Procedure for Requesting and Receiving Technical Feasibility Exceptions to NERC Critical Infrastructure Protection Standards), Section 3.0 (setting forth circumstances in which a technical feasibility exception may be warranted). *See also id.* Section 3.2 (''[A] TFE authorizes an alternative (to Strict Compliance) means of compliance with the Applicable Requirement through the use of compensating measures and/or mitigating measures that achieve at least a comparable level of security.'').

[7] While NERC does not propose to define the term per system capability for the NERC Glossary, NERC explains in its Petition that ''[t]he phrase 'per system capability' means that if a Responsible Entity can demonstrate that the applicable system is incapable of performing a required action (*e.g.,* a firmware-based ''black box'' device with limited configuration capabilities),'' then the responsible entity does not have to meet the CIP Requirement and will determine on its own an equally effective alternative mitigation measure. NERC Petition at 46–47.

[8] *See* NOPR, 192 FERC ¶ 61,228 at PP 21–26.

[9] 16 U.S.C. 824o(c).

[10] *Id.* 824o(e).

[11] *Rules Concerning Certification of the Elec. Reliability Org.; & Procs. for the Establishment, Approval, & Enf't of Elec. Reliability Standards,* Order No. 672, 71 FR 8662 (Feb. 17, 2006), 114 FERC ¶ 61,104, *order on reh'g,* Order No. 672–A, 71 FR 19814 (Apr. 18, 2006), 114 FERC ¶ 61,328 (2006); *see also* 18 CFR 39.4(b).

[12] *N. Am. Elec. Reliability Corp.,* 116 FERC ¶ 61,062, *order on reh'g and compliance,* 117 FERC ¶ 61,126 (2006), *aff'd sub nom. Alcoa, Inc.* v. *FERC,* 564 F.3d 1342 (D.C. Cir. 2009).

[13] *See Virtualization & Cloud Computing Servs.,* Notice of Inquiry, 170 FERC ¶ 61,110, at P 4 (2020) (citing NIST Virtualization Security Special Publication).

[14] NOPR, 192 FERC ¶ 61,228 at P 5 (citing NERC Petition at 13).

[15] *Id.*

[16] *Id.*

[17] NERC Rules of Procedure, app. 4(d), § 3.2.

[18] *Critical Infrastructure Protection,* Order No. 706, 73 FR 7368 (Feb. 7, 2008), 122 FERC ¶ 61,040, at P 181, *order on clarification,* Order No. 706–A, 123 FERC ¶ 61,174 (2008), *order on clarification,* Order No. 706–B, 74 FR 12544 (Mar. 25, 2009), 126 FERC ¶ 61,229, *order deny'g request for clarification,* Order No. 706–C, 74 FR 30067 (Jun. 24, 2009), 127 FERC ¶ 61,273 (2009)).

approval by submitting an application to the ERO that includes justification for the technical feasibility exception, plans for alternative mitigation, and remediation plans to eventually eliminate use of the technical feasibility exception.[19] As a result, when it is not able to satisfy strict compliance with a CIP Requirement, a responsible entity may now request and obtain approval for a technical feasibility exception that will not compromise safety in one of six listed circumstances.[20]

D. NERC Petition and Supplement

7. On July 10, 2024, as supplemented on May 20, 2025,[21] NERC submitted for Commission approval 11 proposed CIP Reliability Standards and the associated violation risk factors and violation severity levels, implementation plans, and effective dates for the relevant CIP Standards.[22] NERC also submitted four newly defined terms (Cyber System, Management Interface, Shared Cyber Infrastructure, and Virtual Cyber Asset) to support the virtualization-related modifications to the proposed CIP Reliability Standards. Likewise, NERC submitted proposed revisions to 18 defined terms within the NERC Glossary.[23] Finally, NERC proposed the retirement of the corresponding versions of the currently effective Reliability Standards.[24]

8. Specifically, NERC seeks Commission approval of the following 11 modified CIP Reliability Standards:

- CIP–002–7 (Cyber Security—BES Cyber System Categorization) [25]
- CIP–003–10 (Cyber Security—Security Management Controls) [26]
- CIP–004–8 (Cyber Security—Personnel & Training)
- CIP–005–8 (Cyber Security—Electronic Security Perimeter(s))
- CIP–006–7.1 (Cyber Security—Physical Security of BES Cyber Systems) [27]
- CIP–007–7.1 (Cyber Security—Systems Security Management)
- CIP–008–7.1 (Cyber Security—Incident Reporting and Response Planning)
- CIP–009–7.1 (Cyber Security—Recovery Plans for BES Cyber Systems)
- CIP–010–5 (Cyber Security—Configuration Change Management and Vulnerability Assessments)
- CIP–011–4.1 (Cyber Security—Information Protection)
- CIP–013–3 (Cyber Security—Supply Chain Risk Management)

9. According to NERC, the Reliability Standards would allow responsible entities to fully implement virtualization and address risks associated with virtualized environments.[28] NERC also stated that the use of security objectives within the CIP Reliability Standards would establish a framework adaptable to newer technologies.[29]

10. NERC explained that its revisions would: (1) support different security models by adjusting language around perimeter-based models to accommodate other security models; (2) recognize ''virtualization infrastructure and virtual machines through new and revised terms in the NERC Glossary;'' (3) broaden ''change management approaches beyond a baseline-only configuration to recognize the dynamic nature of virtualized technologies,'' *e.g.,* where such virtualized systems are no longer installed on specific servers; and (4) manage ''accessibility and attack surfaces of a virtualized configuration.'' [30]

11. In addition to the virtualization modifications described above, NERC proposed to replace the phrase technical feasibility, which appears in nine Requirements of the currently effective CIP Standards, with the phrase per system capability.[31] NERC also proposed to add the phrase per system capability in six Requirements with no existing technical feasibility exception language. NERC explained that the phrase per system capability means that if a responsible entity can demonstrate that the applicable system is incapable of performing a required action (*e.g.,* a firmware-based ''black box'' device with limited configuration capabilities), then the responsible entity does not have to meet the CIP Requirement and will determine on its own an equally effective alternative mitigation measure.[32] NERC explained that the phrase per system capability is used to ''account for the different types of technology that will be expected to meet the security objective'' of a particular CIP Reliability Standard.[33] According to NERC, ''should a Responsible Entity choose to rely on that term, the Responsible Entity will need to document the limit to the system's capability and demonstrate during compliance monitoring activities that the system's incapability prevents the Responsible Entity from implementing the control within the requirement.'' [34] NERC added that it and the Regional Entities have observed a significant decrease in the number of submitted technical feasibility exceptions and replacement with the phrase per system capability would ease the administrative burden associated with the current process.

12. NERC's implementation plan provides that the Reliability Standards and definitions will become effective on the later of April 1, 2026, or the first day of the first calendar quarter that is 24 months after the effective date of the applicable governmental authority's order approving the Reliability Standards and definitions, or as otherwise provided for by the applicable governmental authority. The implementation plan also allows responsible entities to comply with the proposed Reliability Standards prior to their effective date, after Commission approval, by notifying their Regional Entities. Early adoption can occur on

[19] NOPR, 192 FERC ¶ 61,228 at P 19 (citing Order No. 706, 122 FERC ¶ 61,040 at PP 192–194, 209–211, 222).

[20] NERC Rules of Procedure, app. 4(d), § 3.0.

[21] On May 20, 2025, NERC submitted a supplemental petition identifying errata to proposed Reliability Standards CIP–006–7, CIP–007–7, CIP–008–7, CIP–009–7, and CIP–011–4, as well as additional justifications for technical concepts within the proposed Standards.

[22] The proposed Reliability Standards are not attached to this final rule. The proposed Reliability Standards are available on the Commission's eLibrary document retrieval system in Docket No. RM24–8–000 and on the NERC website, *www.nerc.com.*

[23] The 18 defined terms subject to revision include: BES Cyber Asset, BES Cyber System, BES Cyber System Information, CIP Senior Manager, Cyber Assets, Cyber Security Incident, Electronic Access Control or Monitoring Systems, Electronic Access Point, External Routable Connectivity, Electronic Security Perimeter, Interactive Remote Access, Intermediate System, Physical Access Control Systems, Physical Security Perimeter, Protected Cyber Asset, Removable Media, Reportable Cyber Security Incident, and Transient Cyber Asset.

[24] *See* NERC Petition at 2. In addition to the virtualization-related modifications in the proposed Reliability Standards, NERC included administrative revisions throughout the proposed Reliability Standards. For example, some revisions aligned the proposed Reliability Standards to other Standards or NERC initiatives. *Id.* at 55–56.

[25] On December 20, 2024, NERC submitted a petition for approval of the modification of the definition of control center in the NERC Glossary and Reliability Standard CIP–002–8 (Cyber Security—BES Cyber System Categorization). We are approving the proposed control center definition and proposed Reliability Standard CIP–002–8 in a concurrent order. *N. Am. Elec. Reliability Corp.,* 194 FERC 61,211 (2026).

[26] On December 20, 2024, NERC submitted a petition for approval of proposed Reliability Standard CIP–003–11 (Cyber Security—Security Management Controls). We are approving proposed Reliability Standard CIP–003–11 in a concurrent order. *Critical Infrastructure Protection Reliability Standard CIP–003–11,* 194 FERC ¶ 61,210 (2026).

[27] *See* NERC Supp. Petition at 3 (making errata corrections to several CIP Standards, designated with a ''.1'' in the version number, *e.g.,* CIP–006–7.1).

[28] NERC Petition at 4.

[29] *Id.* at 5.

[30] *Id.*

[31] *Id.* at 28–29.

[32] *Id.* at 46–47.

[33] *Id.* at 29.

[34] NERC Supp. Petition at 26.

one of three instances: six, 12, or 18 months after the effective date of this final rule. NERC stated that the implementation plan balances the urgency to implement the requirements with the time needed to develop any relevant capabilities.[35]

E. NOPR

13. On September 18, 2025, the Commission issued the NOPR, proposing to approve the 11 modified virtualization Reliability Standards; the associated violation risk factors, violation severity levels, implementation plans, and effective dates for the proposed Reliability Standards; the retirement of the currently effective version of each proposed Reliability Standard; and 22 new or modified definitions in the NERC Glossary.[36] The NOPR stated that the Commission supported NERC's work to update the CIP Reliability Standards to accommodate virtualization to enhance reliability.[37] However, the Commission expressed concern that the replacement of the technical feasibility exception program in the current CIP Reliability Standards with the proposed phrase per system capability would eliminate transparency and oversight.[38] Consequently, the Commission sought comments on the efficacy of the technical feasibility exception program and on the proposed per system capability language.[39] In response, the following seven entities submitted timely comments: Bonneville Power Administration (BPA); Edison Electric Institute (EEI); GE Vernova; Midcontinent Independent System Operator (MISO); Midwest Reliability Organization NERC Standards Review Forum (MRO NSRF); NERC; and Portland General Electric (PGE).

II. Discussion

14. Pursuant to section 215(d)(2) of the FPA, we adopt the NOPR proposal and approve the 11 proposed modified virtualization Reliability Standards and the four new proposed definitions and 18 proposed modified definitions in the NERC Glossary. Below, we discuss the following matters: (A) our approval of the virtualization Reliability Standards; (B) directives related to the per system capability exception; and (C) our approval of the NERC Glossary definitions.

A. Virtualization Reliability Standards

1. NOPR

15. In the NOPR, the Commission proposed to approve NERC's petition as supplemented as just, reasonable, not unduly discriminatory or preferential, and in the public interest.[40] The Commission supported NERC's efforts to allow responsible entities to take advantage of the efficiencies and flexibilities afforded by virtualization and other emerging technologies, and encouraged interested responsible entities to do so, while being mindful of the need for a secure electric grid. The Commission saw NERC's proposed modifications as a necessary and forward-looking progression of cybersecurity requirements for the bulk electric system, designed to enhance reliability and accommodate technological advancements. The Commission also proposed to approve the associated violation risk factors, violation severity levels, implementation plans, and effective dates of the 11 modified CIP Reliability Standards, as well as to approve the retirement of the associated currently effective Reliability Standards.[41]

2. Comments

16. Commenters generally support approval of the 11 modified CIP Reliability Standards.[42] Specifically, commenters support the package of modifications because the modifications will allow responsible entities to adopt virtualization, which provides significant cyber security benefits and flexibility in responding to cyber threats and allows for the secure adoption of emerging technology.[43] For example, EEI states ''The Commission should adopt these modifications because . . . [v]irtualization offers significant benefits including improved security posture through isolation and segmentation, greater resilience by reducing hardware dependency, and enhanced flexibility for adapting to evolving threats and operational needs.'' [44]

3. Commission Determination

17. Pursuant to section 215(d)(2) of the FPA, we approve the 11 proposed modified CIP Reliability Standards as just, reasonable, not unduly discriminatory or preferential, and in the public interest. Specifically, the 11 proposed virtualization Reliability Standards provide the opportunity for responsible entities to take advantage of the efficiencies and flexibilities afforded by virtualization in a secure manner. Further, we determine that the package of Reliability Standards is a forward-looking progression of cybersecurity requirements for the Bulk-Power System, which will enhance the current reliability of the Bulk-Power System and accommodate future technological developments. We also approve the associated violation risk factors, violation severity levels, implementation plans, and effective dates of the 11 modified CIP Reliability Standards, as well as approve the retirement of the associated currently effective Reliability Standards.

B. Per System Capability Exception Process

1. NOPR

18. The Commission expressed concern in the NOPR that the proposed per system capability language ''would allow responsible entities to self-implement an exception with marginal oversight and no alternative mitigation obligation, in contrast to the current accountability-based process for technical feasibility exceptions.'' [45] The Commission further explained that ''under NERC's proposal neither the ERO nor the Commission would have any information on the number of exceptions that entities have taken and in what circumstances, except for those that were identified during an audit.'' [46]

19. The Commission asked for comments on: (1) the efficacy of the existing technical feasibility exception program; (2) the parameters of the proposed per system capability language; and (3) alternative approaches ''that would streamline the process while also satisfying the need for effective regulatory oversight.'' [47] The Commission stated that the comments would assist the Commission in determining the need for a directive in a final rule and its content.

2. Comments

20. Commenters claim that an exception process is still necessary 15 years after the development of the technical feasibility exception process to accommodate legacy and emerging technologies.[48] EEI explains that

[35] NERC Petition at 59–60.

[36] NOPR, 192 FERC ¶ 61,228 at P 1.

[37] *Id.* P 2.

[38] *Id.* P 3.

[39] *Id.* PP 24–26.

[40] *Id.* P 17.

[41] *Id.*

[42] *See* BPA Comments at 1; EEI Comments at 3; GE Vernova at 1; MISO Comments at 1; NERC Comments at 2; PGE Comments at 1 (supporting the entirety of EEI Comments).

[43] EEI Comments at 3; NERC Comments at 2.

[44] EEI Comments at 3.

[45] NOPR, 192 FERC ¶ 61,228 at P 20.

[46] *Id.* P 21.

[47] *Id.* P 26.

[48] BPA Comments at 1; EEI Comments at 1, 5; MISO Comments at 2; MRO NSRF Comments at 1;

existing and emerging technologies cannot satisfy certain CIP Reliability Standards requirements due to ''inherent design limitations.'' [49] MRO NSRF states satellite clocks and door control panels for physical access control systems are unable to meet some of the CIP Requirements and would have no opportunity for mitigation without an exception.[50] BPA asserts that exceptions are also necessary because immediately replacing legacy equipment to comply with the CIP Reliability Standards on a particular system could affect a specific security control's interoperability with other systems.[51]

21. Consequently, commenters believe that the per system capability language should be approved to ease burdens associated with the current technical feasibility exception process and to speed the adoption of new technologies.[52] EEI urges the adoption of the proposed per system capability language because it will enable utilities to ''self-assess and document inherent limitations'' rather than seeking approval or re-approval of formal exceptions under the technical feasibility exception process that may delay implementation of security measures,[53] while preserving oversight, and enabling operational flexibility for utilities deploying virtualization.[54] MISO notes that its technical feasibility exception process is burdensome because it requires a lengthy, multistep process for securing an exception.[55] NERC asserts that the per system capability language will help ensure that the proposed CIP Reliability Standards are forward-looking and enable the secure adoption of new technologies.[56]

22. MISO, MRO NSRF, and NERC believe that the adoption of the per system capability language will not lead to an increase in new exception requests from responsible entities beyond those under the technical feasibility exception process. MISO suggests that the proposed changes to the NERC CIP Standards to accommodate virtualization will allow entities ''the ability to build their infrastructure in a manner that reduces the need for [exceptions].'' [57] NERC points to the stability of the technical feasibility exceptions in recent years and states that it does not anticipate the trend significantly shifting with the change to per system capability.[58] In contrast, EEI indicates the use of new exceptions is necessary because some emerging technologies will not be able to meet CIP requirements.[59] Using the example of protective relays, EEI avers that ''[a]s standards evolve to mandate [advanced cybersecurity] capabilities, entities will increasingly need [an] exceptions process'' to accommodate equipment limitations.[60]

23. MISO proposes that NERC establish and maintain ''a centralized repository of common, industry-wide exceptions'' for monitoring new system capability exceptions other than through CIP compliance activities (*i.e.,* audits) by cataloging Cyber Assets that have historically been unable to comply with CIP Requirements, documenting accepted mitigation strategies and compensating controls; and facilitating knowledge sharing.[61] MISO claims the proposed repository would minimize redundant technical feasibility exception submissions; promote consistency and transparency in the application and review of exceptions; and enable the retirement of exceptions as capabilities evolve or new solutions are identified.[62]

24. MISO additionally proposes that NERC develop a System Capability Exception Program (SCEP), which responsible entities can implement internally with the support of new and existing guidance documents. MISO suggests that NERC could develop implementation guidance to support such a program.[63] MISO asserts that the SCEP would need to include program expectations (*e.g.,* scope of exceptions), required program elements (*e.g.,* compensating controls), and management tools.

25. However, other commenters indicate that new system capability exceptions can be sufficiently monitored through traditional CIP Reliability Standards compliance activities. EEI and MRO NSRF assert that NERC can use existing compliance mechanisms, such as audits, spot-checks, evidence reporting, and data gathering through NERC's evidence request tool to monitor implementation.[64] NERC states that Regional Entities could use the Align tool to collect information on devices that do not have the capability to implement CIP requirements in the context of audit preparation, self-certifications, and development of Inherent Risk Assessments.[65]

26. EEI and MRO NSRF recommend that, if the Commission retains the current technical feasibility exception process, the process be streamlined by eliminating the requirement that responsible entities seek re-approval when adding assets to an existing technical feasibility exception because the mitigation measures and risk rationale would remain unchanged, while enabling timely upgrades and preserving security.[66] PGE recommends adopting the per system capability language and developing a streamlined process that would require responsible entities to provide data on the number of, and reasoning for, self-identified exceptions to the ERO Enterprise for visibility with no pre-approval requirement. PGE asserts that its proposed streamlined approach would avoid delays in the implementation of virtualization and eliminate both: (1) the need to modify the CIP Reliability Standards through the standard development process; and (2) the re-approval requirement for technical feasibility exceptions.[67]

3. Commission Determination

27. We are persuaded by commenters that an exception process is still needed for existing and emerging technologies. Indeed, some existing technologies are unable to meet certain CIP Requirements and would be out of compliance with no mitigation opportunity without an exception process.[68] Additionally, we recognize BPA's concern that eliminating an exception for legacy equipment may pose a risk to reliability because implementing a specific security control on a particular system could affect its

see also PGE Comments at 2 (stating its preference for per system capability exceptions).

[49] EEI Comments at 5.

[50] *See* MRO NSRF Comments at 1.

[51] BPA Comments at 3.

[52] EEI Comments at 1; MRO NSRF Comments at 2; PGE Comments at 4.

[53] EEI Comments at 4. EEI states that responsible entities must seek re-approval when adding assets to an existing technical feasibility exception, even when mitigation strategies remain unchanged. *Id. See also* MRO NSRF Comments at 4.

[54] EEI Comments at 3.

[55] MISO Comments at 3.

[56] NERC Comments at 3. NERC maintains that the terminology ''does not act like an exception'' because the language ''does not absolve an entity from implementing methods to achieve the security objective for applicable systems.'' *Id.*

[57] MISO Comments at 4.

[58] NERC Comments at 4–5.

[59] EEI Comments at 5.

[60] *Id.*

[61] MISO Comments at 4–5.

[62] *Id.* at 5.

[63] *Id.* at 6.

[64] EEI Comments at 6–7; MRO NSRF Comments at 3. *See also* BPA Comments at 4.

[65] NERC Comments at 6.

[66] Both EEI and MRO NSRF provide the same example: when installing a new physical access control systems door controller panel in a newly established physical security perimeter, the same technical feasibility exceptions conditions and mitigations apply. EEI Comments at 7; MRO NSRF Comments at 4.

[67] PGE Comments at 3–4.

[68] EEI Comments at 5; MRO NSRF Comments at 1.

interoperability with other systems needed to ensure reliability.[69]

28. Further, we believe that the exception process merits streamlining. As noted by commenters, the current technical feasibility exception process requires responsible entities to seek approval or re-approval of exceptions from the ERO that can delay implementation of security measures that strengthen reliability.[70] Accordingly, with our approval of the package of 11 proposed virtualization Reliability Standards, NERC's proposed per system capability exception will replace the technical feasibility exception process.

29. However, we are not persuaded by the explanation of NERC and other commenters that the per system capability language adequately addresses the concerns raised in the NOPR regarding the fundamental needs for oversight, consistency, and alternative mitigation in a CIP exceptions program.[71] These concepts stem from the Commission's initial approval of the version 1 CIP Reliability Standards in Order No. 706, in which the Commission explained that the technical feasibility exceptions ''must be governed by a clear set of criteria.'' [72]

30. NERC proposed the use of the phrase per system capability after recognizing the significant administrative burden the technical feasibility exception process places on responsible entities and the Regional Entities.[73] While NERC's proposed per system capability exception language does reduce the administrative burden placed on responsible entities and Regional Entities, we find that currently it lacks clearly defined parameters in which responsible entities can invoke a per system capability exception. We determine that the lack of clearly defined parameters for invoking a per system capability exception denies the Commission, the ERO Enterprise, and responsible entities the certainty needed to oversee, administer, and participate in the per system capability exception program, respectively.

31. We are not persuaded by arguments that the Commission should rely solely on NERC's Compliance Monitoring and Enforcement Program engagements, such as compliance audits and spot-checks of responsible entities, to provide adequate oversight of the use of the per system capability language. Moreover, at the outset of the self-implementing exception program, there is no track record on the circumstances in which responsible entities will invoke per system capability exceptions or parameters for acceptable mitigation measures implemented by responsible entities as an alternative to strict compliance with the CIP Requirements where a per system capability exception will be invoked. We are not assuaged by the statements of NERC and other commenters that the per system capability language will simply carry on the legacy exceptions from the technical feasibility exception program,[74] as the proposed CIP Standards add per system capability language to six additional CIP Standards that previously lacked exception language.[75] Moreover, while NERC asserts that per system capability necessarily encompasses alternative mitigation actions that achieve the underlying objective of a CIP Requirement,[76] an express obligation for alternative mitigation does not appear in the CIP Standards or other NERC documents (*e.g.,* the NERC Glossary or the NERC Rules of Procedure) other than NERC's petition and NOPR comments.

32. In light of these uncertainties surrounding the self-implementing exception process, we determine that greater oversight is needed than proposed by NERC. Exclusive reliance on audits and other compliance tools will not necessarily ensure timely feedback on basic information such as how many exceptions are being invoked and for what CIP Requirements, and the alternative mitigation measures implemented. Further, documentation of the exception process is needed to eliminate potential confusion and better assure consistent usage among responsible entities relying on the per system capability exception and across the Regional Entities when conducting audits and other compliance activities.

33. Consequently, we direct NERC to develop a program for the per system capability exceptions to satisfy the fundamental needs for oversight, consistency, and alternative mitigation. We decline to adopt any specific proposal offered by commenters. Rather, we allow NERC the latitude to develop a program provided that it includes the following three elements: (1) a clear set of criteria that promote consistency and ensure that responsible entities understand the parameters for invoking the per system capability exception, documentation requirements,[77] and the obligation to implement alternative mitigation; (2) mandatory reporting requirements to the ERO Enterprise (*i.e.,* the relevant Regional Entity, NERC, or both) for responsible entities that invoke the per system capability language; and (3) submission of an annual report to the Commission that includes anonymized, aggregated data that indicates how entities are utilizing the exception language. We discuss each of these elements below.

34. First, NERC must develop a clear set of criteria that promote consistency and ensure that responsible entities understand the parameters for invoking the per system capability exception, documentation requirements, and the obligation to implement alternative mitigation. As mentioned earlier, while NERC discusses these elements in its petition and comments in this docket, there is no NERC document that provides responsible entities, Regional Entities, and the Commission a comprehensive understanding of the expectations of the per system capability process. We believe that clear guidance is vital to ensure (1) that responsible entities properly identify, document and mitigate per system capability exceptions and (2) consistency across Regional Entities when conducting audits and other compliance activities.

35. NERC has the discretion to choose an appropriate format to develop the required criteria, *e.g.,* changes to the NERC Rules of Procedure, development of new or modified guidance documents, or modifications to the CIP Reliability Standards. We also direct NERC to ensure the per system capability exception program with the above criteria is available in time for the early adoption of the 11 proposed CIP Reliability Standards by responsible entities that choose to comply early.[78] This approach will ensure that the program is in place by the time responsible entities are self-implementing per system capability exceptions.

36. Second, the ERO Enterprise must develop mandatory reporting requirements through a request for data—through Align or another reporting mechanism—on basic information from entities using the per system capability exceptions, including the relevant CIP Reliability Standard

[69] BPA Comments at 3.

[70] EEI Comments at 4; MRO NSRF Comments at 4.

[71] NOPR, 192 FERC ¶ 61,228 at PP 19–21, 25.

[72] Order No. 706, 122 FERC ¶ 61,040 at P 209.

[73] *See* NERC Petition at 29.

[74] NERC Comments at 4–5.

[75] *See* NOPR, 192 FERC ¶ 61,228 at P 15. *See also* EEI Comments at 5 (''Some existing and emerging technologies cannot fully meet certain CIP requirements due to inherent design limitations.'').

[76] NERC Comments at 4.

[77] The documentation requirements in this element may be more extensive than the mandatory reporting requirements to the ERO in the second element.

[78] NERC Petition at 59–60.

and Requirement, an explanation of the need for the exception, description of alternative mitigation, and any other fields of information that NERC determines are useful for monitoring exceptions. To be clear, while we direct the ERO to collect data on the exceptions, we do not require an approval process akin to the technical feasibility exception program. Moreover, as discussed earlier, legacy technical feasibility exceptions have been steady for a number of years and are well understood.[79] Therefore, NERC at its discretion may craft an appropriate less detailed data collection for legacy exceptions, while collecting more detailed information for newly invoked exceptions. This approach could provide the necessary insight into the volume and circumstances of new per system capability exceptions while reducing the burden with regard to legacy technical feasibility exceptions.

37. Third, NERC must submit an annual report to the Commission that provides adequate data and analysis on responsible entity usage of the per system capability exception for the Commission to fulfill its oversight role. Similar to reporting on technical feasibility exceptions directed in Order No. 706, NERC's annual report should provide an anonymized, aggregated, wide-area analysis.[80] The report must include at a minimum the following data:

- The total number of registered entities with active per system capability exceptions, the total number of reported per system capability exceptions that are still in effect (nationally and by region), and a comparison of these numbers over the previous reporting period;
- Categorization of active per system capability exceptions by applicable Requirements covered;
- Generalized discussion indicating the types of assets and/or systems for which new per system capability exceptions are claimed; and
- Discussion on types of mitigation measures employed.

The report should include any other information or analysis that NERC believes will assist the Commission in understanding the usage and efficacy of the per system capability exception program.

38. The annual report should be filed with the Commission 12 months after compliance with the 11 virtualization Reliability Standards becomes mandatory. Initial annual reports will provide the Commission and NERC visibility into the exception process and help the Commission conduct oversight to ensure that the new process is appropriately implemented. We are open to revisiting the frequency of the reports to the Commission after the initial three reporting cycles, if it is shown that the per system capability exception process is adequately executed and supporting Bulk-Power System security.

C. NERC Glossary Definitions

1. NOPR

39. In the NOPR, the Commission proposed to approve NERC's petition as supplemented, including the package of four proposed new definitions and 18 modified definitions in the NERC Glossary, as just, reasonable, not unduly discriminatory or preferential, and in the public interest. The Commission stated that the proposed new and modified definitions should provide a clear and consistent understanding of the terms across all Reliability Standards.[81]

2. Comments

40. Commenters generally support approval of NERC's package of 11 Reliability Standards without mentioning the four proposed new definitions and 18 modified definitions in the NERC Glossary.[82] GE Vernova states that modernizing the definitions ''will enable utilities to adopt virtualized designs.'' [83]

3. Commission Determination

41. Pursuant to section 215(d)(2) of the FPA, we approve the proposed four new definitions and 18 modified definitions in the NERC Glossary. We find that the proposed new and modified definitions will establish a consistent understanding of the meaning of those terms across Reliability Standards. Additionally, we find that the package of proposed new and revised definitions and proposed Reliability Standards will allow responsible entities the opportunity to adopt virtualization, improving the reliability of the Bulk-Power System by providing significant cyber security benefits and flexibility in responding to cyber threats.

III. Information Collection Statement

42. The Commission bases its paperwork burden estimates on the additional paperwork burden presented by the revisions to Reliability Standards that the Commission has approved. The approved revisions focus on security objectives rather than specific controls for system security management to accommodate virtualized environments. The Reliability Standards approved by this final rule are objective-based and allow registered entities to choose compliance approaches best tailored to their systems. The Reliability Standards approved by this final rule will allow responsible entities the opportunity to take advantage of the benefits of advanced virtualization features while also preserving their choice to maintain current secure perimeter-based network architecture, which continues to be a valid network security model.

43. The Reliability Standards approved by this final rule do not require responsible entities to submit any filings with either the Commission or NERC as the ERO. Responsible entities, however, will be required to maintain documentation adequate to demonstrate compliance with the Reliability Standards approved by this final rule. Commission and NERC staff conduct periodic audits of registered entities, and auditors rely on the entity's documentation in determining compliance with Reliability Standards. While registered entities retain flexibility on how they choose to demonstrate compliance, the Reliability Standards include Compliance Measures providing examples of the type of documentation an entity may want to develop and maintain to demonstrate compliance. The reporting burden below is based on the Compliance Measures provided in the Reliability Standards approved by this final rule.

44. As of June 2025, the NERC Compliance Registry identifies approximately 1,673 unique U.S. entities that are subject to mandatory compliance with CIP Reliability Standards. All 1,673 entities would need to conform to modifications in Reliability Standard CIP–002–7. However, as stated in the NERC petition, the revisions in Reliability Standard CIP–002–7 are minor, mostly aligning the standard with updates to

[79] *See* NERC Comments at 4. *See also* NERC, *Annual Report of the North American Electric Reliability Corporation on Wide-Area Analysis of Technical Feasibility Exceptions,* Docket Nos. RR10–1–000 & RR13–3–000, at 5 (filed Sept 26, 2025) (''The data . . . indicates that the number of registered entities that are engaging in the TFE program remains stable from prior reporting years.'').

[80] Order No. 706, 122 FERC ¶ 61,040 at PP 220–221.

[81] NOPR, 192 FERC ¶ 61,228 at P 17.

[82] BPA Comments at 1; EEI Comments at 3; PGE Comments at 1 (supporting the entirety of EEI Comments).

[83] GE Vernova Comments at 1. The rest of GE Vernova's comments recommend that the final rule explicitly address issues associated with cloud deployment models, which are outside of the scope of this proceeding and thus not considered.

the NERC Glossary.[84] Therefore, we do not envision an increased paperwork burden specifically pertaining to any modifications in Reliability Standard CIP–002–7. However, of the 1,673 total entities, we estimate that 400 entities will face an increased paperwork burden under the revisions in Reliability Standards CIP–003–10, CIP–004–8, CIP–005–8, CIP–006–7.1, CIP–007–7.1, CIP–008–7.1, CIP–009–7.1, CIP–010–5, CIP–011–4.1, and CIP–013–3. Based on these assumptions, the estimated reporting burden is as follows:

TOTAL CHANGES APPROVED IN DOCKET RM24–8–000[85]

	Number of respondents	Annual number of responses per respondent	Total number of responses	Average burden & cost per response[86]	Total annual burden hours & total annual cost	Cost per respondent ($)
	(1)	(2)	(1) * (2) = (3)	(4)	(3) * (4) = (5)	(5) ÷ (1)
Conforming to modifications proposed under Reliability Standard CIP–002–7.	1,673	1	1,673	The Commission does not anticipate any material information collection costs associated with CIP–002–7.	The Commission does not anticipate any material information collection costs associated with CIP–002–7.	The Commission does not anticipate any material information collection costs associated with CIP–002–7.
Update compliance related documentation of one or more process(es) pertaining to proposed Reliability Standards: CIP–003–10, CIP–004–8, CIP–005–8, CIP–006–7.1, CIP–007–7.1, CIP–008–7.1, CIP–009–7.1, CIP–010–5, CIP–011–4.1, and CIP–013–3.	400 (per standard)	1	400 (per standard)	57.7 hrs. (Burden per Response per Respondent); $4,905 (Cost per Response per Respondent).	23,080 hrs. (Burden per Response across all Respondents); $1,961,800 (Cost per Response across all Respondents).	$4,905 (Cost per Response per Respondent).
Total burden			4,000	577 hrs	230,800 hrs.; $19,618,000.	$49,045.

The estimated responses and burden hours for Years 1–3 will total respectively as follows:

- *Year 1–3 total:* 400 responses; 23,080 hours for each CIP Standard.

The estimated annual cost burden for each year One to Three is $6,539,333.

45. *Title:* Mandatory Reliability Standards, Revised Critical Infrastructure Protection Reliability Standards

Action: Revision to FERC–725B information collection.

OMB Control No.: 1902–0248.

Respondents: Businesses or other for-profit institutions; not-for-profit institutions.

Frequency of Responses: On occasion.

Necessity of the Information: This final rule approves the requested modifications to Reliability Standards pertaining to critical infrastructure protection. As discussed above, the Commission approves proposed 11 virtualization Reliability Standards pursuant to section 215(d)(2) of the FPA because it allows responsible entities the opportunity to adopt virtualization, improving the reliability of the Bulk-Power System by providing significant cyber security benefits and flexibility in responding to cyber threats.

Internal Review: The Commission has reviewed the proposed Reliability Standards and made a determination that its action is necessary to implement section 215 of the FPA.

46. Interested persons may obtain information on the reporting requirements by contacting the following: Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426 [Attention: Kayla Williams, Office of the Executive Director, email: *DataClearance@ferc.gov,* phone: (202) 502–8663, fax: (202) 273–0873].

47. For submitting comments concerning the collection(s) of information and the associated burden estimate(s), please send your comments to the Commission, and to the Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, DC 20503 [Attention: Desk Officer for the Federal Energy Regulatory Commission, phone: (202) 395–4638, fax: (202) 395–7285]. For security reasons, comments to the Office of Management and Budget should be submitted by email to: *oira_submission@omb.eop.gov.* Comments submitted to the Office of Management and Budget should include Docket Number RM24–8–000 and OMB Control Number 1902–0248.

IV. Environmental Analysis

48. The Commission is required to prepare an Environmental Assessment or an Environmental Impact Statement for any action that may have a significant adverse effect on the human environment.[87] The Commission has categorically excluded certain actions from this requirement as not having a significant effect on the human environment. Included in the exclusion are rules that are clarifying, corrective, or procedural or that do not substantially change the effect of the regulations being amended.[88] The action approved herein falls within this categorical exclusion in the Commission's regulations.

V. Regulatory Flexibility Act

49. The Regulatory Flexibility Act of 1980 (RFA)[89] generally requires a description and analysis of final rules

[84] NERC Petition at 38.

[85] The paperwork burden estimate includes costs associated with the initial development of a policy to address the requirements.

[86] This burden applies in Year One to Year Three.

The loaded hourly wage figure (includes benefits) is based on the average of three occupational categories for May 2024 Wages found on the Bureau of Labor Statistics website (*http://www.bls.gov/oes/current/naics2_22.htm*). The loaded hourly wage includes fringe benefits divided by 81.70 percent. *See https://data.bls.gov/oes/#/industry/000000*:

Legal Occupations (90th percentile) (Occupation Code: 23–0000): $140.76.

Electrical Engineer (mean) (Occupation Code: 17–2071): $71.19.

Office and Administrative Support (90th percentile) (Occupation Code: 43–0000): $43.83.

($140.76 + $71.19 + $43.83) ÷ 3 = $85.26.

The figure is rounded to $85.00 for use in calculating wage figures in this final rule.

[87] *Reguls. Implementing the Nat'l Env't Pol'y Act,* Order No. 486, 52 FR 47897 (Dec. 17, 1987), FERC Stats. & Regs. Preambles 1986–1990 ¶ 30,783 (1987) (cross-referenced at 41 FERC ¶ 61,284).

[88] 18 CFR 380.4(a)(2)(ii).

[89] 5 U.S.C. 601–612.

that will have significant economic impact on a substantial number of small entities. The Small Business Administration's (SBA) Office of Size Standards develops the numerical definition of a small business.[90] The SBA revised its size standard for electric utilities (effective March 17, 2023) to a standard based on the number of employees, including affiliates (from the prior standard based on megawatt hour sales).[91]

50. The SBA sets the threshold for what constitutes a small business. Under SBA's size standards, transmission owners all fall under the category of Electric Bulk Power Transmission and Control (NAICS code 221121), with a size threshold of 950 employees (including the entity and its associates). Based on the NERC Compliance Registry, we have selected a combination of 288 Generator Owners (GO) and Generator Operators (GOP) as applicable entities and we have determined that approximately 87% GOs and 67% GOPs of the listed entities are small entities (*i.e.,* with fewer than 950 employees).

51. According to SBA guidance, the determination of significance of impact ''should be seen as relative to the size of the business, the size of the competitor's business, and the impact the regulation has on larger competitors.'' [92]

52. Moreover, this final rule approves Reliability Standards that permit voluntary actions by registered entities for the purpose of accommodating virtualized environments. The Reliability Standards approved in this final rule do not mandate or require action by any registered entity other than updating compliance documentation for processes related to the approved Reliability Standards. As a result, we certify that the Reliability Standards approved in this final rule will not have a significant economic impact on a substantial number of small entities. Accordingly, no regulatory flexibility analysis is required.

VI. Document Availability

53. In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*).

54. From the Commission's Home Page on the internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

55. User assistance is available for eLibrary and the Commission's website during normal business hours from FERC Online Support at 202–502–6652 (toll free at 1–866–208–3676) or email at *ferconlinesupport@ferc.gov,* or the Public Reference Room at (202) 502–8371, TTY (202) 502–8659. Email the Public Reference Room at *public.referenceroom@ferc.gov.*

VII. Regulatory Planning and Review

56. Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. The Office of Information and Regulatory Affairs (OIRA) has determined this regulatory action is not a ''significant regulatory action,'' under section 3(f) of Executive Order 12866, as amended. Accordingly, OIRA has not reviewed this regulatory action for compliance with the analytical requirements of Executive Order 12866.

VIII. Effective Date and Congressional Notification

57. This final action is effective May 26, 2026. The Commission has determined, with the concurrence of the Administrator of the Office of Information and Regulatory Affairs of the Office of Management and Budget, that this action is not a ''major rule'' as defined in section 351 of the Small Business Regulatory Enforcement Fairness Act of 1996.

By the Commission.

Issued: March 19, 2026.

Carlos D. Clay,

Deputy Secretary.

[FR Doc. 2026–05716 Filed 3–23–26; 8:45 am]

BILLING CODE 6717–01–P

[90] 13 CFR 121.101.

[91] 13 CFR 121.201, Subsector 221 (Utilities).

[92] U.S. Small Business Admin., *A Guide for Government Agencies How to Comply with the Regulatory Flexibility Act,* 18 (Aug. 2017), *https://advocacy.sba.gov/wp-content/uploads/2019/06/How-to-Comply-with-the-RFA.pdf.*

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 73

[Docket No. FDA–2024–C–1085]

Listing of Color Additive Exempt From Certification; Beetroot Red; Delay of Effective Date

AGENCY: Food and Drug Administration, HHS.

ACTION: Final order; delay of effective date.

SUMMARY: The Food and Drug Administration (FDA or we) is announcing a delay of the effective date of our February 6, 2026, final order to amend the color additive regulations to provide for the safe use of beetroot red for the coloring of human foods generally, at levels consistent with current good manufacturing practice, except in products under the jurisdiction of the United States Department of Agriculture (USDA), infant formula, or foods for which standards of identity have been issued under section 401 of the Federal Food, Drug, and Cosmetic Act (FD&C Act), unless the use of the added color is authorized by such standards. The delay of the effective date is required by law following the filing of timely objections on the final order. This announcement does not reflect a change in our determination that there is a reasonable certainty of no harm from the use of this color additive under the conditions of its intended use. In addition, this announcement does not constitute a determination that all of the issues raised in the relevant submission constitute objections or that a hearing is justified on any objections that have been filed.

DATES: As of March 20, 2026, the effective date of the final order published February 6, 2026 (91 FR 5295) is delayed indefinitely. The Food and Drug Administration will publish a document in the **Federal Register** announcing a new effective date or other administrative action on the order.

FOR FURTHER INFORMATION CONTACT: Christopher Kampmeyer, Office of Pre-Market Additive Safety, Human Foods Program, Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740, 240–402–1255; or Meadow Platt, Office of Policy and International Engagement, Human Foods Program, Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740, 240–402–2378.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of February 6, 2026 (91 FR 5295), FDA issued a final order, *Listing of Color Additives Exempt from Certification; Beetroot Red,* to provide for the safe use of beetroot red for the coloring of human foods generally, at levels consistent with current good manufacturing practice, except in products under the jurisdiction of USDA, infant formula, or foods for which standards of identity have been issued under section 401 of the FD&C Act, unless the use of the added color is authorized by such standards. Specifically, the final order added a new § 73.39, titled ''Beetroot red,'' (21 CFR 73.39). We issued the final order in response to a color additive petition submitted by Phytolon, Ltd. We gave interested persons until March 9, 2026, to file objections and requests for a hearing on the final order.

We received a submission from GMO/Toxin Free USA containing objections that meet the conditions set forth in 21 CFR 12.22 to initiate a stay of the effective date of the final order. See Submission from GMO/Toxin Free USA, to the Dockets Management Staff, Food and Drug Administration, dated March 5, 2026, at pages 1–6. In addition to the objections submitted by GMO/Toxin Free USA, we received other comments that opposed the final order, but none of them appear to be an objection under 21 CFR 12.22 nor do any of them request a hearing. We plan to address the objections in a future document.

Under sections 701(e)(2) and 721(d) of the FD&C Act (21 U.S.C. 371(e)(2) and 379e(d)), within 30 days after publication of an order relating to a color additive regulation, any person adversely affected by such an order may file objections, specifying with particularity the provisions of the order deemed objectionable, stating the grounds therefor, and requesting a public hearing upon such objections. The filing of the objections operates to delay the effective date of the final order until we take final action on the objections.[1] Our announcement of the delay of the effective date of the final order does not reflect a change in our determination that there is a reasonable certainty of no harm from the use of this color additive under the proposed conditions of its intended use. In addition, this notification does not constitute a determination that all of the issues raised in the submission constitute objections or that a hearing is justified on any submissions that have been filed.

For access to the docket to read the objections received, go to *https://www.regulations.gov* and insert the docket number FDA–2024–C–1085 into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

Grace R. Graham,

Deputy Commissioner for Policy, Legislation, and International Affairs.

[FR Doc. 2026–05732 Filed 3–20–26; 4:15 pm]

BILLING CODE 4164–01–P

[1] Although the statute uses the word ''stay,'' this delay effectuates the same result.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 73

[Docket No. FDA–2024–C–3384]

Listing of Color Additive Exempt From Certification; Spirulina Extract; Delay of Effective Date

AGENCY: Food and Drug Administration, HHS.

ACTION: Final order; delay of effective date.

SUMMARY: The Food and Drug Administration (FDA or we) is announcing a delay of the effective date of our February 6, 2026, final order to amend the color additive regulations to provide for the expanded safe use of spirulina (*Arthrospira platensis*) extract as a color additive in human foods generally (except for infant formula, certain foods subject to regulation by the U.S. Department of Agriculture (USDA), and foods for which standards of identity have been issued under section 401 of the Federal Food, Drug, and Cosmetic Act (FD&C Act), unless the use of the added color is authorized by such standards) at levels consistent with good manufacturing practice (GMP); to lower the heavy metal specifications for lead, arsenic, and mercury; and to add a specification for cadmium. The delay of the effective date is required by law following the filing of timely objections and a request for a hearing on the final order. This announcement does not reflect a change in our determination that there is a reasonable certainty of no harm from the use of this color additive under the conditions of its intended use. In addition, this announcement does not constitute a determination that all of the issues raised in the submission constitute objections or that a hearing is justified on any objections or requests for a hearing that have been filed.

DATES: As of March 20, 2026, the effective date of the final order published February 6, 2026 (91 FR 5291) is delayed indefinitely. The Food and Drug Administration will publish a document in the **Federal Register** announcing a new effective date or other administrative action on the order.

FOR FURTHER INFORMATION CONTACT: Marissa Santos, Office of Pre-Market Additive Safety, Human Foods Program, Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740, 240–402–8160; or Meridith L. Kelsch, Office of Policy and International Engagement, Human Foods Program, Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740, 240–402–2378.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of February 6, 2026 (91 FR 5291), FDA issued a final order, *Listing of Color Additives Exempt from Certification; Spirulina Extract,* to provide for the expanded safe use of spirulina (*Arthrospira platensis*) extract as a color additive in human foods generally (except for infant formula, certain foods subject to regulation by the USDA, and foods for which standards of identity have been issued under section 401 of the FD&C Act, unless the use of the added color is authorized by such standards) at levels consistent with good manufacturing practice (GMP); to lower the heavy metal specifications for lead, arsenic, and mercury; and to add a specification for cadmium. Specifically, the final order amended § 73.530, titled ''Spirulina extract,'' (21 CFR 73.530). We issued the final order in response to a color additive petition submitted by GNT USA, LLC. We gave interested persons until March 9, 2026, to file objections and requests for a hearing on the final order.

Obelisk Tech Systems Inc. submitted objections and a request for a hearing. See Submission from Obelisk Tech Systems Inc., to the Dockets Management Staff, Food and Drug Administration, submitted March 7, 2026. In addition to the objections and request for a hearing submitted by Obelisk Tech Systems Inc, we received another comment that opposed the final order, but does not appear to be an objection under 21 CFR 12.22 nor does it request a hearing. We plan to address the objections and request for a hearing in a future document.

Under sections 701(e)(2) and 721(d) of the FD&C Act (21 U.S.C. 371(e)(2) and 379e(d)), within 30 days after publication of an order relating to a color additive regulation, any person adversely affected by such an order may file objections, specifying with

particularity the provisions of the order deemed objectionable, stating the grounds therefor, and requesting a public hearing upon such objections. The filing of the objections operates to delay the effective date of the final order until we take final action on the objections.[1] Our announcement of the delay of the effective date of the final order does not reflect a change in our determination that there is a reasonable certainty of no harm from the use of this color additive under the proposed conditions of its intended use. In addition, this notification does not constitute a determination that all of the issues raised in the submission constitute objections or that a hearing is justified on any objections or requests for hearing that have been filed.

For access to the docket to read the objections received, go to *https://www.regulations.gov* and insert the docket number FDA–2024–C–3384 into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

Grace R. Graham,

Deputy Commissioner for Policy, Legislation, and International Affairs.

[FR Doc. 2026–05733 Filed 3–20–26; 4:15 pm]

BILLING CODE 4164–01–P

DEPARTMENT OF STATE

22 CFR Part 135

[Public Notice: 12969]

RIN 1400–AG20

Amendments to HAVANA Act of 2021 Implementation Rules

Correction

In rule document 2026–05113 beginning on page 12509 in the issue of Monday, March 16, 2026, make the following correction:

§ 135.3 [Corrected]

■ 1. On page 12510, in § 135.3, in the second column, in the sixth and seventh lines from the bottom, ''March 16, 2026, have until March 16, 2026'' should read ''March 16, 2026, have until May 15, 2026''.

[FR Doc. C1–2026–05113 Filed 3–23–26; 8:45 am]

BILLING CODE 0099–10–D

[1] Although the statute uses the word ''stay,'' this delay effectuates the same result.

DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

27 CFR Part 9

[Docket No. TTB–2023–0012; T.D. TTB–204; Notice No. 230]

RIN 1513–AD07

Establishment of the Nashoba Valley Viticultural Area

AGENCY: Alcohol and Tobacco Tax and Trade Bureau, Treasury.

ACTION: Final rule; Treasury decision.

SUMMARY: The Alcohol and Tobacco Tax and Trade Bureau (TTB) establishes the approximately 18,367-acre ''Nashoba Valley'' American viticultural area (AVA) in Worcester County, Massachusetts. The Nashoba Valley viticultural area is not located within, nor does it contain, any other established viticultural area. TTB designates viticultural areas to allow vintners to better describe the origin of their wines and to allow consumers to better identify wines they may purchase.

DATES: This final rule is effective April 23, 2026.

FOR FURTHER INFORMATION CONTACT: Karen A. Thornton, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW, Box 12, Washington, DC 20005; phone 202–453–1039, ext. 175.

SUPPLEMENTARY INFORMATION:

Background on Viticultural Areas

TTB Authority

Section 105(e) of the Federal Alcohol Administration Act (FAA Act), 27 U.S.C. 205(e), authorizes the Secretary of the Treasury to prescribe regulations for the labeling of wine, distilled spirits, and malt beverages. The FAA Act provides that these regulations should, among other things, prohibit consumer deception and the use of misleading statements on labels and ensure that labels provide the consumer with adequate information as to the identity and quality of the product. The Alcohol and Tobacco Tax and Trade Bureau (TTB) administers the FAA Act pursuant to section 1111(d) of the Homeland Security Act of 2002, codified at 6 U.S.C. 531(d). In addition, the Secretary of the Treasury has delegated certain administrative and enforcement authorities to TTB through Treasury Order 120–01.

Part 4 of the TTB regulations (27 CFR part 4) authorizes TTB to establish definitive viticultural areas and regulate the use of their names as appellations of origin on wine labels and in wine advertisements. Part 9 of the TTB regulations (27 CFR part 9) sets forth standards for the preparation and submission of petitions for the establishment or modification of American viticultural areas (AVAs) and lists the approved AVAs.

Definition

Section 4.25(e)(1)(i) of the TTB regulations (27 CFR 4.25(e)(1)(i)) defines a viticultural area for American wine as a delimited grape-growing region having distinguishing features as described in part 9 of the regulations and, once approved, a name and a delineated boundary codified in part 9 of the regulations. These designations allow vintners and consumers to attribute a given quality, reputation, or other characteristic of a wine made from grapes grown in an area to the wine's geographic origin. The establishment of AVAs allows vintners to describe more accurately the origin of their wines to consumers and helps consumers to identify wines they may purchase. Establishment of an AVA is neither an approval nor an endorsement by TTB of the wine produced in that area.

Requirements

Section 4.25(e)(2) of the TTB regulations (27 CFR 4.25(e)(2)) outlines the procedure for proposing an AVA and allows any interested party to petition TTB to establish a grape-growing region as an AVA. Section 9.12 of the TTB regulations (27 CFR 9.12) prescribes standards for petitions to establish or modify AVAs. Petitions to establish an AVA must include the following:

- Evidence that the area within the proposed AVA boundary is nationally or locally known by the AVA name specified in the petition;
- An explanation of the basis for defining the boundary of the proposed AVA;
- A narrative description of the features of the proposed AVA affecting viticulture, such as climate, geology, soils, physical features, and elevation, that make the proposed AVA distinctive and distinguish it from adjacent areas outside the proposed AVA;
- If the proposed AVA is to be established within, or overlapping, an existing AVA, an explanation that both identifies the attributes of the proposed AVA that are consistent with the existing AVA and explains how the proposed AVA is sufficiently distinct from the existing AVA and therefore appropriate for separate recognition;

- The appropriate United States Geological Survey (USGS) map(s) showing the location of the proposed AVA, with the boundary of the proposed AVA clearly drawn thereon; and
- A detailed narrative description of the proposed AVA boundary based on USGS map markings.

Nashoba Valley Petition

TTB received a petition from the Justin Pelletier, Chief Operating Officer and Quality Control Manager of Nashoba Valley Winery, proposing the establishment of the ''Nashoba Valley'' AVA in Worcester County, Massachusetts. The proposed Nashoba Valley AVA covers approximately 18,367 acres and is not located within any other AVA. There are three commercial vineyards covering a total of approximately 16 acres within the proposed AVA.

According to the petition, the distinguishing features of the proposed AVA include its soils and climate. The petition states that most of the soils within the proposed Nashoba Valley AVA have a parent soil of supraglacial till, subglacial till, alluvial deposits, and glaciofluvial deposits. The most common soils in the proposed AVA belong to the Paxton soil series and comprise approximately 21 percent of the soils in the AVA. These soils are well-drained loamy soils and are moderately deep to very deep. The petition states that well-drained soils aid in minimizing fungal infections and rot. Additionally, the soil depth allows for unobstructed root growth, as roots can penetrate moderately deeply before hitting denser soils and very deeply before touching bedrock.

Throughout the growing season, average monthly temperatures within the proposed Nashoba Valley AVA range from a low of 47 degrees Fahrenheit (F) to 72 degrees F. July is typically the warmest month when the average high temperature is 82 degrees F. The proposed Nashoba Valley AVA has an average of 1,697 growing degree days (GDDs) [1] calculated in degrees Celsius,[2] which places it in Region III of the Winkler system. According to the petition, the warm climate within the proposed AVA is suitable for growing grape varietals such as Albarino, Cabernet Franc, Chardonnay, Riesling, and St. Croix, among others.

The petition also states that wind is another climate feature that affects viticulture. Between March and May, when grapevines begin producing buds, shoots, and flowers, average wind speeds in the proposed AVA range from 6.6 to 4.7 miles per hour. According to the petition, light winds during this period reduce the risk of frost damage to new growth. However, stronger winds can damage shoots and buds, leading to a smaller grape harvest. During the summer months of June to August, when increased humidity and rainstorms are common, average wind speeds range from 4.2 to 3.9 miles per hour. The petition states that these summer winds reduce the time needed for vineyards to dry and thus lessen the chance for molds and mildews to form.

To the immediate north of the proposed Nashoba Valley AVA are Fort Devens and the Bolton Flats Wildlife Management Area, which are not available for commercial viticulture. Farther north, the soils are not as well-drained as those of the proposed AVA, average wind speeds are lower, and average GDD accumulations are lower and in the Region II Category. East of the proposed AVA, the soils have a high water table and are not as well-drained as soils within the proposed AVA. Annual GDD accumulations east of the proposed AVA are slightly higher but still within the Region III category, while average monthly wind speeds are also higher. South of the proposed AVA, the region is largely urban with little land available for commercial viticulture. Annual GDD accumulations are within the Region II category, and average monthly wind speeds are slightly lower than within the proposed AVA. West of the proposed AVA, soils are shallower and have a slow water infiltration rate. Annual GDD accumulations are within the Region II category, and average monthly wind speeds are slower than within the proposed AVA.

Notice of Proposed Rulemaking and Comments Received

TTB published Notice No. 230 in the **Federal Register** on January 5, 2024 (89 FR 721), proposing to establish the Nashoba Valley AVA. In the notice, TTB summarized the evidence from the petition regarding the name, boundary, and distinguishing features for the proposed AVA. The notice also included information from the petition comparing the distinguishing features of the proposed AVA to the surrounding areas. For a detailed description of the evidence relating to the name, boundary, and distinguishing features of the proposed AVA and for a detailed comparison of the distinguishing features of the proposed viticultural area to the surrounding areas, see Notice No. 230. In Notice No. 230, TTB solicited comments on the accuracy of the name, boundary, and other required information submitted in support of the petition. The comment period for Notice No. 230 closed on March 5, 2024.

In response to Notice No. 230, TTB received five comments. Four of the comments explicitly support the establishment of the proposed Nashoba Valley AVA, and some provide additional views of the distinctive characteristics of the region. One commenter (comment 2) notes that the climate, soil composition, and daily sunlight of the region have discernible effects on the products of the Nashoba Valley and that the AVA will help distinguish regional wines from wines from vineyards with different conditions across the State. Another (comment 3) highlights the distinctive soil that makes the land in the AVA area unique and notes that wines from the region have already been recognized in magazines such as Wine Enthusiast and Food and Wine.

The fifth commenter (comment 1) states that they generally support the establishment of the Nashoba Valley Viticultural Area and agrees that the petition demonstrated the distinctiveness of the terroir of the proposed AVA. The commenter further states that the petition would be stronger with more evidence of the area's ''national distinctiveness,'' and questions whether there is sufficient ''national recognition of the proposed area by the wine industry and consumers.'' The commenter states that the proposal would benefit from additional evidence of ''national distinctiveness'' and that the petitioner could supplement the record by providing references to the Nashoba Valley and its wine production from ''historical documents, newspapers, magazines, books, or websites'' or conduct surveys with ''wine experts, retailers, or consumers outside the local area to gauge their awareness and perception of the Nashoba Valley name and wines.''

While TTB agrees that additional evidence could lend further support to

[1] *See* Albert J. Winkler, *General Viticulture* (Berkeley: University of California Press, 1974), pages 61–64. In the Winkler climate classification system, annual heat accumulation during the growing season, measured in annual Growing Degree Days (GDDs), defines climatic regions. One GDD accumulates for each degree Celsius that a day's mean temperature is above 10 degrees C, the minimum temperature required for grapevine growth. The Winkler scale regions are as follows: Region Ia, 850–1,111 GDDs; Region Ib, 1,112–1,389 GDDs; Region II, 1,390–1,667 GDDs; Region III, 1,668–1,944 GDDs; Region IV, 1,945–2,222 GDDs; Region V, 2,223–2,700 GDDs.

[2] Unless otherwise noted, all GDD accumulations listed in this document are in degrees Celsius.

the petition, TTB believes that the evidence submitted is sufficient to determine whether the AVA should be established. With regard to the evidence, TTB notes that § 9.12(a)(1) requires evidence that the name of a proposed AVA must be ''currently and directly associated with an area in which viticulture exists'' and that the area be ''nationally *or* locally known by the name specified in the petition'' (emphasis added). Additionally, § 9.12(a)(3) requires an AVA petition to include ''a description of the common or similar features of the proposed AVA affecting viticulture that make it distinctive'' and to explain how those features affect viticulture and how they differ from the features of the surrounding region. TTB believes these and the other criteria set forth in § 9.12 have been met and that the rulemaking record shows sufficient basis for establishing the AVA. TTB also notes that the regulations do not require a petition to contain evidence that the proposed AVA is nationally recognized for its wine or winegrape production or information regarding the level of consumers' and wine experts' current awareness of the region and its wines.

TTB Determination

After careful review of the petition and the comments received in response to Notice No. 230, TTB finds that the evidence provided by the petitioner supports the establishment of the Nashoba Valley AVA. Accordingly, under the authority of the FAA Act, section 1111(d) of the Homeland Security Act of 2002, and parts 4 and 9 of the TTB regulations, TTB establishes the ''Nashoba Valley'' AVA in Worcester County, Massachusetts.

Boundary Description

See the narrative description of the boundary of the Nashoba Valley AVA in the regulatory text published at the end of this final rule.

Maps

The petitioner provided the required maps, and they are listed below in the regulatory text. The Nashoba Valley AVA boundary may also be viewed on the AVA Map Explorer on the TTB website, at *https://www.ttb.gov/wine/ava-map-explorer.*

Impact on Current Wine Labels

Part 4 of the TTB regulations prohibits any label reference on a wine that indicates or implies an origin other than the wine's true place of origin. For a wine to be labeled with an AVA name or with a brand name that includes an AVA name, at least 85 percent of the wine must be derived from grapes grown within the area represented by that name, and the wine must meet the other conditions listed in 27 CFR 4.25(e)(3). If the wine is not eligible for labeling with an AVA name and that name appears in the brand name, then the label is not in compliance and the bottler must change the brand name and obtain approval of a new label. Similarly, if the AVA name appears in another reference on the label in a misleading manner, the bottler would have to obtain approval of a new label. Different rules apply if a wine has a brand name containing an AVA name that was used as a brand name on a label approved before July 7, 1986. See 27 CFR 4.39(i)(2) for details.

With the establishment of the Nashoba Valley AVA, its name, ''Nashoba Valley,'' will be recognized as a name of viticultural significance under § 4.39(i)(3) of the TTB regulations (27 CFR 4.39(i)(3)). The text of the regulations clarifies this point. Consequently, wine bottlers using the name ''Nashoba Valley'' in a brand name, including a trademark, or in another label reference as to the origin of the wine, will have to ensure that the product is eligible to use the AVA name as an appellation of origin.

The establishment of the Nashoba Valley AVA will not affect any existing AVA. The establishment of the Nashoba Valley AVA will allow vintners to use ''Nashoba Valley'' as an appellation of origin for wines made primarily from grapes grown within the Nashoba Valley AVA if the wines meet the eligibility requirements for the appellation.

Regulatory Flexibility Act

TTB certifies that this regulation will not have a significant economic impact on a substantial number of small entities. The regulation imposes no new reporting, recordkeeping, or other administrative requirement. Any benefit derived from the use of an AVA name would be the result of a proprietor's efforts and consumer acceptance of wines from that area. Therefore, no regulatory flexibility analysis is required.

Executive Order 12866

It has been determined that this final rule is not a significant regulatory action as defined by Executive Order 12866, as amended. Therefore, no regulatory assessment is required.

Drafting Information

Karen A. Thornton of the Regulations and Rulings Division drafted this final rule.

List of Subjects in 27 CFR Part 9

Wine.

The Regulatory Amendment

For the reasons discussed in the preamble, TTB amends title 27, chapter I, part 9, Code of Federal Regulations, as follows:

PART 9—AMERICAN VITICULTURAL AREAS

■ 1. The authority citation for part 9 continues to read as follows:

Authority: 27 U.S.C. 205.

Subpart C—Approved American Viticultural Areas

■ 2. Add § 9.299 to read as follows:

§ 9.299 Nashoba Valley.

(a) *Name.* The name of the viticultural area described in this section is ''Nashoba Valley''. For purposes of part 4 of this chapter, ''Nashoba Valley'' is a term of viticultural significance.

(b) *Approved maps.* The 2 United States Geological Survey (USGS) 1:100,000 scale topographic maps used to determine the boundary of the Nashoba Valley viticultural area are:

(1) Hudson, MA, 2021; and

(2) Clinton, MA, 2021.

(c) *Boundary.* The Nashoba Valley viticultural area is located in Worcester County, Massachusetts. The boundary of the viticultural area is described as follows:

(1) The beginning point is on the Hudson map at the intersection of Route 62 (also known as Central Street) and I–495 in Hudson, Massachusetts. From the beginning point, proceed southwest, then westerly on Route 62 for a total of 4.5 miles, crossing onto the Clinton map, to the point where it intersects and becomes concurrent with Route 70 (also known as Boylston Street); then

(2) Proceed north on Route 70/Route 62 for 2.09 miles to its intersection with Route 110/Main Street in Clinton, Massachusetts; then

(3) Proceed south on Route 110/Main Street as it becomes known as West Boylston Road, and continue along West Boylston Road for a total of 1 mile to its intersection with South Meadow Road; then

(4) Proceed north along South Meadow Road for 0.95 mile to its intersection with Moffett Street in Lancaster, Massachusetts; then

(5) Proceed northwest along Moffett Street to its intersection with an unnamed road known locally as Chace Hill Road; then

(6) Proceed northeast along Chace Hill Road to its intersection with Sterling Street (also known as Route 62); then

(7) Proceed northwesterly along Sterling Street/Route 62 to its intersection with an unnamed road known locally as Chocksett Road; then

(8) Proceed northwesterly along Chocksett Road to its intersection with Pratts Junction Road; then

(9) Proceed northwesterly along Pratts Junction Road to its intersection with I–190; then

(10) Proceed northerly along I–190 for 2.35 miles to its intersection with Route 117 in Leominster, Massachusetts; then

(11) Proceed southeasterly along Route 117 for 7.8 miles, crossing onto the Hudson map, to its intersection with I–495; then

(12) Proceed southerly along I–495 to the beginning point.

Signed: March 16, 2026.

Mary G. Ryan,

Administrator.

Approved: March 16, 2026.

Kenneth J. Kies,

Assistant Secretary (Tax Policy).

[FR Doc. 2026–05730 Filed 3–23–26; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

27 CFR Part 9

[Docket No. TTB–2023–0008; T.D. TTB–205; Re: Notice No. 226]

RIN 1513–AD00

Establishment of the Nine Lakes of East Tennessee Viticultural Area

AGENCY: Alcohol and Tobacco Tax and Trade Bureau, Treasury.

ACTION: Final rule; Treasury decision.

SUMMARY: The Alcohol and Tobacco Tax and Trade Bureau (TTB) establishes the approximately 4,064-square mile ''Nine Lakes of East Tennessee'' American viticultural area (AVA) in northeastern Tennessee. The Nine Lakes of East Tennessee AVA is not located within, nor does it contain, any other established viticultural area. TTB designates viticultural areas to allow vintners to better describe the origin of their wines and to allow consumers to better identify wines they may purchase.

DATES: This final rule is effective April 23, 2026.

FOR FURTHER INFORMATION CONTACT: Karen A. Thornton, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW, Box 12, Washington, DC 20005; phone 202–453–1039, ext. 175.

SUPPLEMENTARY INFORMATION:

Background on Viticultural Areas

TTB Authority

Section 105(e) of the Federal Alcohol Administration Act (FAA Act), 27 U.S.C. 205(e), authorizes the Secretary of the Treasury to prescribe regulations for the labeling of wine, distilled spirits, and malt beverages. The FAA Act provides that these regulations should, among other things, prohibit consumer deception and the use of misleading statements on labels and ensure that labels provide the consumer with adequate information as to the identity and quality of the product. The Alcohol and Tobacco Tax and Trade Bureau (TTB) administers the FAA Act pursuant to section 1111(d) of the Homeland Security Act of 2002, codified at 6 U.S.C. 531(d). In addition, the Secretary of the Treasury has delegated certain administrative and enforcement authorities to TTB through Treasury Order 120–01.

Part 4 of the TTB regulations (27 CFR part 4) authorizes TTB to establish definitive viticultural areas and regulate the use of their names as appellations of origin on wine labels and in wine advertisements. Part 9 of the TTB regulations (27 CFR part 9) sets forth standards for the preparation and submission to TTB of petitions for the establishment or modification of American viticultural areas (AVAs) and lists the approved AVAs.

Definition

Section 4.25(e)(1)(i) of the TTB regulations (27 CFR 4.25(e)(1)(i)) defines a viticultural area for American wine as a delimited grape-growing region having distinguishing features as described in part 9 of the regulations and a name and a delineated boundary, as established in part 9 of the regulations. These designations allow vintners and consumers to attribute a given quality, reputation, or other characteristic of a wine made from grapes grown in an area to the wine's geographic origin. The establishment of AVAs allows vintners to describe more accurately the origin of their wines to consumers and helps consumers to identify wines they may purchase. Establishment of an AVA is neither an approval nor an endorsement by TTB of the wine produced in that area.

Requirements

Section 4.25(e)(2) of the TTB regulations (27 CFR 4.25(e)(2)) outlines the procedure for proposing an AVA and allows any interested party to petition TTB to establish a grape-growing region as an AVA. Section 9.12 of the TTB regulations (27 CFR 9.12) prescribes standards for petitions for the establishment or modification of AVAs. Petitions to establish an AVA must include the following:

- Evidence that the area within the proposed AVA boundary is nationally or locally known by the AVA name specified in the petition;
- An explanation of the basis for defining the boundary of the proposed AVA;
- A narrative description of the features of the proposed AVA affecting viticulture, such as climate, geology, soils, physical features, and elevation, that make the proposed AVA distinctive and distinguish it from adjacent areas outside the proposed AVA boundary;
- The appropriate United States Geological Survey (USGS) map(s) showing the location of the proposed AVA, with the boundary of the proposed AVA clearly drawn thereon; and
- A detailed narrative description of the proposed AVA boundary based on USGS map markings.

Nine Lakes of East Tennessee AVA Petition

TTB received a petition from the Appalachian Region Wine Producers Association, proposing the establishment of the ''Nine Lakes of East Tennessee'' AVA. The proposed AVA is in Anderson, Blount, Campbell, Claiborne, Cocke, Grainger, Hamblen, Jefferson, Knox, Loudon, Monroe, Roane, Sevier, and Union Counties in Tennessee. The proposed AVA contains approximately 4,064-square miles (2,601,390 acres) with approximately 232 acres of planted vineyards spread across the proposed AVA. There are also 29 wineries within the proposed AVA. According to the petition, the distinguishing features of the proposed Nine Lakes of East Tennessee AVA are its geology, soils, topography, and climate.

According to the petition, the proposed Nine Lakes of East Tennessee AVA is located in the Valley and Ridge Province of eastern Tennessee and contains all or portions of the 14 counties that surround the nine lakes formed by the Tennessee Valley Authority dams along the Tennessee River. The geology of the proposed AVA consists almost entirely of sedimentary rocks initially deposited during the Paleozoic Era, when an ocean covered most of eastern North America. The folding and fracturing of the sediments and rocks formed ridges and valleys with southwest-to-northeast orientations. The petition states that the

orientation of these ridges and valleys allows vineyard owners to select locations with slope aspects that allow for first light to dry the heavy dew from the vines and thus help in disease prevention. The slope aspects also shade vines from the evening sun and thus prevent excessive heat on the grape clusters. Elevations within the proposed AVA range from 1,100 to 1,500 feet in the ridges and 700 to 1,000 feet in the valleys.

The petition states that the geology of the regions to the north and south of the proposed AVA is similar to that of the proposed AVA, given that all three locations are part of the Valley and Ridge Province. However, elevations north of the proposed AVA are higher, while elevations to the south are lower. To the east is the Appalachian Mountain System which is comprised of Lower Paleozoic limestone, dolomite, and shale with exposures of Precambrian igneous and metamorphic basement rocks such as tuff, rhyolite, granite, schist, and quartzite, as well as Precambrian sedimentary and metamorphic sandstone, conglomerate, arkose, and siltstone. Elevations in this region range from 1,000 to 6,643 feet. To the west of the proposed AVA are the Cumberland Plateau and Cumberland Escarpment, which consist of uplifted caprock of Pennsylvanian age sandstone and conglomerate. Average elevations west of the proposed AVA range from 1,500 to 1,800 feet.

The soils of the proposed Nine Lakes of East Tennessee AVA are classified as Ultisols, which the petition describes as soils that are ''strongly leached, acid forest soils with low native fertility'' and a clay-enriched subsoil. Soil depth ranges from shallow to very deep. The soils have a udic soil moisture regime and an average temperature of 59 to 72 degrees Fahrenheit (F) at a depth of 20 inches. The petition states that timely application of fertilizer and lime in vineyards are important to maximize grape yield in these soils.

To the north and south of the proposed AVA, the soils are similar, because all three regions are in the Valley and Ridge Province. To the east of the proposed AVA, soils are commonly well-drained and acidic and can be shallow to very deep. The primary soil orders are Inceptisols and, to a significantly lesser extent, Ultisols. The soils have an udic soil moisture regime, and the average annual soil temperature regimes are mesic (between 47 and 59 degrees F) and frigid (lower than 46.4 degrees F). West of the proposed AVA, the main soil orders are Inceptisols and Ultisols with a thermic or mesic soil temperature regime and an udic soil moisture regime.

According to the petition, the climate of the proposed Nine Lakes of East Tennessee AVA is warmer than that of each of the surrounding regions except the region to the south. The mean growing season length [1] within the proposed AVA is 212.8 days. The average growing season growing degree day (GDD) accumulation is 3,837, placing the proposed AVA in Winkler Region IV.[2] The average maximum temperature is 69 degrees F, while the average minimum temperature is 45 degrees F, placing the proposed AVA in USDA Plant Hardiness Zone 7a. Average annual precipitation amounts total 51.09 inches. According to the petition, the climate of the proposed AVA is suitable for growing a wide variety of grapes, including vinifera, hybrid, native, and muscadine varietals.

To the northeast of the proposed AVA, the mean growing season is shorter, and the region is classified as a Winkler Region III with fewer GDDs than the proposed AVA. The region is also in USDA Plant Hardiness Zone 6b, with lower average maximum and minimum temperatures and lower annual precipitation amounts than the proposed AVA. To the east, the climate is also cooler than within the proposed AVA, with a shorter growing season length, fewer GDDs, a Winkler Region II classification, lower average maximum and minimum temperatures, and a USDA Plant Hardiness Zone classification of 6b. However, average annual rainfall amounts east of the proposed AVA are higher. To the south, the mean growing season length is longer, the average minimum and maximum temperatures are higher, GDD accumulations are higher and place the region in Winkler Region V, and average annual precipitation amounts are higher. West of the proposed AVA, the average growing season length is almost identical. Although the region to the west is also a Winkler Region IV, it accumulates slightly fewer GDDs annually than the proposed AVA. Average annual maximum and minimum temperatures are slightly cooler, placing it in USDA Plant Hardiness Zone 6b. Annual precipitation amounts west of the proposed AVA are higher.

[1] Defined as the period between last spring frost and first fall frost.

[2] See Albert J. Winkler, General Viticulture (Berkeley: University of California Press, 1974), pages 61–64. In the Winkler climate classification system, annual heat accumulation during the growing season, measures in Growing Degree Days (GDDs), defines climatic regions. One GDD accumulates for each degree Fahrenheit that a day's mean temperature is above 50 degrees F, the minimum temperature required for grapevine growth. The Winkler scale regions are as follows: Region 1a, 1,500–2,000 GDDs; Region 1b, 2,000–2,500 GDDs, Region II, 2,500–3,000 GDDs; Region III, 3,000–3,500 GDDs; Region IV, 3,500–4,000 GDDs; Region V, 4,000–4,900 GDDs.

Notice of Proposed Rulemaking and Comments Received

TTB published Notice No. 226 in the **Federal Register** on September 20, 2023 (88 FR 64846), proposing to establish the Nine Lakes of East Tennessee AVA. In the notice, TTB summarized the evidence from the petition regarding the name, boundary, and distinguishing features for the proposed AVA. The notice also compared the distinguishing features of the proposed AVA to the surrounding areas. For a detailed description of the evidence relating to the name, boundary, and distinguishing features of the proposed AVA, and for a detailed comparison of the distinguishing features of the proposed AVA to the surrounding areas, see Notice No. 226. In Notice No. 226, TTB solicited comments on the sufficiency and accuracy of the name, boundary, and other required information submitted in support of the petition. The comment period closed on November 20, 2023.

Comments Received

In response to Notice No. 226, TTB received nine comments. One comment received through *regulations.gov* was a request for contact about a registration unrelated to the proposed AVA, the AVA program, or TTB rulemaking. That comment is not posted to the docket. The eight remaining comments were from the Tennessee Wine and Grape Board, the Appalachian Region Wine Producers Association (the submitter of the petition to establish the AVA), the Union County Chamber of Commerce, the Tennessee Farm Winegrowers Alliance, and members of the public. Seven of the comments (comments 2 through 8) express full support for the proposed AVA as a way to increase tourism, new businesses, and public awareness of wines produced from grapes grown in the region.

One comment (comment 1) provided additional input on the proposed AVA's name, location, and ''distinguishing features that set it apart from the surrounding regions.'' It acknowledges the distinctiveness of the proposed AVA and describes awards that several local wine producers have won. However, the comment also notes ''some disadvantages that may affect its recognition and value.'' The commenter states that its size may make it difficult ''to maintain a consistent identity and quality among the wines produced in

the region,'' which might ''dilute the significance and recognition of the appellation'' among consumers and trade. The comment also stated that the relatively low number of vineyards and wineries (specifically 19 vineyards with a total of 232 acres of planted vines and 10 wineries) within the proposed AVA may ''limit the availability and diversity'' of wines from the area and could indicate a ''lack of interest and investment in grape growing and wine making in the region.'' Finally, the comment states that establishing the proposed Nine Lakes of East Tennessee AVA may overlap with the ''Rocky Top AVA'' and the ''Great Valley of East Tennessee AVA,'' and create confusion in labeling and marketing of wines from these areas, or ''undermine the distinctiveness and value'' of the ''Rocky Top AVA and the Great Valley of East Tennessee AVA.''

TTB Response

As noted above, TTB establishes AVAs to allow winemakers to better describe, in labeling and advertising, the origins of their wines and to allow consumers to better identify wines they may purchase. TTB reviews any petition for the establishment of an AVA based on the criteria set forth in its regulations and on comments received on those criteria from interested parties during the public comment period. The extent to which wines from an established AVA ultimately achieve recognition depends on a number of factors beyond the establishment of the AVA and is not considered in determining whether to establish a proposed AVA. With respect to the concern that the large size of the proposed AVA may make it difficult for winemakers to maintain a consistent identity and/or quality among the wines produced within the region, TTB believes that the petition adequately demonstrated the similar grape-growing conditions throughout the proposed AVA, and no comments were received that disputed that information or raised questions about the distinguishing features. However, TTB recognizes that differences in quality and character of wines can occur in wines from AVAs of any size as a result of the skills and preferences of the winemakers rather than to differences in soils, climate, or topography within the AVA.

Regarding the number of wineries, vineyards, and acres of vines within the proposed AVA, TTB does not take a position with regard to whether the total vineyard acreage or number of wineries within a proposed AVA suggests a level of current or future interest or investment in grape growing or wine making. Any future growth that may occur in the region would be due to the efforts of vineyard owners and winemakers in the region and customer acceptance of the wines.

Finally, with regard to a concern that the proposed AVA overlaps ''the Rocky Top AVA and the Great Valley of East Tennessee AVA,'' TTB notes that there are no AVAs located within the proposed Nine Lakes of East Tennessee AVA. While ''Rocky Top'' and the ''Great Valley of East Tennessee'' may be locally known names of winemaking regions, they are not approved AVAs under TTB regulations.

TTB Determination

After careful review of the petition and the comments received in response to Notice 226, TTB finds that the evidence provided by the petitioner supports establishing the Nine Lakes of East Tennessee AVA as proposed. Accordingly, under the authority of the FAA Act, section 1111(d) of the Homeland Security Act of 2002, and parts 4 and 9 of the TTB regulations, TTB establishes the ''Nine Lakes of East Tennessee'' AVA in northeastern Tennessee, effective 30 days from the publication date of this document.

Boundary Description

See the narrative description of the boundary of the Nine Lakes of East Tennessee AVA in the regulatory text published at the end of this final rule.

Maps

The petitioner provided the required maps, and they are listed below in the regulatory text. The Nine Lakes of East Tennessee AVA boundary may also be viewed on the AVA Map Explorer on the TTB website, at *https://www.ttb.gov/wine/ava-map-explorer.*

Impact on Current Wine Labels

Part 4 of the TTB regulations prohibits any label reference on a wine that indicates or implies an origin other than the wine's true place of origin. For a wine to be labeled with an AVA name or with a brand name that includes an AVA name, at least 85 percent of the wine must be derived from grapes grown within the area represented by that name, and the wine must meet the other conditions listed in 27 CFR 4.25(e)(3). If the wine is not eligible for labeling with an AVA name and that name appears in the brand name, then the label is not in compliance and the bottler must change the brand name and obtain approval of a new label. Similarly, if the AVA name appears in another reference on the label in a misleading manner, the bottler would have to obtain approval of a new label. Different rules apply if a wine has a brand name containing an AVA name that was used as a brand name on a label approved before July 7, 1986. See 27 CFR 4.39(i)(2) for details.

With the establishment of the Nine Lakes of East Tennessee AVA, its name, ''Nine Lakes of East Tennessee,'' will be recognized as a name of viticultural significance under § 4.39(i)(3) of the TTB regulations (27 CFR 4.39(i)(3)). The text of the regulations clarifies this point. Consequently, wine bottlers using the name ''Nine Lakes of East Tennessee'' in a brand name, including a trademark, or in another label reference to the origin of the wine, will have to ensure that the product is eligible to use the AVA name as an appellation of origin.

Establishing the Nine Lakes of East Tennessee AVA will not affect any existing AVA. Establishing the Nine Lakes of East Tennessee AVA will allow vintners to use ''Nine Lakes of East Tennessee'' as an appellation of origin for wines made primarily from grapes grown within the Nine Lakes of East Tennessee AVA if the wines meet the eligibility requirements for the appellation.

Regulatory Flexibility Act

TTB certifies that this regulation will not have a significant economic impact on a substantial number of small entities. The regulation imposes no new reporting, recordkeeping, or other administrative requirement. Any benefit derived from the use of an AVA name would be the result of a proprietor's efforts and consumer acceptance of wines from that area. Therefore, no regulatory flexibility analysis is required.

Executive Order 12866

It has been determined that this final rule is not a significant regulatory action as defined by Executive Order 12866, as amended. Therefore, no regulatory assessment is required.

Drafting Information

Karen A. Thornton of the Regulations and Rulings Division drafted this final rule.

List of Subjects in 27 CFR Part 9

Wine.

The Regulatory Amendment

For the reasons discussed in the preamble, TTB amends title 27, chapter I, part 9, Code of Federal Regulations, as follows:

PART 9—AMERICAN VITICULTURAL AREAS

■ 1. The authority citation for part 9 continues to read as follows:

Authority: 27 U.S.C. 205.

Subpart C—Approved American Viticultural Areas

■ 2. Add § 9.300 to subpart C to read as follows:

§ 9.300 Nine Lakes of East Tennessee AVA.

(a) *Name.* The name of the viticultural area described in this section is ''Nine Lakes of East Tennessee''. For purposes of part 4 of this chapter, ''Nine Lakes of East Tennessee'' is a term of viticultural significance.

(b) *Approved maps.* The 6 United States Geological Survey (USGS) 1:100,000 scale topographic maps used to determine the boundary of the Nine Lakes of East Tennessee viticultural area are:

(1) Middlesboro, KY–Tenn.–VA, 1977;
(2) Morristown, Tennessee, 1981;
(3) Knoxville, Tenn.–N.C., 1983;
(4) Oak Ridge, Tennessee, 1979;
(5) Watts Bar Lake, Tennessee, 1981; and
(6) Cleveland, Tennessee–N.C., 1981.

(c) *Boundary.* The Nine Lakes of East Tennessee viticultural area is located in Anderson, Blount, Campbell, Claiborne, Cocke, Grainger, Hamblen, Jefferson, Knox, Loudon, Monroe, Roane, Sevier, and Union Counties, Tennessee. The boundary of the viticultural area is described as follows:

(1) The beginning point is on the Middlesboro map at the intersection of the shared Hancock–Claiborne County line and the shared Virginia–Tennessee State line. From the beginning point, proceed west along the Virginia–Tennessee State line for 10.13 miles to the boundary of the Cumberland Gap National Historical Park; then

(2) Proceed southwest, then northwest along the park boundary for approximately 4.78 miles to its intersection with the 500-meter elevation contour on Powell Mountain; then

(3) Proceed southwest, then northeast, then southwest along the meandering 500-meter elevation contour for approximately 11.18 miles, crossing onto the Morristown map, and continuing along the 500-meter elevation contour for approximately 10.38 miles, crossing onto the Oak Ridge map, and continuing along the 500-meter elevation contour for 8.7 miles to the point where it turns sharply northeast just east of Highway 25W and north of Lafollette; then

(4) Proceed west in a straight line for approximately 0.49 mile, crossing over Highway 25W, to the 500-meter elevation contour; then

(5) Proceed southwest, then northeast along the 500-meter elevation contour for approximately 7.46 miles to its intersection with and unnamed tributary of Bruce Creek; then

(6) Proceed west in a straight line to Interstate 75; then

(7) Proceed south in a straight line for approximately 6.34 miles to the intersection of the Campbell and Anderson County lines; then

(8) Proceed south along the shared Campbell–Anderson County line for approximately 6.28 miles, crossing over Stony Fork, to the intersection with an unnamed trail running southwest-to-northeast along Windrock Mountain; then

(9) Proceed southwest in a straight line for 9.26 miles to the intersection with the shared Anderson–Morgan County line; then

(10) Proceed southeast along the Anderson–Morgan County line for approximately 5.59 miles to its intersection with the Roane County line; then

(11) Proceed southwest along the shared Roane–Morgan County line for approximately 5.65 miles, crossing onto the Watts Bar Lake map, and continuing along the Roane–Morgan County line to its intersection with the Cumberland County line; then

(12) Proceed southwest in a straight line for approximately 8.82 miles to the intersection of the Roane and Rhea County lines and State Road 29; then

(13) Proceed southerly along the shared Roane–Rhea County line for approximately 5.47 miles to its intersection with the Meigs County line; then

(14) Proceed south-southeast along the Roane–Meigs County line to its intersection with the McMinn County line; then

(15) Proceed east along the shared Roane–McMinn County line for 1.8 miles to the intersection with the Loudon County line; then

(16) Proceed south, then easterly along the shared Loudon–McMinn County line to its intersection with the Monroe County line; then

(17) Proceed south, then southeast along the shared McMinn–Monroe County line for approximately 10.56 miles, crossing onto the Cleveland, Tennessee–North Carolina map, and continuing along the shared McMinn–Monroe County line for approximately 13.67 miles to the intersection with an unnamed highway known locally as State Road 39/Mecca Highway; then

(18) Proceed southeast along State Road 39 for approximately 3.04 miles to its intersection with the Cherokee National Forest boundary, which is concurrent with Conasauga Creek; then

(19) Proceed southeasterly, then northerly along the Cherokee National Forest boundary for approximately 23.67 miles, crossing onto the Watts Bar Lake map, and continue northeasterly, then easterly along the forest boundary for approximately 15.35 miles as it meanders east through Tellico Lake and becomes concurrent with the Blount-Monroe County line and crosses onto the Knoxville, Tennessee-North Carolina map, to the forest boundary's intersection with Abrams Creek; then

(20) Proceed north in a straight line for approximately 1,500 feet to the Great Smoky Mountains National Park boundary; then

(21) Proceed northeast, then southeast, then northeast along the park boundary line for a total of approximately 51.47 miles to its intersection with the shared Cocke–Sevier County line near Rocky Grove; then

(22) Proceed northeast in a straight line for 6.15 miles to the intersection of the Cherokee National Forest boundary with Highway 321/State Road 32 and Rabbit Branch near Allen Grove; then

(23) Proceed east along the forest boundary for 1.99 miles to its intersection with Interstate 40; then

(24) Proceed north along Interstate 40 for 2.98 miles to its intersection with Highway 321; then

(25) Proceed northeast along the forest boundary for 3.12 miles to its intersection with State Road 73 at Edwina; then

(26) Proceed northeast in a straight line for 9.2 miles, crossing onto the Morristown map, and continuing northeast in a straight line for 4.16 miles to the shared Greene–Cocke County line; then

(27) Proceed northwest along the Greene–Cocke County line to its intersection with the Hamblen County line; then

(28) Proceed northeast along the Hamblen–Greene County line to its intersection with the Hawkins County line; then

(29) Proceed northwest, then southwest along the Hawkins–Hamblen County line to its intersection with the Grainger County line; then

(30) Proceed northwesterly along the Hawkins–Grainger County line to its intersection with the Hancock County line; then

(31) Proceed west along the Grainger–Hancock County line to its intersection with the Claiborne County line; then

(32) Proceed north along the Hancock–Claiborne County line for approximately 8.14 miles, crossing onto the Middlesboro map, and continuing northwest along the Hancock–Claiborne County line for approximately 8.51 miles to return to the beginning point.

Signed: March 16, 2026.

Mary G. Ryan,

Administrator.

Approved: March 16, 2026.

Kenneth J. Kies,

Assistant Secretary (Tax Policy).

[FR Doc. 2026–05731 Filed 3–23–26; 8:45 am]

BILLING CODE 4810–31–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[EPA–R10–OAR–2026–0365; FRL–13196–01–R10]

Approval and Promulgation of Delegation of Authority for Designated Facilities and Pollutants; Washington; Southwest Clean Air Agency

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving delegation of authority to the Southwest Clean Air Agency (SWCAA) for implementing and enforcing the Federal plan requirements for several categories of incineration units, specifically hospital/medical/infectious waste incineration units, commercial and industrial solid waste incineration units, small municipal solid waste combustion units, and sewage sludge incineration units. The Federal plan addresses the implementation and enforcement of emission limits and other control requirements for designated air pollutants. On March 27, 2023, and March 28, 2023, respectively, the EPA Region 10 Regional Administrator and the Executive Director of SWCAA signed a Memorandum of Agreement (MOA) concerning delegation of authority of the Federal plan to SWCAA, which became effective upon signature. The geographic area covered by this MOA comprises the counties of Clark, Cowlitz, Lewis, Skamania, and Wahkiakum in the State of Washington, except in Indian country. This document informs the public of the MOA, provides a copy of the signed document, and amends regulatory text in accordance with the Clean Air Act (CAA).

DATES: This final rule is effective on March 24, 2026.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–R10–OAR–2026–0365. All documents in the docket are listed on the website. Although listed in the index, some information is not publicly available, *e.g.,* Confidential Business Information, Proprietary Business Information, or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available electronically through *https://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Jeff Hunt, EPA Region 10, 1200 Sixth Avenue, Suite 155, Seattle, WA 98101, at (206) 553–0256 or *hunt.jeff@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean ''the EPA.''

I. Background

Section 111 of the CAA, ''Standards of Performance for New Stationary Sources,'' directs the EPA to establish emission standards for stationary sources of air pollution that could potentially endanger public health or welfare. These standards are referred to as the New Source Performance Standards (NSPS). Section 111(b) of the CAA directs the EPA to publish and periodically revise a list of categories of stationary sources which cause or significantly contribute to air pollution, and to establish the NSPS within these categories. Section 111(d) of the CAA addresses the process by which the EPA and States regulate standards of performance for existing sources belonging to those categories established in CAA section 111(b). When the NSPS are promulgated for new sources, CAA section 111(d) and the EPA regulations require that the EPA publish an Emission Guideline (EG) to regulate the same pollutants from existing facilities. While the NSPS are directly applicable to new sources, an EG for an existing source (designated facility) is intended for States to use to develop a State plan to submit to the EPA. Section 111 of the CAA and 40 CFR 60.27(c) and (d) require the EPA to develop, implement, and enforce a Federal plan for designated facilities located in any State or Indian country that does not have an approved State plan under CAA section 111 that implements the EG. These Federal plans are published in 40 CFR part 62 *Approval and Promulgation of State Plans for Designated Facilities and Pollutants.*

A State, or local clean air agency in this case, may then meet its CAA section 111(d) obligations by submitting a formal written request for delegation of authority to implement and enforce the Federal plans. On August 11, 2021, SWCAA requested delegation of authority to implement and enforce the following Federal plans in 40 CFR part 62:

- Subpart HHH: *Federal Plan Requirements for Hospital/Medical/Infectious Waste Incinerators Constructed on or Before December 1, 2008,* in lieu of the requirement to submit a State plan pursuant to 40 CFR part 60, subpart Ce: *Emission Guidelines and Compliance Times for Hospital/Medical/Infectious Waste Incinerators* (HMIWI);
- Subpart III: *Federal Plan Requirements for Commercial and Industrial Solid Waste Incineration Units that Commenced Construction on or before November 30, 1999,* in lieu of the requirement to submit a State plan pursuant to 40 CFR part 60, subpart DDDD: *Emissions Guidelines and Compliance Times for Commercial and Industrial Solid Waste Incineration Units* (CISWI);
- Subpart JJJ: *Federal Plan Requirements for Small Municipal Solid Waste Combustion Units Constructed on or before August 30, 1999,* in lieu of the requirement to submit a State plan pursuant to 40 CFR, part 60, subpart BBBB: *Emission Guidelines and Compliance Times for Small Municipal Solid Waste Combustion Units Constructed on or before August 30, 1999* (SMWC);
- Subpart LLL: *Federal Plan for Sewage Sludge Incineration Units Constructed on or before October 14, 2010,* in lieu of the requirement to submit a State plan pursuant to 40 CFR part 60, subpart MMMM: *Emission Guidelines and Compliance Times for Existing Sewage Sludge Incineration Units* (SSI).

The criteria for delegation for each Federal plan varies by subpart.[1] However, as a general matter, the framework for the EPA to transfer

[1] The criteria for delegation of the Federal plan for HMIWI are found in the Federal plan for HMIWI at 40 CFR 62.14401(a). The criteria for delegation of the Federal plan for CISWI are found in the emission guidelines for CISWI at 40 CFR 60.2541(a). The criteria for delegation of the Federal plan for SMWC are found in the **Federal Register** publication for the final rule, 68 FR 5144, January 31, 2003, at page 5149. The criteria for delegation of the Federal plan for SSI are found in the emission guidelines for SSI at 40 CFR 60.5045(a) and repeated in the Federal plan for SSI at 40 CFR 62.15865(a).

implementation and enforcement authority requires the State or local agency to request delegation through a letter that:

- Demonstrates the State or local agency has adequate resources, as well as the legal authority, to administer and enforce the program;
- Includes an inventory of designated facilities and an inventory of the designated units' air emissions;
- Certifies a public hearing was held on the State or local agency delegation request; and
- A commitment to enter into an MOA between the State or local agency and the EPA that sets forth the terms and conditions of the delegation, the effective date of the agreement, and the mechanism to transfer authority.

Upon signature of the agreement, the approved document will be published in the **Federal Register**, thereby incorporating the delegation of authority into the appropriate subpart of 40 CFR part 62.

II. Memorandum of Agreement Contents and the EPA Analysis

The EPA has evaluated SWCAA's Federal plan delegation request submittal package to determine whether the package meets the applicable requirements. The EPA's detailed rationale and discussion on the submittal package can be found in the Technical Support Document (TSD), located in the docket for this action. The applicable provisions and the EPA's analysis are briefly summarized as follows:

- SWCAA demonstrated adequate resources and legal authority to administer Federal plans. SWCAA is the operating permitting authority and the new source review permitting authority in non-Tribal land [2] in Clark, Cowlitz, Lewis, Skamania, and Wahkiakum counties [3] and has the authority to implement and enforce delegated standards in 40 CFR parts 60, 61, and 63. SWCAA provided a statement that referenced a letter from legal counsel submitted as part of their initial request for delegation of National Emission Standards for Hazardous Air Pollutants identifying statutes in the Revised Code of Washington giving SWCAA the authority to promulgate rules and regulations; carry out the Federal plan; adopt emission limits and compliance schedules; enforce applicable laws, regulations standards and compliance schedules; obtain information to determine compliance; and require the installation of control equipment.
- SWCAA provided an inventory of SSI units subject to the SSI Federal plan and the results of recent emissions tests. SWCAA attested that they were not aware of any existing units subject to the other Federal plans for which they requested delegation.
- SWCAA provided a hearings officer report showing that they held a public comment period lasting from April 8–June 23, 2021, ending with a public hearing on June 23, 2021. No member of the public attended the hearing. One comment letter was received from the Vancouver Westside Water Treatment Plant, which operates a unit subject to the Federal plan for SSI. The comment was not adverse.
- SWCAA committed to enter an MOA to meet the requirements for delegation of the Federal plans for HMIWI, CISWI, SMWC, and SSI units.

The MOA was signed by the EPA Region 10 Regional Administrator on March 27, 2023, the SWCAA Executive Director on March 28, 2023, and became effective upon signature. The effective MOA applies to the designated facilities within SWCAA's jurisdiction and is not implemented and enforced on Indian land.

The EPA has evaluated SWCAA's submittal for consistency with the CAA, EPA regulations, and EPA policy. The EPA determined that SWCAA has met all the requirements of the EPA's guidance for obtaining the delegation of authority to implement and enforce the Federal plan.

III. Good Cause Findings

Section 553(b)(B) of the Administrative Procedure Act, 5 U.S.C. 553(b)(B), provides that, when an agency for good cause finds that public notice and comment procedures are impracticable, unnecessary, or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. The EPA has determined that there is good cause for making this rule final without prior proposal and opportunity for comment because such notice and opportunity for comment is unnecessary.

The EPA conducted full notice and comment rulemaking in promulgating the respective Federal plans (40 CFR part 62, subparts HHH, III, JJJ, and LLL). The EPA has already approved the delegation of authority to implement and enforce the Federal plans to SWCAA, effective following the signature of both parties on the MOA. SWCAA also held a public hearing and solicited public comment about the request for delegation of authority, pursuant to the requirements in 40 CFR 60.23(d), 60.23(e), 60.2515(a)(6), 60.1515(a)(6), 62.14401(a)(3), and 62.15865(a)(3). Notice and comment are ''unnecessary'' as this final rule only takes the ministerial action of updating the regulatory text in 40 CFR part 62 to reflect this transfer of authority. It does not alter the universe of sources regulated under the Federal plan and it does not change the regulatory requirements applicable to those sources.

Section 553(d)(3) of the Administrative Procedures Act, 5 U.S.C. 553(d)(3), provides that the required publication of service of a substantive rule shall be made not less than 30 days before its effective date, except as otherwise provided by the agency for good cause found and published with the rule. The EPA has determined that there is good cause for this rule to become effective upon publication. Delaying the effective date is unnecessary and contrary to the public interest because the EPA has already approved the delegation of authority to implement and enforce the Federal plans to SWCAA, effective following the signature of both parties on the MOA. In addition, this rule does not affect any of the substantive requirements in the delegated Federal plans nor impact the compliance obligations of any sources subject to the Federal plans.

IV. Final Action

The EPA is amending regulatory text at 40 CFR part 62, subpart WW—Washington, to promulgate the approved delegation of authority through the MOA to SWCAA for implementing and enforcing Federal plan requirements under 40 CFR part 62, subparts HHH, III, JJJ, and LLL.

V. Statutory and Executive Order Reviews

Under the CAA, the Administrator has the authority to delegate the authority to implement a CAA section 111(d) Federal plan that complies with the provisions of the CAA and applicable Federal regulations. (40 CFR 60.27). In reviewing CAA section 111(d) delegation requests, the EPA's role is to approve State choices, provided they meet the criteria of the CAA and the EPA's implementing regulations.

[2] Our approval excludes Indian country as defined in 18 U.S.C. 1151. Under this definition, the EPA treats as reservations trust lands validly set aside for the use of a Tribe even if the trust lands have not been formally designated as a reservation.

[3] Under State law SWCAA's jurisdiction excludes facilities subject to Energy Facilities Site Evaluation Council (EFSEC) jurisdiction; facilities subject to the Washington Department of Ecology's direct jurisdiction under Chapters 173–405, 173–410, and 173–415 Washington Administrative Code (WAC); and the Prevention of Significant Deterioration (PSD) permitting of facilities subject to the applicability sections of WAC 173–400–700.

Accordingly, this action merely codifies in the Code of Federal Regulations the EPA's delegation of authority to implement the Federal plans and does not impose additional requirements beyond those imposed by the already applicable Federal plans.

A. Executive Order 12866: Regulatory Planning and Review

This action is not a significant regulatory action and was therefore not submitted to the Office of Management and Budget (OMB) for review.

B. Executive Order 14192: Unleashing Prosperity Through Deregulation

This action is not subject to Executive Order 14192 (90 FR 9065, February 6, 2025) because approvals of 111(d) actions are exempt from review under Executive Order 12866.

C. Paperwork Reduction Act

This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

D. Regulatory Flexibility Act

This action merely codifies in the approval of the transfer of authority from EPA to SWCAA for the for HMIWI, CISWI, SMWC, and SSI units Federal plans. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

E. Unfunded Mandates Reform Act (UMRA)

This action does not contain any unfunded mandate as described in UMRA, 2 U.S.C. 1531–1538, and does not significantly or uniquely affect small governments. This action does not impose additional requirements beyond those imposed by the already-applicable Federal plan. Accordingly, no additional costs to State, local, or Tribal governments, or to the private sector, will result from this action.

F. Executive Order 13132: Federalism

This action does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

G. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Executive Order 13175 (65 FR 67249, November 9, 2000), requires the EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' This rule does not have Tribal implications, as specified in Executive Order 13175. It will not have substantial direct effects on Tribal governments. Thus, Executive Order 13175 does not apply to this rule.

H. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

This action is not subject to Executive Order 13045 because it is not 3(f)(1) significant as defined in Executive Order 12866, and because the EPA does not believe the environmental health or safety risks addressed by this action present a disproportionate risk to children.

I. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

This action is not subject to Executive Order 13211 (66 FR 28355 (May 22, 2001)), because it is not a significant regulatory action under Executive Order 12866.

J. National Technology Transfer Advancement Act

This rule does not involve technical standards and is therefore not subject to the requirements of section 1(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note).

K. Congressional Review Act

This action is subject to the Congressional Review Act, and the EPA will submit a rule report to each House of the Congress and to the Comptroller General of the United States. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

L. Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 26, 2026. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. See section 307(b)(2).

List of Subjects in 40 CFR Part 62

Environmental Protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Landfills, Reporting and recordkeeping requirements, Waste treatment and disposal.

Dated: March 12, 2026.

Emma Pokon,

Regional Administrator, Region 10.

For the reasons set forth in the preamble, 40 CFR part 62 is amended as follows:

PART 62—APPROVAL AND PROMULGATION OF STATE PLANS FOR DESIGNATED FACILITIES AND POLLUTANTS

■ 1. The authority citation for part 62 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart WW—Washington

■ 2. Add an undesignated center heading and § 62.11890 immediately after § 62.11882 to read as follows:

Emissions From Hospital, Medical, and Infectious Waste Incinerators (HMIWI)—Section 111(d)/129 Federal Plan Delegations

§ 62.11890 Identification of plan-delegation of authority.

(a) *Identification of plan—delegation of authority.* On March 27, 2023, the EPA signed a Memorandum of Agreement (MOA) that defines policies, responsibilities, and procedures pursuant to 40 CFR part 62, subpart HHH (the ''Federal plan'') by which the Federal plan will be administered by the Southwest Clean Air Agency (SWCAA) for designated facilities under the agency's jurisdiction in Clark, Cowlitz, Lewis, Skamania, and Wahkiakum Counties in the State of Washington, excluding Indian Country as defined in 18 U.S.C. 1151.

(b) *Identification of sources.* The MOA and related Federal plan apply to all affected hospital/medical/infectious waste incinerator (HMIWI) units, defined in 40 CFR 62.14490 as any device that combusts any amount of hospital waste and/or medical infectious waste, for which construction commenced no later than December 1, 2008, or modification commenced no later than April 6, 2010, unless the unit meets any of the exemptions of 40 CFR 62.14400(b).

(c) *Effective date of delegation.* The delegation became fully effective on March 28, 2023, upon the signature of both parties.

■ 3. Add an undesignated center heading and § 62.11891 immediately after the newly added § 62.11890 to read as follows:

Emissions From Existing Commercial Industrial Solid Waste Incinerators (CISWI) Units—Section 111(d)/129 Federal Plan Delegations

§ 62.11891 Identification of plan-delegation of authority.

(a) *Identification of plan—delegation of authority.* On March 27, 2023, the EPA signed a Memorandum of Agreement (MOA) that defines policies, responsibilities, and procedures pursuant to 40 CFR part 62, subpart III (the ''Federal plan'') by which the Federal plan will be administered by the Southwest Clean Air Agency (SWCAA) for designated facilities under the agency's jurisdiction in Clark, Cowlitz, Lewis, Skamania, and Wahkiakum Counties in the State of Washington, excluding Indian Country as defined in 18 U.S.C. 1151.

(b) *Identification of sources.* The MOA and related Federal plan apply to all commercial and industrial solid waste incineration (CISWI) units, as defined in 40 CFR 62.14840, for which construction commenced on or before November 30, 1999, unless the unit is one of the 15 types of units described in 40 CFR 62.14525 (a) through (o).

(c) *Effective date of delegation.* The delegation became fully effective on March 28, 2023, upon the signature of both parties.

■ 4. Add an undesignated center heading and § 62.11892 immediately after the newly added § 62.11891 to read as follows:

Emissions From Existing Small Municipal Waste Combustion Units—Section 111(d)/129 Federal Plan Delegations

§ 62.11892 Identification of plan-delegation of authority.

(a) *Identification of plan—delegation of authority.* On March 27, 2023, the EPA signed a Memorandum of Agreement (MOA) that defines policies, responsibilities, and procedures pursuant to 40 CFR part 62, subpart JJJ (the ''Federal plan'') by which the Federal plan will be administered by the Southwest Clean Air Agency (SWCAA) for designated facilities under the agency's jurisdiction in Clark, Cowlitz, Lewis, Skamania, and Wahkiakum Counties in the State of Washington, excluding Indian Country as defined in 18 U.S.C. 1151.

(b) *Identification of sources.* The MOA and related Federal plan apply to all municipal waste combustion units, as defined in 40 CFR 62.15410, that have the capacity to combust at least 35 tons per day but no more than 250 tons per day of municipal solid waste or refuse-derived fuel for which construction commenced on or before August 30, 1999. See 40 CFR 62.15010. A small municipal waste combustion (SMWC) unit can be exempt from this subpart, if it meets any of the criteria in 40 CFR 62.15020.

(c) *Effective date of delegation.* The delegation became fully effective on March 28, 2023, upon the signature of both parties.

■ 5. Add an undesignated center heading and § 62.11893 immediately after the newly added § 62.11892 to read as follows:

Emissions From Existing Sewage Sludge Incineration Units—Section 111(d)/129 Federal Plan Delegations

§ 62.11893 Identification of plan-delegation of authority.

(a) *Identification of plan—delegation of authority.* On March 27, 2023, the EPA signed a Memorandum of Agreement (MOA) that defines policies, responsibilities, and procedures pursuant to 40 CFR part 62, subpart LLL (the ''Federal plan'') by which the Federal plan will be administered by the Southwest Clean Air Agency (SWCAA) for designated facilities under the agency's jurisdiction in Clark, Cowlitz, Lewis, Skamania, and Wahkiakum Counties in the State of Washington, excluding Indian Country as defined in 18 U.S.C. 1151.

(b) *Identification of sources.* The MOA and related Federal plan apply to all sewage sludge incineration (SSI) units, as defined in 40 CFR 62.16045, that commenced construction on or before October 14, 2010. See 40 CFR 62.15855. Subpart LLL of this part does not apply to units that are not located at wastewater treatment plants designed to treat domestic sewage sludge. See 40 CFR 62.15860.

(c) *Effective date of delegation.* The delegation became fully effective on March 28, 2023, upon the signature of both parties.

[FR Doc. 2026–05712 Filed 3–23–26; 8:45 am]

BILLING CODE 6560–50–P

Proposed Rules

Federal Register
Vol. 91, No. 56
Tuesday, March 24, 2026

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 294

RIN 3206–AK53

Freedom of Information Act (FOIA) Regulations

AGENCY: Office of Personnel Management.

ACTION: Withdrawal of proposed rule.

SUMMARY: The Office of Personnel Management (OPM) withdraws a proposed rule to amend its Freedom of Information Act (FOIA) regulations published on July 24, 2008. Due to the time that has elapsed, OPM is withdrawing the proposal. OPM will propose amendments to its FOIA regulations in future rulemaking.

DATES: OPM withdraws the proposed rule, published July 24, 2008 at 73 FR 43153, as of March 24, 2026.

FOR FURTHER INFORMATION CONTACT: Kalea Lorenzi by email at *foia@opm.gov* or by telephone at 202–606–3642.

SUPPLEMENTARY INFORMATION: On July 24, 2008, OPM published a notice of proposed rulemaking (NPRM or proposed rule) titled ''Freedom of Information Act (FOIA) Regulations'' in the **Federal Register**. *See* 73 FR 43153. The NPRM proposed to modify the Freedom of Information Act (FOIA) regulations to allow for more streamlined submission process and to update FOIA regulations that had not been updated in many years. The modernization updates that OPM proposed in the 2008 proposed rule are outdated due to the time that has elapsed since the publication of the NPRM, including new developments in case law and amendments to the FOIA, especially the FOIA Improvement Act of 2016, which strengthened public access to federal records by codifying disclosure standards, updated exemptions, and enhanced agency accountability. OPM plans to make updates to the FOIA regulations in the near future to align with modern capabilities for submission and processing of FOIA requests. Accordingly, the 2008 NPRM is withdrawn.

Regulatory Review

OPM has examined the impact of this rule as required by Executive Orders 12866 and 13563, which direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public, health, and safety effects, distributive impacts, and equity). A regulatory impact analysis must be prepared for rules that have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities. This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, as supplemented by Executive Order 13563. Therefore, this rule is not subject to Executive Order 14192.

Regulatory Flexibility Act

The Director of the Office of Personnel Management certifies that this regulation will not have a significant impact on a substantial number of small entities because it applies only to Federal agencies and employees.

Signing Statement

The Director of OPM, Scott Kupor, reviewed and approved this document and has authorized the undersigned to electronically sign and submit this document to the Office of the Federal Register for publication.

Office of Personnel Management.

Jerson Matias,

Federal Register Liaison.

[FR Doc. 2026–05679 Filed 3–23–26; 8:45 am]

BILLING CODE 6325–48–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 3

[Docket No. APHIS–2025–1000]

Standards for the Care of Breeding Female Dogs and Exercise and Socialization of Dogs

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Request for information; reopening of comment period.

SUMMARY: We are reopening the comment period for a request for information soliciting comments regarding appropriate standards for the care of breeding female dogs at dog breeding facilities and exercise and socialization of dogs subject to the Animal Welfare Act. This action will allow interested persons additional time to prepare and submit comments.

DATES: The comment period for the request for information published on February 17, 2026 (91 FR 7162–7163) is reopened. We will consider all comments that we receive on or before April 20, 2026.

ADDRESSES: You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to *www.regulations.gov*. Enter APHIS–2025–1000 in the Search field. Select the Documents tab, then select the Comment button in the list of documents.
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2025–1000, Regulatory Analysis and Development, PPD, APHIS, 5601 Sunnyside Ave., #AP760, Beltsville, MD 20705.

Supporting documents and any comments we receive on this docket may be viewed at *Regulations.gov* or in our reading room, which is located in room 1620 of the USDA South Building, 14th Street and Independence Avenue SW, Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

FOR FURTHER INFORMATION CONTACT: Ms. Christine Jones, Acting Animal Care Chief of Staff, 2150 Centre Ave. Bldg. B,

Mailstop 3W11, Fort Collins, CO 80526; (970) 494–7478.

SUPPLEMENTARY INFORMATION: On February 17, 2026, we published in the **Federal Register** a request for information (91 FR 7162–7163, Docket No. APHIS–2025–1000) soliciting comments regarding appropriate standards for the care of breeding female dogs at dog breeding facilities and exercise and socialization of dogs subject to the Animal Welfare Act.

Comments on the request for information were initially required to be received on or before March 19, 2026. We are reopening the comment period on Docket No. APHIS–2025–1000 until April 20, 2026. We will also consider all comments received between March 20, 2026 (the day after the close of the original comment period) and the date of this notice.

This action will allow interested persons additional time to prepare and submit comments.

Authority: 7 U.S.C. 2131–2159; 7 CFR 2.22, 2.80, and 371.7.

Done in Washington, DC, this 19th day of March 2026.

Kelly Moore,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2026–05684 Filed 3–23–26; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Chapter III

[Docket No. FSIS–2026–0001]

RIN 0583–AE09

Revising Establishment Size Definitions

AGENCY: Food Safety and Inspection Service (FSIS), U.S. Department of Agriculture (USDA).

ACTION: Advance notice of proposed rulemaking.

SUMMARY: FSIS is considering revising how it defines establishment sizes for purposes of its oversight of meat and poultry establishments and egg products plants. Since 1996, FSIS has used Hazard Analysis and Critical Control Point (HACCP) size categories, which are based on employee count and annual sales, to analyze the impact of regulations and tailor assistance to small entities. More recently, FSIS has also applied volume-based thresholds to categorize establishments to analyze the impact of regulations and for establishing Agency sampling frequencies or setting sampling requirements for the regulated industry. This advance notice of proposed rulemaking (ANPR) requests stakeholder input on whether FSIS should update its establishment size definitions and, if so, how.

DATES: Submit comments on or before May 26, 2026.

ADDRESSES: FSIS invites interested persons to submit comments on this document.

Comments may be submitted by one of the following methods:

- *Federal eRulemaking Portal:* This website provides the ability to type short comments directly into the comment field on this web page or attach a file for lengthier comments. Go to *https://www.regulations.gov.* Follow the on-line instructions at that site for submitting comments.
- *Mail:* Send to Docket Clerk, U.S. Department of Agriculture, Food Safety and Inspection Service, 1400 Independence Avenue SW, Mailstop 3758, Washington, DC 20250–3700.
- *Hand- or Courier-Delivered Submittals:* Deliver to 1400 Independence Avenue SW, Jamie L. Whitten Building, Room 350–E, Washington, DC 20250–3700.

Instructions: All items submitted by mail or electronic mail must include the Agency name and docket number FSIS–2026–0001. Comments received in response to this docket will be made available for public inspection and posted without change, including any personal information, to *https://www.regulations.gov.*

Docket: For access to background documents or comments received, call (202) 286–2255 to schedule a time to visit the FSIS Docket Room at 1400 Independence Avenue SW, Washington, DC 20250–3700.

FOR FURTHER INFORMATION CONTACT: April Regonlinski, Assistant Administrator for the Office of Policy and Program Development, at (202) 205–0495.

SUPPLEMENTARY INFORMATION:

I. Background

FSIS is the public health agency within the USDA responsible for providing inspection of establishments producing meat, poultry, and egg products and verifying that these products are safe, wholesome, and properly labeled and packaged. FSIS carries out this mission under the Federal Meat Inspection Act (FMIA) (21 U.S.C. 601 *et seq.*), the Poultry Products Inspection Act (PPIA) (21 U.S.C. 451 *et seq.*), and the Egg Products Inspection Act (EPIA) (21 U.S.C. 1031 *et seq.*), which authorize the Secretary to make rules and regulations necessary for their efficient execution (21 U.S.C. 621, 463(b), and 1043).

FSIS is subject to the Regulatory Flexibility Act of 1980 (RFA) (5 U.S.C. 601–612), which requires federal agencies to consider the economic impact of regulatory proposals on small businesses and consider less burdensome alternatives. FSIS must also comply with the Small Business Regulatory Enforcement Fairness Act of 1996,[1] which requires agencies to publish Small Entity Compliance Guides for any final rule classified as ''major'' that is expected to significantly affect a substantial number of small businesses.

To meet the RFA requirements, FSIS has historically categorized establishments by HACCP size or production volume for regulatory analysis and to tailor assistance for small and very small establishments. Since 1996, FSIS has classified establishments as very small (fewer than 10 employees or annual sales under $2.5 million), small (10–499 employees), or large (500 or more employees) under definitions established in the Pathogen Reduction/HACCP Systems final rule (61 FR 38806, July 25, 1996). These size definitions are applied to individual establishments and do not account for whether the establishment is part of a larger corporate structure. As of December 2025, there are 2,961 very small, 2,847 small, and 508 large FSIS regulated establishments.[2]

FSIS has used HACCP size categories to phase in requirements, such as notification and documentation for adulterated or misbranded product (77 FR 26929, May 8, 2012) and the regulations that prescribe procedures for controlling contamination throughout the slaughter and dressing process in 9 CFR 310.18(c) and recordkeeping requirements in 9 CFR 310.18(d) (84 FR 52300, October 1, 2019). FSIS also used these categories to determine eligibility for reduced inspection fees (86 FR 37276, July 15, 2021). However, for reduced fees eligibility, FSIS applied the terms ''small'' and ''very small'' only to establishments unaffiliated with multiple or large businesses in a way that would effectively place them within the large establishment definition (86 FR 37276, 37277).

[1] Public Law 104–121, title II, §§ 201–224, Mar. 29, 1996, 110 Stat. 857–862, as amended by Public Law 110–28, title VIII, § 8302, May 25, 2007, 121 Stat. 204.

[2] USDA/FSIS, Meat, Poultry and Egg Product Inspection Directory, *https://www.fsis.usda.gov/inspection/establishments/meat-poultry-and-egg-product-inspection-directory.*

FSIS has also relied on various production volume thresholds. For example, the Nutrition Labeling of Meat and Poultry Products final rule included a phased implementation based on annual production volume and the number of employees (58 FR 632, January 6, 1993). 9 CFR 317.400 and 381.500 also exempt small businesses from nutrition labeling of certain meat and poultry products based on annual production volume and the number of employees. In addition, FSIS exempts low-volume establishments, defined as producing an average of 1 to 1,000 pounds per day, from FSIS *Salmonella* sampling for certain raw pork products. FSIS also bases certain requirements on production volume. For example, FSIS requires different establishment sampling frequencies for very low-volume poultry establishments operating under Traditional Inspection (9 CFR 381.65(g)(2)) and very low-volume swine slaughter establishments (9 CFR 310.18(c)(2)).

FSIS has explored other ways to group establishments. In the Meat, Poultry, and Egg Product Inspection Directory Establishment Demographic Data supplemental dataset,[3] which provides additional information about FSIS establishments, (*e.g.,* establishment size, species slaughtered, and aggregate categorical production information), FSIS grouped establishments that produce processed products into five categories based on aggregated volume of all processed products estimated as total pounds per month. These categories are numbered 1–5 and are separated based on production volume. Category 1 is less than 10,000 lbs; Category 2 is greater than or equal to 10,000 lbs and less than 100,000 lbs; Category 3 is greater than or equal to 100,000 lbs and less than 1,000,000 lbs; Category 4 is greater than or equal to 1,000,000 lbs to 10,000,000 lbs; and Category 5 is greater than or equal to 10,000,000 lbs. Similarly, FSIS grouped slaughter establishments into five categories based on aggregated head slaughtered for the last 360 days using head counts. Category 1 is less than 1,000 head slaughtered; Category 2 is greater than or equal to 1,000 and less than 10,000; Category 3 is greater than or equal to 10,000 and less than 100,000; Category 4 is greater than or equal to 100,000 and less than 10,000,000; and Category 5 is greater than or equal to 10,000,000 head slaughtered. These categorizations are publicly posted on the Meat, Poultry and Egg Product Inspection (MPI) Directory.[4]

II. National Advisory Committee on Meat and Poultry Inspection (NACMPI) Meeting and Recommendations

In September 2024, FSIS brought the issue of establishment size classification to NACMPI (89 FR 66669, August 16, 2024). The Agency asked the committee to review and advise FSIS on whether the Agency should change its definitions for establishment size categories (*i.e.,* large, small, and very small) [5] to better assess and describe current business operations as well as better determine the impact of FSIS policies on different size establishments.[6]

During the public meeting held on September 16–17, 2024, NACMPI members discussed how FSIS defines very small, small, and large establishments.[7] They noted that the current definitions group together businesses that operate at very different scales. For example, an establishment with 11 employees and one with 499 employees are both considered ''small,'' even though their resources and production capacity may be vastly different. The committee also raised concerns about establishments that are classified as small but are owned by large firms, which may give them access to more support and funding than truly independent small businesses.

In its meeting report on the establishment size questions,[8] NACMPI recommended that FSIS continue to use multiple establishment size classifications but also recommended that the Agency consider using two separate metrics to define establishment size. According to NACMPI, the primary metric should focus on production volume, which could help FSIS establish and implement regulatory requirements more effectively. The second metric should focus on business size (*e.g.,* employee count, annual revenue, and corporate association), which could be used for purposes such as determining eligibility for grants and other support programs. The committee suggested that FSIS apply both metrics to every establishment, so that FSIS would categorize establishments based on product volume and based on business size. The committee also recommended that, when determining an establishment's eligibility for federal services and programs administered by other agencies (*e.g.,* Agricultural Marketing Service (AMS) commodity contracts or other USDA assistance), FSIS or the applicable agency should consider whether a small or very small establishment receives significant support from a larger firm, such as an owner company. The committee further recommended that FSIS create a cross-disciplinary working group of legal and financial experts to advise on new establishment size categories, consider requiring the disclosure of corporate ownership structure information on all grant applications for federal services and programs, including grants of inspection, and conduct federal agency and stakeholder outreach to ensure any changes are clearly communicated and consistently applied.

NACMPI also addressed the potential alignment of FSIS size classifications with Small Business Administration (SBA) standards. SBA establishes size standards that are used by other agencies to determine which businesses qualify for federal assistance, including grants, loans, and contracts (see 13 CFR part 121). Currently, SBA uses the number of employees a firm has to define small businesses in the North American Industry Classification System (NAICS) categories relevant to FSIS-regulated industries: [9]

[3] Dataset: Establishment Demographic Data, available at: *https://www.fsis.usda.gov/inspection/establishments/meat-poultry-and-egg-product-inspection-directory.*

[4] See FSIS Establishment Slaughter/Processing Data—MPI Supplement—Data Documentation, pg 3, available at *https://www.fsis.usda.gov/sites/default/files/media_file/documents/Data-Documentation-MPI-Directory-Establishment-Demographic-Documentation.pdf.*

[5] Large establishments have 500 or more employees; small establishments have 10 or more employees, but fewer than 500; and very small establishments have fewer than 10 employees or annual sales of less than $2.5 million.

[6] Specifically, the Agency asked the committee to consider the following questions: (1) FSIS uses multiple size categories. Any concerns with continuing with that approach?; (2) What metric should FSIS use to define size categories for regulated establishments?; (3) How should FSIS account for establishment ownership when developing size categories?; (4) What size standards are commonly used within the industry for defining small and very small?; (5) Are there other applications for the current FSIS HACCP sizes outside of FSIS, such as within the industry? Are there repercussions outside of FSIS if establishment size classifications are changed?; (6) How should FSIS obtain data to determine if the establishment is a small entity under the Small Business Administration's size definitions?; and (7) Are there sources of data, besides PHIS, that FSIS can use to better identify establishment size and ownership structures?

[7] September 2024 NACMPI meeting transcript available at: *https://www.fsis.usda.gov/sites/default/files/media_file/documents/NACMPI_Plenary_Meeting_9-16-24_Transcript.pdf.*

[8] September 2024 NACMPI committee report available at: *https://www.fsis.usda.gov/news-events/publications/2024-nacmpi-reports.*

[9] *United States Small Business Administration (SBA), Table of Small Business Standards Matched to North American Industry Classification System Codes. Effective January 1, 2022. Available at https://www.sba.gov/sites/default/files/files/Size_Standards_Table.pdf.*

• NAICS 311615—Poultry Processing: 1,250 or fewer employees.
• NAICS 311611—Animal (except Poultry) Slaughtering: 1,150 or fewer employees.
• NAICS 311612—Meat Processed from Carcasses: 1,000 or fewer employees.
• NAICS 311710—Seafood Product Preparation and Packing: 750 or fewer employees.
• NAICS 311999—All Other Miscellaneous Food Manufacturing (includes egg processors): 700 or fewer employees.

The committee discouraged FSIS from adopting SBA standards, expressing concern that certain establishments might gain unfair advantages if FSIS were to apply SBA standards. Specifically, NACMPI was wary of exclusively using employee count or revenue to define establishment sizes, arguing that these metrics may not accurately reflect operational scale or ownership structures. Through this ANPR, FSIS is seeking broader stakeholder input to better understand the range of perspectives on how establishment sizes should be defined.

III. Requests for Comments and Data

FSIS is seeking public input to help inform potential changes to how the Agency defines establishment sizes to better reflect how establishments operate and are structured. FSIS invites comments on the following questions. Please explain your reasoning and include any supporting data, studies, or examples. To help FSIS review comments efficiently, please identify the question to which you are responding by its associated number and letter (*e.g.,* ''2'') or whether you are commenting on a topic not listed below.

1. How are establishments economically impacted by their current HACCP size determination?

2. How would a change in HACCP size classifications, or the implementation of a new classification system, impact an establishment?

3. What impact would there be on establishment if FSIS aligns its size classifications with the current SBA standards?

4. What factors should FSIS consider when determining whether size categories apply at the individual establishment level or the corporate ownership level?

5. Should FSIS create additional size categories? If so, how should additional size categories be defined and for what purposes?

a. What impact would it have on establishments if FSIS created additional size categories based on production and slaughter volume and product classification (*e.g.,* HACCP category or slaughter class)? For example, FSIS currently categorizes establishments into five categories based on processing or slaughter volume in the MPI Directory (see above).

b. What impact would it have on establishments if FSIS established size categories for processing based on product characteristics other than HACCP category—for example, packaging type, intended use, target customer, or specific attributes such as Ready-to-Eat products that are post-lethality exposed?

c. What impact would it have on establishments if FSIS created additional size categories based on business size (*e.g.,* employee count, annual revenue, or corporate association)? If company structure (*e.g.* corporate association, partnership, co-op, etc.) is taken into consideration, how should it be considered?

d. What single variable or combination of variables should FSIS consider in additional size categories (*e.g.,* shift, operating days, type of products, slaughter class, building square footage)?

6. How do other organizations (*e.g.* Federal Agencies, state and local governments, businesses, or consumer groups) use FSIS HACCP size determinations?

7. What would be the least burdensome way for FSIS to collect and maintain records on establishment size?

a. How often should FSIS verify updates (*e.g.,* quarterly or annually)?

b. How should the information be collected (*e.g.,* self-reported or collected by an inspector)?

c. How should FSIS verify accuracy of the information provided?

8. How do various size metrics and categories impact industry, consumers, and other government entities, particularly regarding: (a) Data sources that FSIS can use to better identify establishment size (b) Data on corporate ownership of FSIS inspected establishments and (c) Potential industry costs or benefits by aligning the HACCP size classifications with the SBA size classifications?

IV. USDA Non-Discrimination Statement

In accordance with Federal civil rights law and USDA civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Persons with disabilities who require alternative means of communication for program information (*e.g.,* Braille, large print, audiotape, American Sign Language, etc.) should contact the State or local Agency that administers the program or contact USDA through the Telecommunications Relay Service at 711 (voice and TTY). Additionally, program information may be made available in languages other than English.

To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD–3027, found online at *How to File a Program Discrimination Complaint* and at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632–9992. Submit your completed form or letter to USDA by: (1) mail: U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue SW, Mail Stop 9410, Washington, DC 20250–9410; (2) fax: (202) 690–7442; or (3) email: *program.intake@usda.gov.*

USDA is an equal opportunity provider, employer, and lender.

V. Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, FSIS will announce this **Federal Register** publication on-line through the FSIS web page located at: *https://www.fsis.usda.gov/federal-register.* FSIS also will make copies of this publication available through the FSIS *Constituent Update,* which is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, and other types of information that could affect or would be of interest to our constituents and stakeholders. The *Constituent Update* is available on the FSIS web page. Through the web page, FSIS is able to provide information to a much broader, more diverse audience. In addition, FSIS offers an email subscription service which provides automatic and customized access to selected food safety news and information. This service is available at: *http://www.fsis.usda.gov/subscribe.* Options range from recalls to export

information, regulations, directives, and notices. Customers can add or delete subscriptions themselves and have the option to password protect their accounts.

Jeremy T. Reed,

Chief Operating Officer.

[FR Doc. 2026–05746 Filed 3–23–26; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2026–2721; Project Identifier MCAI–2025–00617–T]

RIN 2120–AA64

Airworthiness Directives; Airbus Canada Limited Partnership (Type Certificate Previously Held by C Series Aircraft Limited Partnership (CSALP); Bombardier, Inc.) Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Airbus Canada Limited Partnership Model BD–500–1A10 and BD–500–1A11 airplanes. This proposed AD was prompted by a report of multiple in-service failures of pressure regulating shutoff valves (PRSOVs). This proposed AD would require revising the existing airplane flight manual (AFM) to incorporate procedures for reducing the thrust lever or shutting down the engine when the BLEED LEAK caution message is persistent, prohibit operation in known or forecasted icing conditions under certain minimum equipment list (MEL) provisions where the only operative PRSOV is an affected part, and require replacement of affected PRSOVs with improved PRSOVs. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by May 8, 2026.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

AD Docket: You may examine the AD docket at *regulations.gov* under Docket No. FAA–2026–2721; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The street address for Docket Operations is listed above.

Material Incorporated by Reference:

- For Transport Canada material identified in this proposed AD, contact Transport Canada, Transport Canada National Aircraft Certification, 159 Cleopatra Drive, Nepean, Ontario K1A 0N5, Canada; telephone 888–663–3639; email *TC.AirworthinessDirectives-Consignesdenavigabilite.TC@tc.gc.ca.* You may find this material on the Transport Canada website at *tc.canada.ca/en/aviation.* It is also available at *regulations.gov* under Docket No. FAA–2026–2721.
- You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

FOR FURTHER INFORMATION CONTACT: Erica Bayles, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 907–271–5844; email: *erica.e.bayles@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments using a method listed under the **ADDRESSES** section. Include ''Docket No. FAA–2026–2721; Project Identifier MCAI–2025–00617–T'' at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this proposal because of those comments.

Except for Confidential Business Information (CBI) as described in the following paragraph, and other information as described in 14 CFR 11.35, the FAA will post all comments received, without change, to *regulations.gov*, including any personal information you provide. The agency will also post a report summarizing each substantive verbal contact received about this NPRM.

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Erica Bayles, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 907–271–5844; email: *erica.e.bayles@faa.gov.* Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

Transport Canada, which is the aviation authority for Canada, has issued Transport Canada AD CF–2025–20, dated April 15, 2025 (Transport Canada AD CF–2025–20) (also referred to as the MCAI), to correct an unsafe condition for certain Airbus Canada Limited Partnership Model BD–500–1A10 and BD–500–1A11 airplanes. The MCAI states that there have been multiple in-service failures of PRSOVs. The PRSOVs allow isolation of the bleed air system in the event of a bleed air leak detection. In case of failure, the inability to isolate a bleed air source combined with a bleed air leak on the same engine side could cause damage to surrounding structures and systems that can prevent continued safe flight and landing.

The MCAI also states the PRSOV provides bleed air source from the engines to pneumatic systems. Current master minimum equipment list (MMEL) items allow airplane dispatch with one inoperative PRSOV. In the event of dispatching the airplane with one or both engines bleed ON, the high failure rate of the PRSOV could lead to a total loss of bleed air systems, thus reducing safety margin and increasing pilots' workload.

The FAA is proposing this AD to address the high failure rate of the PRSOVs, which could lead to the inability to isolate a bleed air leak. The unsafe condition, if not addressed,

could lead to damage to surrounding structures and systems (*i.e.,* loss of functionality for assisted engine start capability, cabin pressurization, fuel tank inerting, and wing anti-ice systems), which could reduce the safety margin and increase the pilots' workload or result in loss of continued safe flight and landing.

You may examine the MCAI in the AD docket at *regulations.gov* under Docket No. FAA–2026–2721.

Material Incorporated by Reference Under 1 CFR Part 51

Transport Canada AD CF–2025–20 specifies procedures for revising the existing AFM to incorporate ''L BLEED LEAK (Caution)'' and ''R BLEED LEAK (Caution)'' procedures instructing pilots to reduce the thrust lever or shut down the engine when the BLEED LEAK caution message is persistent; prohibiting operation in known or forecasted icing conditions under certain MEL provisions where the only operative (functional) PRSOV is part number (P/N) 70115B010001; and replacing the right and left engine PRSOV with a re-designed part having P/N 70115C010001, which includes replacing the PRSOV precooler sense hose assembly, P/N 999D0004–513, with P/N999D0004–515. This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination

These products have been approved by the civil aviation authority of another country and are approved for operation in the United States. Pursuant to the FAA's bilateral agreement with this State of Design Authority, that authority has notified the FAA of the unsafe condition described in the MCAI referenced above. The FAA is issuing this NPRM after determining that the unsafe condition described previously is likely to exist or develop in other products of the same type design.

Proposed AD Requirements in This NPRM

This proposed AD would require accomplishing the actions specified in Transport Canada AD CF–2025–20 described previously, except for any differences identified as exceptions in the regulatory text of this proposed AD.

Compliance With AFM Revisions

Transport Canada AD CF–2025–20 requires operators to ''inform all flight crews'' of revisions to the AFM, and thereafter to ''operate the aeroplane accordingly.'' However, this proposed AD would not specifically require those actions as those actions are already required by FAA regulations. FAA regulations require operators furnish to pilots any changes to the AFM (for example, 14 CFR 121.137), and to ensure the pilots are familiar with the AFM (for example, 14 CFR 91.505). As with any other flightcrew training requirement, training on the updated AFM content is tracked by the operators and recorded in each pilot's training record, which is available for the FAA to review. FAA regulations also require pilots to follow the procedures in the existing AFM including all updates. Section 91.9 requires that any person operating a civil aircraft must comply with the operating limitations specified in the AFM. Therefore, including a requirement in this proposed AD to operate the airplane according to the revised AFM would be redundant and unnecessary.

Explanation of Required Compliance Information

In the FAA's ongoing efforts to improve the efficiency of the AD process, the FAA developed a process to use some civil aviation authority (CAA) ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has been coordinating this process with manufacturers and CAAs. As a result, the FAA proposes to incorporate Transport Canada AD CF–2025–20 by reference in the FAA final rule. This proposed AD would, therefore, require compliance with Transport Canada AD CF–2025–20 in its entirety through that incorporation, except for any differences identified as exceptions in the regulatory text of this proposed AD. Material required by Transport Canada AD CF–2025–20 for compliance will be available at *regulations.gov* under Docket No. FAA–2026–2721 after the FAA final rule is published.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect 112 airplanes of U.S. registry. The FAA estimates the following costs to comply with this proposed AD:

ESTIMATED COSTS FOR REQUIRED ACTIONS

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Up to 13 work-hours × $85 per hour = $1,105.	Up to $30,156	Up to $31,261	Up to $3,501,232.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. Subtitle VII: Aviation Programs, describes in more detail the scope of the Agency's authority.

The FAA is issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: General requirements. Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

The FAA determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this proposed regulation:

(1) Is not a ''significant regulatory action'' under Executive Order 12866,

(2) Would not affect intrastate aviation in Alaska, and

(3) Would not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive:

Airbus Canada Limited Partnership (Type Certificate Previously Held by C Series Aircraft Limited Partnership (CSALP); Bombardier, Inc.): Docket No. FAA–2026–2721; Project Identifier MCAI–2025–00617–T.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by May 8, 2026.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Airbus Canada Limited Partnership (Type Certificate previously held by C Series Aircraft Limited Partnership (CSALP); Bombardier, Inc.) Model BD–500–1A10 and BD–500–1A11 airplanes, certificated in any category, as identified in Transport Canada AD CF–2025–20, dated April 15, 2025 (Transport Canada AD CF–2025–20).

(d) Subject

Air Transport Association (ATA) of America Code 36, Pneumatic.

(e) Unsafe Condition

This AD was prompted by a report of multiple in-service failures of pressure regulating shutoff valves (PRSOVs). The FAA is issuing this AD to address the high failure rate of the PRSOVs, which could lead to the inability to isolate a bleed air leak. The unsafe condition, if not addressed, could lead to damage to the surrounding structures and systems (*e.g.,* loss of functionality for assisted engine start capability, cabin pressurization, fuel tank inerting, and wing anti-ice systems), which could reduce the safety margin and increase the pilots' workload or result in loss of continued safe flight and landing.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, Transport Canada AD CF–2025–20.

(h) Exception to Transport Canada AD CF–2025–20

(1) Where Transport Canada AD CF–2025–20 refers to its effective date, this AD requires using the effective date of this AD.

(2) Where Transport Canada AD CF–2025–20 refers to total hours air time, this AD requires using total flight hours.

(3) Where paragraph B. of Part I of Transport Canada AD CF–2025–20 specifies to ''inform all flight crews of these changes in the AFM procedures and thereafter operate the aeroplane accordingly,'' this AD does not require those actions as those actions are already required by existing FAA operating regulations (see 14 CFR 91.9, 91.505, and 121.137).

(i) Additional AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, AIR–520, Continued Operational Safety Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or responsible Flight Standards Office, as appropriate. If sending information directly to the manager of the Operational Safety Branch, send it to the attention of the person identified in paragraph (j) of this AD and email to: *AMOC@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the responsible Flight Standards Office.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain instructions from a manufacturer, the instructions must be accomplished using a method approved by the Manager, AIR–520, Continued Operational Safety Branch, FAA; or Transport Canada; or Airbus Canada's Transport Canada Design Approval Organization (DAO). If approved by the DAO, the approval must include the DAO-authorized signature.

(3) *Required for Compliance (RC):* Except as required by paragraph (i)(2) of this AD, if any material contains procedures or tests that are identified as RC, those procedures and tests must be done to comply with this AD; any procedures or tests that are not identified as RC are recommended. Those procedures and tests that are not identified as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the procedures and tests identified as RC can be done and the airplane can be put back in an airworthy condition. Any substitutions or changes to procedures or tests identified as RC require approval of an AMOC.

(j) Additional Information

For more information about this AD, contact Erica Bayles, Aviation Safety Engineer, FAA, 2200 South 216th St., Des Moines, WA 98198; phone: 907–271–5844; email: *erica.e.bayles@faa.gov.*

(k) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference of the material listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this material as applicable to do the actions required by this AD, unless this AD specifies otherwise.

(i) Transport Canada AD CF–2025–20, dated April 15, 2025.

(ii) [Reserved]

(3) For Transport Canada material identified in this AD, contact Transport Canada, Transport Canada National Aircraft Certification, 159 Cleopatra Drive, Nepean, Ontario K1A 0N5, Canada; telephone 888–663–3639; email *TC.AirworthinessDirectives-Consignesdenavigabilite.TC@tc.gc.ca.* You may find this material on the Transport Canada website at *tc.canada.ca/en/aviation.*

(4) You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 2200 South 216th St., Des Moines, WA. For information on the availability of this material at the FAA, call 206–231–3195.

(5) You may view this material at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, visit *www.archives.gov/federal-register/cfr/ibr-locations* or email *fr.inspection@nara.gov.*

Issued on March 19, 2026.

Peter A. White,

Deputy Director, Integrated Certificate Management Division, Aircraft Certification Service.

[FR Doc. 2026–05699 Filed 3–23–26; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2026–2724; Project Identifier AD–2025–01606–E]

RIN 2120–AA64

Airworthiness Directives; Pratt & Whitney Division Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Pratt & Whitney Division (PW) Model PW4074D, PW4077D, PW4084D, PW4090, and PW4090–3 engines. This proposed AD was prompted by the discovery of a quality escape involving incorrect shot peening on certain high-pressure compressor (HPC) drum rotor disk assemblies. This proposed AD would require visually inspecting the HPC drum rotor disk assembly for incorrect shot peen coverage and,

depending on the results of the inspection, replacing the HPC drum rotor disk assembly with a part eligible for installation. This proposed AD would also require removing and replacing certain HPC drum rotor disk assemblies before reaching certain life limits. The FAA is proposing this AD to address the unsafe condition on these products.

DATES: The FAA must receive comments on this proposed AD by May 8, 2026.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *regulations.gov*. Follow the instructions for submitting comments.
- *Fax:* (202) 493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

AD Docket: You may examine the AD docket at *regulations.gov* under Docket No. FAA–2026–2724; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, any comments received, and other information. The street address for Docket Operations is listed above.

Material Incorporated by Reference:

- PW material identified in this proposed AD, contact PW, 400 Main Street, East Hartford, CT 06118; phone: (800) 565–0140; email: *help24@prattwhitney.com;* website: *connect.prattwhitney.com.*
- You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call (817) 222–5110.

FOR FURTHER INFORMATION CONTACT: Molly Sturgis, Aviation Safety Engineer, FAA, 2200 South 216th Street, Des Moines, WA 98198; phone: (562) 627–5373; email: *molly.a.sturgis@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments using a method listed under the **ADDRESSES** section. Include ''Docket No. FAA–2026–2724; Project Identifier AD–2025–01606–E'' at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may revise this proposal because of those comments.

Except for Confidential Business Information (CBI) as described in the following paragraph, and other information as described in 14 CFR 11.35, the FAA will post all comments received, without change, to *regulations.gov,* including any personal information you provide. The agency will also post a report summarizing each substantive verbal contact received about this NPRM.

Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as ''PROPIN.'' The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Molly Sturgis, Aviation Safety Engineer, FAA, 2200 South 216th Street, Des Moines, WA 98198. Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

Background

The FAA was notified by the manufacturer of a problem with PW Model PW4074D, PW4077D, PW4084D, PW4090, and PW4090–3 engines where a repair shop quality escape revealed that certain HPC drum rotor disk assemblies were shot peened in an area where peening was prohibited. Further investigation by the manufacturer revealed that incorrect shot peening of the HPC drum rotor disk assembly reduces the life of the part, and PW identified a select number of fielded HPC drum rotor disk assemblies which could have experienced the same quality escape and may have been peened in a prohibited area. As a result, PW revised the airworthiness limitations section of the existing aircraft maintenance manual to reflect the reduced life limit for the affected part and published updated service material with instructions for removal of affected HPC drum rotor disk assemblies prior to reaching the updated reduced life limits, and inspections of affected HPC drum rotor disk assemblies for incorrect shot peening. This condition, if not addressed, could result in uncontained debris release, damage to the engine, and damage to the airplane.

FAA's Determination

The FAA is issuing this NPRM after determining that the unsafe condition described previously is likely to exist or develop on other products of the same type design.

Material Incorporated by Reference Under 1 CFR Part 51

The FAA reviewed PW Alert Service Bulletin (ASB) PW4G–112–A72–373, Original Issue, dated September 10, 2025. This material specifies procedures for a visual inspection of the HPC drum rotor disk assembly for incorrect shot peen coverage. This material also provides updated inspection thresholds for visual inspection of affected HPC drum rotor disk assemblies. This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Proposed AD Requirements in This NPRM

This proposed AD would require visually inspecting the HPC drum rotor disk assembly for incorrect shot peen coverage before accumulating between 8,600 and 10,400 total life cycles since new, as applicable to HPC drum rotor disk assembly, and, depending on the results of the inspection, replacing the HPC drum rotor disk assembly with a part eligible for installation. This proposed AD would also require removing and replacing certain HPC drum rotor disk assemblies before reaching certain life limits.

Costs of Compliance

The FAA estimates that this AD, if adopted as proposed, would affect three engines installed on airplanes of U.S. registry. The FAA estimates that there is one engine installed on airplanes of U.S. registry with an HPC drum rotor disk assembly installed that require replacement of the HPC drum rotor disk assembly at the reduced life limit.

The FAA estimates the following costs to comply with this proposed AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Visually inspect HPC drum rotor disk assembly.	10 work-hours × $85 per hour = $850.	$0	$850	$2,550.
Replace HPC drum rotor disk assembly.	10 work-hours × $85 per hour = $850.	1,622,040	1,622,890	Up to $6,491,560.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. Subtitle VII: Aviation Programs, describes in more detail the scope of the Agency's authority.

The FAA is issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: General requirements. Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

The FAA determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this proposed regulation:

(1) Is not a ''significant regulatory action'' under Executive Order 12866,

(2) Would not affect intrastate aviation in Alaska, and

(3) Would not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive:

Pratt & Whitney Division: Docket No. FAA–2026–2724; Project Identifier AD–2025–01606–E.

(a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by May 8, 2026.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all Pratt & Whitney Division (PW) Model PW4074D, PW4077D, PW4084D, PW4090, and PW4090–3 engines.

(d) Subject

Joint Aircraft System Component (JASC) Code 7230, Turbine Engine Compressor Section.

(e) Unsafe Condition

This AD was prompted by the discovery of a quality escape involving incorrect shot peening on certain high-pressure compressor (HPC) drum rotor disk assemblies. The FAA is issuing this AD to prevent failure of the HPC drum rotor disk assembly. The unsafe condition, if not addressed, could result in uncontained debris release, damage to the engine, and damage to the airplane.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Definition

For the purpose of this AD, a ''part eligible for installation'' is any HPC drum rotor disk assembly having a part number (P/N) and serial number (S/N) that is not identified in paragraph (h) of this AD.

(h) Required Actions

(1) For HPC drum rotor disk assemblies having P/N 50S634, and S/N CENCD26931, CENCD29577, CENCD29597, CENCD41851, or CENCD43536, as applicable, before accumulating the total life cycles since new in Table 1 of the Accomplishment Instructions of PW Alert Service Bulletin (ASB) PW4G–112–A72–373, Original Issue, dated September 10, 2025 (PW ASB PW4G–112–A72–373, Original Issue), perform a visual inspection of the HPC drum rotor disk assembly in accordance with the Accomplishment Instructions, paragraph 1.B., of PW ASB PW4G–112–A72–373, Original Issue.

(2) If, during the inspection required by paragraph (h)(1) of this AD, evidence of incorrect shot peening is discovered, before further flight, replace the HPC drum rotor disk assembly with a part eligible for installation.

(3) For the HPC drum rotor disk assembly having P/N 50S634 and S/N CENCD30975, before accumulating 9,800 total life cycles since new, remove the HPC drum rotor disk assembly from service and replace with a part eligible for installation.

(4) For the HPC drum rotor disk assembly having P/N 50S634 and S/N CENCD42978, before accumulating 11,000 total life cycles since new, remove the HPC drum rotor disk assembly from service and replace with a part eligible for installation.

(i) Alternative Methods of Compliance (AMOCs)

The Manager, AIR–520 Continued Operational Safety Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the AIR–520 Continued Operational Safety Branch, send it to the attention of the person identified in paragraph (j) of this AD and email to: *AMOC@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(j) Additional Information

For more information about this AD, contact Molly Sturgis, Aviation Safety Engineer, FAA, 2200 South 216th Street, Des Moines, WA 98198; phone: (562) 627–5373; email: *molly.a.sturgis@faa.gov.*

(k) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the material listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this material as applicable to do the actions required by this AD, unless the AD specifies otherwise.

(i) Pratt & Whitney Division (PW) Alert Service Bulletin PW4G–112–A72–373, Original Issue, dated September 10, 2025.

(ii) [Reserved]

(3) For PW material identified in this AD, contact PW, 400 Main Street, East Hartford, CT 06118; phone: (800) 565–0140; email: *help24@prattwhitney.com;* website: *connect.prattwhitney.com.*

(4) You may view this material at the FAA, Airworthiness Products Section, Operational Safety Branch, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call (817) 222–5110.

(5) You may view this material at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, visit *www.archives.gov/federal-register/cfr/ibr-locations* or email *fr.inspection@nara.gov*.

Issued on March 20, 2026.

Peter A. White,

Deputy Director, Integrated Certificate Management Division, Aircraft Certification Service.

[FR Doc. 2026–05686 Filed 3–23–26; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

27 CFR Part 9

[Docket No. TTB–2026–0002; Notice No. 240]

RIN 1513–AD13

Proposed Establishment of the Champlain Valley of Vermont Viticultural Area

AGENCY: Alcohol and Tobacco Tax and Trade Bureau, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Alcohol and Tobacco Tax and Trade Bureau (TTB) proposes to establish the approximately 1,035,104-acre ''Champlain Valley of Vermont'' American viticultural area in western Vermont. The proposed viticultural area is not within, nor does it contain, any other established viticultural area. TTB designates viticultural areas to allow vintners to better describe the origin of their wines and to allow consumers to better identify wines they may purchase. TTB invites comments on this proposed addition to its regulations.

DATES: Comments must be received by May 26, 2026.

ADDRESSES: You may electronically submit comments to TTB on this proposal using the comment form for this document posted within Docket No. TTB–2026–0002 on the *Regulations.gov* website at *https://www.regulations.gov.* At the same location, you also may view copies of this document, the related petition and selected supporting materials, and any comments TTB receives on this proposal. A direct link to that docket is available on the TTB website at *https://www.ttb.gov/wine/notices-of-proposed-rulemaking* under Notice No. 240. Alternatively, you may submit comments via postal mail to the Director, Regulations and Ruling Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW, Box 12, Washington, DC 20005. Please see the Public Participation section of this document for further information on the comments requested on this proposal and on the submission, confidentiality, and public disclosure of comments.

FOR FURTHER INFORMATION CONTACT: Karen A. Thornton, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW, Box 12, Washington, DC 20005; phone 202–453–1039, ext. 175.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553(b)(4), a summary of this proposal may be found at *https://www.regulations.gov/docket/TTB-2026-0002.*

Background on Viticultural Areas

TTB Authority

Section 105(e) of the Federal Alcohol Administration Act (FAA Act), 27 U.S.C. 205(e), authorizes the Secretary of the Treasury to prescribe regulations for the labeling of wine, distilled spirits, and malt beverages. The FAA Act provides that these regulations should, among other things, prohibit consumer deception and the use of misleading statements on labels and ensure that labels provide the consumer with adequate information as to the identity and quality of the product. The Alcohol and Tobacco Tax and Trade Bureau (TTB) administers the FAA Act pursuant to section 1111(d) of the Homeland Security Act of 2002, codified at 6 U.S.C. 531(d). In addition, the Secretary of the Treasury has delegated certain administrative and enforcement authorities to TTB through Treasury Order 120–01.

Part 4 of the TTB regulations (27 CFR part 4) authorizes TTB to establish definitive viticultural areas and regulate the use of their names as appellations of origin on wine labels and in wine advertisements. Part 9 of the TTB regulations (27 CFR part 9) sets forth standards for the preparation and submission of petitions for the establishment or modification of American viticultural areas (AVAs) and lists the approved AVAs.

Definition

Section 4.25(e)(1)(i) of the TTB regulations (27 CFR 4.25(e)(1)(i)) defines a viticultural area for American wine as a delimited grape-growing region having distinguishing features as described in part 9 of the regulations and, once approved, a name and a delineated boundary codified in part 9 of the regulations. These designations allow vintners and consumers to attribute a given quality, reputation, or other characteristic of a wine made from grapes grown in an area to the wine's geographic origin. The establishment of AVAs allows vintners to describe more accurately the origin of their wines to consumers and helps consumers to identify wines they may purchase. Establishment of an AVA is neither an approval nor an endorsement by TTB of the wine produced in that area.

Requirements

Section 4.25(e)(2) of the TTB regulations (27 CFR 4.25(e)(2)) outlines the procedure for proposing an AVA and allows any interested party to petition TTB to establish a grape-growing region as an AVA. Section 9.12 of the TTB regulations (27 CFR 9.12) prescribes standards for petitions to establish or modify AVAs. Petitions to establish an AVA must include the following:

- Evidence that the area within the proposed AVA boundary is nationally or locally known by the AVA name specified in the petition;
- An explanation of the basis for defining the boundary of the proposed AVA;
- A narrative description of the features of the proposed AVA affecting viticulture, such as climate, geology, soils, physical features, and elevation, that make the proposed AVA distinctive and distinguish it from adjacent areas outside the proposed AVA;
- The appropriate United States Geological Survey (USGS) map(s) showing the location of the proposed AVA, with the boundary of the proposed AVA clearly drawn thereon; and
- A detailed narrative description of the proposed AVA boundary based on USGS map markings.

Champlain Valley of Vermont Petition

TTB received a petition from Kenneth Albert, president of the Vermont Grape and Wine Council, proposing the

establishment of the ''Champlain Valley of Vermont'' AVA. The proposed AVA is located in western Vermont along the shore of Lake Champlain and contains approximately 1,035,104 acres. The proposed AVA covers all or parts of the following Vermont counties: Addison, Chittenden, Franklin, Grand Isle, and Rutland. There are currently 27 vineyards covering a total of approximately 120 acres within the proposed AVA. According to the petition, the primary distinguishing feature of the proposed Champlain Valley of Vermont AVA is its climate. Unless otherwise noted, all information and data pertaining to the proposed AVA is from the petition and its supporting exhibits.

Name Evidence

The proposed Champlain Valley of Vermont AVA takes its name from Lake Champlain, which forms the western boundary of the proposed AVA. The lake was named by European explorer Samuel de Champlain, who explored the region in the early 1600s. According to the petition, the region was known as ''Lac Champlain'' or ''La vallée du lac Champlain'' until the land came under English control in 1763 and became known by the English names, ''Lake Champlain'' and ''Champlain Valley.''

The petition provided multiple examples of the use of ''Champlain Valley'' to describe the region of the proposed AVA. For example, the proposed AVA is located within the Champlain Valley National Heritage Partnership, established by Congress in the Champlain Valley Heritage Partnership Act of 2006. A Vermont tourism website invites readers to ''[v]isit the Champlain Valley Region of northwestern Vermont—comprised of Addison, Chittenden, Franklin, and Grand Isle counties.'' [1] TTB notes that all or portions of these four counties are included in the proposed AVA. The website for Four Seasons Sotheby's International Realty has a web page for the ''Champlain Valley region in northwestern Vermont,'' [2] which features homes for sale in several cities within the proposed AVA. The Champlain Valley Exposition is an event facility in Essex Junction, which is within the proposed AVA. The Champlain Valley Office of Economic Opportunity, Champlain Valley School District, and Champlain Valley Union High School all serve residents within the proposed AVA. Businesses within the proposed AVA include Champlain Valley Equipment, Champlain Valley Apiaries, Champlain Valley Creamery, and Champlain Valley Crossfit.

Boundary Evidence

The proposed Champlain Valley of Vermont AVA is a long, narrow region located on the eastern shore of Lake Champlain from the U.S.–Canada border to Lake St. Catherine, in Rutland County, and includes the islands within the Vermont portion of Lake Champlain. The proposed northern boundary follows the U.S.–Canada border to the New York–Vermont State line. The western boundary follows the New York–Vermont State line through Lake Champlain to a point west of Lake St. Catherine. The very short southern boundary follows a road around the southern tip of Lake St. Catherine to that lake's eastern shore. The proposed eastern boundary follows a series of roads to return to the U.S.–Canada border and to approximate the easternmost limit of Lake Champlain's effects on the climate.

Distinguishing Features

According to the petition, the primary distinguishing feature of the proposed Champlain Valley of Vermont AVA is its climate. The petition states that Lake Champlain exerts a moderating effect on the climate of the proposed AVA. Although temperatures within the proposed AVA are generally more moderate than in the surrounding regions away from the lake, winter temperatures can still drop to 15 to 20 degrees below zero (in Fahrenheit). Due to the cold winter temperatures, vineyard owners within the proposed AVA principally grow cold-hardy grape hybrids developed by the University of Minnesota, including Louise Swenson; La Crescent; Marquette; and Frontenac Gris, Blanc, and Noir.

The petition includes information on the first and last freeze dates, growing degree day [3] (GDD) accumulations, and precipitation amounts for locations within the proposed AVA and the surrounding regions. However, the precipitation data does not show a significant difference between the proposed AVA and the region to the east, which was the only included location outside the proposed AVA.[4] As a result, TTB does not consider precipitation to be a distinguishing feature of the proposed AVA. All data was collected using National Weather Service 1991–2020 climate normals. Data was not included from the region north of the proposed AVA because that region is in Canada and is therefore not eligible for inclusion in an AVA.

Freeze Dates

According to the petition, Lake Champlain releases stored heat during the fall, moderating temperatures in the areas surrounding it and preventing early first-freeze dates. The petition goes on to say that the moderating effect of the lake results in a growing season (marked by the first fall frost date and the last spring frost date) that averages 2.5 weeks longer within the proposed AVA than regions in the Green Mountains to the east.

The petition states that first-freeze dates in the fall for the proposed AVA usually occur during the first week in October, while locations east of the proposed AVA, farther from the lake, typically experience a first freeze during the last week of September. The following table shows the median first-freeze dates for the proposed AVA and surrounding regions. The data shows that the location east of the proposed AVA has the earliest first-freeze date and the New York locations, which are both located within the established Champlain Valley of New York AVA (27 CFR 9.258), have first-freeze dates similar to those of the proposed AVA. Within the proposed AVA, the South Hero location has the latest first-freeze date due to its location on an island within Lake Champlain.

[1] *https://www.vtliving.com/champlainvalley.* Accessed January 17, 2024.

[2] https://www.*fourseasonssir.com/region/vt/champlain-valley.* Accessed January 17, 2024.

[3] *See* Albert J. Winkler et al., *General Viticulture* (Berkeley: University of California Press, 2nd ed.), pages 61–64 (1974). In the Winkler climate classification system, annual heat accumulation during the growing season, measured in annual GDDs, defines climatic regions. One GDD accumulates for each degree Fahrenheit (F) that a day's mean temperature is above 50 degrees F, the minimum temperature required for grapevine growth.

[4] The precipitation data is included in the petition, which can be found in Docket TTB–2026–0002 at *www.regulations.gov.*

TABLE 1—FIRST-FREEZE DATES

Location (direction from proposed AVA)	First-freeze date
Burlington, VT (within center of proposed AVA)	October 8.
Cornwall, VT (within southern portion of proposed AVA)	October 5.
Essex Junction (within center of proposed AVA)	October 4.
South Hero, VT (within northwest portion of proposed AVA)	October 19.
Enosburg Falls, VT (east)	September 29.
Peru, NY (west)	October 5.
Plattsburg, NY (west)	October 7.

The petition also states that in the spring, proximity to the waters of the lake contribute to earlier last-freeze dates within the proposed AVA. The following table shows the median last-freeze dates for the proposed AVA and surrounding regions. The data shows that the Burlington and South Hero locations, within the proposed AVA, have earlier last-freeze dates than the surrounding regions farther from the lake. The two New York locations, west of the proposed AVA and within the Adirondack Mountains, have significantly later last-freeze dates than the proposed AVA, as do the Mt. Mansfield and Island Pond locations, both located in the Green Mountains of Vermont to the east of the proposed AVA.

TABLE 2—LAST-FREEZE DATES

Location (direction from proposed AVA)	Last-freeze date
Burlington (within center of proposed AVA)	May 3.
South Hero (within northwest portion of proposed AVA)	April 27.
Mt. Mansfield, VT (east)	May 29.
Island Pond, VT (east)	May 26.
Rutland, VT (southeast)	May 15.
Montpelier, VT (east)	May 14.
St. Johnsbury, VT (east)	May 14.
Springfield, VT (east)	May 13.
Massena, NY (west)	May 8.
Saranac Lake, NY (west)	June 4.
Tupper Lake, NY (west)	May 20.

Growing Degree Days

The petition states that growing degree days are a measure of heat accumulation vineyard owners use to predict plant development rates, such as bloom and harvest dates. The following table shows the average annual GDD accumulations for locations within the proposed Champlain Valley of Vermont AVA and surrounding regions. The data shows each of the four locations within the proposed AVA have greater GDD accumulations than the regions to the east and southeast. The locations in the northwest and southern portions of the proposed AVA have GDD accumulations that are greater than any of the locations outside the proposed AVA. The Burlington location has the fewest GDD accumulations within the proposed AVA but is still greater than the regions to the east and southeast of the proposed AVA. The greater GDD accumulations suggest generally warmer temperatures within the proposed AVA than in the surrounding regions.

TABLE 3—AVERAGE ANNUAL GDD ACCUMULATIONS

Location (direction from proposed AVA)	Average annual GDD accumulations
St. Albans, VT (within northwest corner of proposed AVA)	2,603
Burlington, VT (within center of proposed AVA)	2,272
Essex Junction, VT (within eastern portion of proposed AVA)	2,394
Cornwall, VT (within southern portion of proposed AVA)	2,480
Montpelier, VT (east)	1,967
Rutland, VT (southeast)	2,220
Bennington, VT (south)	2,443

TTB Determination

TTB concludes that the petition to establish the proposed Champlain Valley of Vermont AVA merits consideration and public comment, as invited in this notice of proposed rulemaking.

Boundary Description

See the narrative description of the boundary of the petitioned-for AVA in the proposed regulatory text published at the end of this proposed rule.

Maps

The petitioner provided the required maps, and TTB lists them below in the proposed regulatory text. You may also view the proposed Champlain Valley of Vermont AVA boundary on the AVA Map Explorer on the TTB website, at

https://www.ttb.gov/wine/ava-map-explorer.

Impact on Current Wine Labels

Part 4 of the TTB regulations prohibits any label reference on a wine that indicates or implies an origin other than the wine's true place of origin. For a wine to be labeled with an AVA name, at least 85 percent of the wine must be derived from grapes grown within the area represented by that name, and the wine must meet the other conditions listed in § 4.25(e)(3) of the TTB regulations (27 CFR 4.25(e)(3)). If the wine is not eligible for labeling with an AVA name and that name appears in the brand name, then the label is not in compliance and the bottler must change the brand name and obtain approval of a new label. Similarly, if the AVA name appears in another reference on the label in a misleading manner, the bottler would have to obtain approval of a new label. Different rules apply if a wine has a brand name containing an AVA name that was used as a brand name on a label approved before July 7, 1986. See § 4.39(i)(2) of the TTB regulations (27 CFR 4.39(i)(2)) for details.

If TTB establishes this proposed AVA, its name, ''Champlain Valley of Vermont,'' will be recognized as a name of viticultural significance under § 4.39(i)(3) of the TTB regulations (27 CFR 4.39(i)(3)). The text of the proposed regulation clarifies this point. Consequently, wine bottlers using the name ''Champlain Valley of Vermont'' in a brand name, including a trademark, or in another label reference as to the origin of the wine, would have to ensure that the product is eligible to use the AVA name as an appellation of origin if TTB adopts this proposed rule as a final rule. TTB is not proposing to designate the phrase ''Champlain Valley,'' standing alone, as a term of viticultural significance because the feature known as the Champlain Valley extends into New York and includes the established Champlain Valley of New York AVA.

Public Participation

Comments Invited

TTB invites comments from interested members of the public on whether it should establish the proposed Champlain Valley of Vermont AVA. TTB is also interested in receiving comments on the sufficiency and accuracy of required information submitted in support of the petition. Please provide specific information in support of your comments.

Because of the potential impact of the establishment of the proposed Champlain Valley of Vermont AVA on wine labels that include the term ''Champlain Valley of Vermont'' as discussed above under Impact on Current Wine Labels, TTB is particularly interested in comments regarding whether there will be a conflict between the proposed AVA name and currently used brand names. If a commenter believes that a conflict will arise, the comment should describe the nature of that conflict, including any anticipated negative economic impact that approval of the proposed AVA will have on an existing viticultural enterprise. TTB is also interested in receiving suggestions for ways to avoid conflicts, for example, by adopting a modified or different name for the proposed AVA.

Submitting Comments

You may submit comments on this proposal as an individual or on behalf of a business or other organization via the *Regulations.gov* website or via postal mail, as described in the **ADDRESSES** section of this document. Your comment must reference Notice No. 240 and must be submitted or postmarked by the closing date shown in the **DATES** section of this document. You may upload or include attachments with your comment. You also may submit a comment requesting a public hearing on this proposal. The TTB Administrator reserves the right to determine whether to hold a public hearing.

Confidentiality and Disclosure of Comments

All submitted comments and attachments are part of the rulemaking record and are subject to public disclosure. Do not enclose any material in your comments that you consider confidential or that is inappropriate for disclosure.

TTB will post, and you may view, copies of this document, the related petition, supporting materials, and any comments TTB receives about this proposal within the related *Regulations.gov* docket. In general, TTB will post comments as submitted, and it will not redact any identifying or contact information from the body of a comment or attachment.

Please contact TTB's Regulations and Rulings division by email using the web form available at *https://www.ttb.gov/contact-rrd,* or by telephone at 202–453–2265, if you have any questions about commenting on this proposal or to request copies of this document, its supporting materials, or the comments received.

Regulatory Flexibility Act

TTB certifies that this proposed regulation, if adopted, would not have a significant economic impact on a substantial number of small entities. The proposed regulation imposes no new reporting, recordkeeping, or other administrative requirement. Any benefit derived from the use of a viticultural area name would be the result of a proprietor's efforts and consumer acceptance of wines from that area. Therefore, no regulatory flexibility analysis is required.

Executive Order 12866

It has been determined that this proposed rule is not a significant regulatory action as defined by Executive Order 12866, as amended. Therefore, no regulatory assessment is required.

List of Subjects in 27 CFR Part 9

Wine.

Proposed Regulatory Amendment

For the reasons discussed in the preamble, TTB proposes to amend title 27, chapter I, part 9, Code of Federal Regulations, as follows:

PART 9—AMERICAN VITICULTURAL AREAS

■ 1. The authority citation for part 9 continues to read as follows:

Authority: 27 U.S.C. 205.

Subpart C—Approved American Viticultural Areas

■ 2. Subpart C is amended by adding § 9._____ to read as follows:

§ 9._____ Champlain Valley of Vermont.

(a) *Name.* The name of the viticultural area described in this section is ''Champlain Valley of Vermont''. For purposes of part 4 of this chapter, ''Champlain Valley of Vermont'' is a term of viticultural significance.

(b) *Approved maps.* The six United States Geological Survey (USGS) 1:100,000 scale topographic maps used to determine the boundary of the Champlain Valley of Vermont viticultural area are:

(1) Lake Champlain North, New York–Vermont, 1986;

(2) Mount Mansfield, Vermont, 1989;

(3) Montpelier, Vermont–New Hampshire, 1988;

(4) Lake Champlain South, New York–Vermont, 1986;

(5) Glens Falls, New York–Vermont, 1989; and

(6) Ticonderoga, New York–Vermont, 1989.

(c) *Boundary.* The Champlain Valley of New York viticultural area is located in northwestern Vermont and includes all or portions of the following counties: Addison, Chittenden, Franklin, Grand Isle, and Rutland. The boundary of the viticultural area is as described as follows:

(1) The beginning point is on the Lake Champlain North map at the intersection of the Grand Isle County line and the United States–Canada border. From the beginning point, proceed east along the United States–Canada border for 23 miles, crossing onto the Mount Mansfield map, to its intersection with State Route 108 in Franklin County; then

(2) Proceed south on State Route 108 for 1.4 miles to its intersection with State Route 120; then

(3) Proceed west on State Route 120 for 0.6 miles to its intersection with State Route 236; then

(4) Proceed southerly on State Route 236 for 6.2 miles to its intersection with State Route 105; then

(5) Proceed west on State Route 105 for 13.1 miles, crossing back onto the Lake Champlain North map, to the road's intersection with State Route 104 near St. Albans; then

(6) Proceed south on State Route 104 for 2.5 miles to its intersection with an unnamed road known locally as St. Albans State Highway; then

(7) Proceed east on St. Albans State Highway for 0.1 mile to its intersection with I–89; then

(8) Proceed south on I–89 for 7.2 miles to its intersection with U.S. Highway 7; then

(9) Proceed south on U.S. Highway 7 for 0.5 mile to its intersection with State Route 104A; then

(10) Proceed east on State Route 104A for 4.5 miles to intersection with State Route 104; then

(11) Proceed southeasterly on State Route 104 for 8.8 miles, crossing back onto the Mount Mansfield map, to its intersection with State Route 15 west of Cambridge; then

(12) Proceed south on State Route 15 south for 10.7 miles to its intersection with an unnamed road known locally as Browns Trace Road, southwest of Riverside; then

(13) Proceed south on Browns Trace Road for 8.3 miles, crossing onto the Montpelier map, to the road's intersection with an unnamed road known locally as Huntington Road south of the Winooski River; then

(14) Proceed west on Huntington Road for 4 miles, crossing onto the Lake Champlain South map and back onto the Montpelier map, to the road's intersection with an unnamed road known locally as Main Road, south of the Huntington River; then

(15) Proceed south on Main Road for 7.2 miles to its intersection with an unnamed road known locally as Moody Road; then

(16) Proceed southeasterly on Moody Road 0.9 mile to its intersection with an unnamed road known locally as Carse Road; then

(17) Proceed west on Carse Road for 0.3 mile to its intersection with an unnamed road known locally as Main Road; then

(18) Proceed south on Main Road for 1.6 miles to the point where it changes names to Gore Road; then

(19) Proceed south on Gore Road for 3.3 miles to its intersection with State Route 17; then

(20) Proceed south, then west on State Route 17 for 6.9 miles, crossing onto the Lake Champlain South map, to the road's intersection with State Route 116; then

(21) Proceed south on State Route 116 for 8.7 miles, crossing onto the Ticonderoga map, to the road's intersection with U.S. Highway 7 at East Middlebury; then

(22) Proceed south on U.S. Highway 7 for 19.3 miles to its intersection with an unnamed road known locally as Fern Lake Road in Leicester; then

(23) Proceed east on Fern Lake Road for 2.3 miles to its intersection with State Route 53; then

(24) Proceed southeasterly on State Route 53 south for 2.3 miles to its intersection with State Route 73 at Forest Dale; then

(25) Proceed southwest on State Route 73 for 0.5 mile to its intersection with an unnamed road known locally as McConnell Road; then

(26) Proceed south on McConnell Road for 1.5 miles to its intersection with an unnamed road known locally as North Birch Hill Road; then

(27) Proceed southerly on North Birch Hill Road for 0.8 mile to the point where it becomes Birch Hill Road; then

(28) Proceed south on Birch Hill Road for 3.5 miles to the point where it becomes Sugar Hollow Road; then

(29) Proceed south on Sugar Hollow Road for 2.5 miles to its intersection with an unnamed road known locally as Plains Road, north of Pittsford; then

(30) Proceed southwest on Plains Road for 0.4 mile to its intersection with an unnamed road known locally as Pinewoods Road; then

(31) Proceed west on Pinewoods Road for 0.7 mile to its intersection with U.S. Highway 7; then

(32) Proceed northwesterly on U.S. Highway 7 for 4.9 miles to its intersection with an unnamed creek known locally as Jones Brook, west of Jones Mill Pond; then

(33) Proceed southwesterly along Jones Brook for 0.65 mile to its intersection with an unnamed road known locally as Old Brandon Road; then

(34) Proceed northwest on Old Brandon Road for 0.8 mile to its intersection with an unnamed road known locally as Nickerson Road; then

(35) Proceed west on Nickerson Road for 280 feet to its intersection with an unnamed road known locally as Carver Street; then

(36) Proceed north on Carver Street for 1 mile to its intersection with U.S. Highway 7 in Brandon; then

(37) Proceed west on U.S. Highway 7 for 0.4 mile to its intersection with State Route 73; then

(38) Proceed west on State Route 73 for 5.9 miles to its intersection with State Route 30; then

(39) Proceed south on State Route 30 for 20 miles to its intersection with an unnamed road known locally as Hannon Road, north of Poultney; then

(40) Proceed east on Hannon Road for 0.6 mile to its intersection with an unnamed road known locally as Lewis Road; then

(41) Proceed southeast on Lewis Road for 1.4 miles to its intersection with an unnamed road known locally as Hillside Road; then

(42) Proceed southwest on Hillside Road for 0.5 mile to the point where it becomes Thrall Road; then

(43) Proceed south on Thrall Road for 1.3 miles, crossing onto the Glens Falls map, to the road's intersection with State Route 30; then

(44) Proceed south on State Route 30 for 0.1 mile to its intersection with an unnamed road known locally as Old Lake Road; then

(45) Proceed southeast on Old Lake Road for 0.3 mile to its intersection with an unnamed road known locally as Tucker Road; then

(46) Proceed southwest on Tucker Road for 0.2 mile to its intersection with State Route 30; then

(47) Proceed south on State Route 30 for 3.8 miles to its intersection with an unnamed road known locally as West Lake Road, at the southern end of Lake St. Catherine; then

(48) Proceed west, then north on West Lake Road for 1.7 miles to its intersection with an unnamed road known locally as Bullfrog Hollow Road; then

(49) Proceed southwest on Bullfrog Hollow Road for 0.7 mile to its intersection with an unnamed road known locally as Hilltop Road; then

(50) Proceed west, then north, then southwest on Hilltop Road for a total of

1.3 miles to its intersection with State Route 31; then

(51) Proceed north on State Route 31 for 1.3 miles to its intersection with an unnamed road known locally as New Boston Road; then

(52) Proceed southwesterly on New Boston Road for 0.3 mile to the New York–Vermont State line; then

(53) Proceed north along the New York–Vermont State line for approximately 88 miles, crossing over the Ticonderoga and Lake Champlain South maps and onto the Lake Champlain North map, returning to the beginning point.

Signed: March 20, 2026.

Mary G. Ryan,

Administrator.

Approved: March 20, 2026.

Kenneth J. Kies,

Assistant Secretary for Tax Policy.

[FR Doc. 2026–05741 Filed 3–23–26; 8:45 am]

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Notices

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This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Information Collection; Management of Wild Free-Roaming Horses and Burros

AGENCY: Forest Service, Agriculture (USDA).

ACTION: Notice; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Forest Service (Agency) is requesting public comment on the new information collection request (ICR), 0596–NEW, *Management of Wild Free-Roaming Horses and Burros.*

DATES: Comments on the new ICR must be received in writing by May 26, 2026.

ADDRESSES: Comments are encouraged to be submitted by email, if possible. You may submit comments by any of the following methods:

- *Email: SM.FS.RngMgmtWO@usda.gov.*
- *Mail:* USDA Forest Service, Director, Natural Resources, Attention: Gilbert Jackson, 1400 Independence Ave. SW, Mailstop Code: 1103, Washington, DC 20250–1103.
- *Hand Delivery/Courier:* Forest Service, USDA, 1400 Independence Avenue SW, Washington, DC 20250.

Comments submitted in response to this notice may be made available to the public through relevant websites and upon request. For this reason, please do not include in your comments information of a confidential nature, such as sensitive personal information or proprietary information. If you send an email comment, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available for public viewing. Please note that comments containing any routine notice about the confidentiality of the communication will be treated as public comments that may be made available to the public, notwithstanding the inclusion of the routine notice.

FOR FURTHER INFORMATION CONTACT: Teresa Drotar, Rangeland Management Staff, *teresa.k.drotar@usda.gov* or 970–217–7081. Individuals who are deaf, hard of hearing, or have a speech disability may call 711 to reach the Telecommunications Relay Service, then provide the phone number of the person named as a point of contact for further information.

SUPPLEMENTARY INFORMATION:

Title of Collection: Management of Wild Free-Roaming Horses and Burros.

OMB Control Number: 0596–NEW.

Type of Review: A new information collection.

Abstract: This ICR is necessary to manage wild free-roaming horses and burros as required by 36 CFR 222.60–.76, a final rule published in the **Federal Register** on January 24, 2003. This regulation requires the Forest Service to determine if overpopulation of wild horses and burros exists and to take immediate action to remove excess animals from that territory. Excess animals are to be placed into private custody. Such action shall be taken to restore a thriving natural ecological balance to the range and protect the range from deterioration associated with overpopulation. The Wild Horses and Burros Protection Act of 1971, as amended by the Federal Land Policy and Management Act of 1976 and the Public Rangelands Improvement Act of 1978, establishes wild free-roaming horses and burros as a part of the natural system where they occur on National Forest System lands. The acts require management, protection, and control of these horses and burros. Four laws important in the protection and control of wild free-roaming horses and burros are the Multiple Use-Sustained Yield Act of 1960, the National Environmental Policy Act of 1969, the Forest and Rangeland Renewable Resources Planning Act of 1974, and the Forest and Rangeland Renewable Resources Research Act of 1978 .

The primary method of data collection is through five newly developed forms intended to support the adoption or purchase of wild horses and burros from the Forest Service. These forms will gather essential information from the public to ensure compliance with applicable laws, track animal selection and placement, assess purchaser qualifications, and document the transfer of ownership. The five forms are:

FS–2200–0032, Request To Purchase Wild Horses With Limitations

The purpose of this form is to collect information from members of the public who are interested in purchasing wild horses and/or wild burros from the Forest Service. The information is used to determine purchaser eligibility, assess the purchaser's ability to provide humane care and adequate facilities, evaluate animal preferences and placement needs, confirm transportation readiness, and document the purchaser's certification and agreement to program requirements.

Information Collected From the Public

- How the applicant heard about the program
- Date of application
- Applicant's full name
- Street address
- City, state, and ZIP Code
- Primary phone number
- Alternate phone number
- Email address
- Whether the applicant has ever been convicted of abuse or inhumane treatment of animals
- Whether the applicant has previously adopted or purchased a wild horse or wild burro from the Forest Service or Bureau of Land Management

Animal and Care Information

- Number of animals the applicant is interested in purchasing
- Preferred number of males and females
- Total number of animals requested
- Preferred height of the animal(s)
- Preferred color of the animal(s)
- Number of acres available for the animals
- Type of facility available, such as corral or pasture
- Description of the facility, including fencing if pasture is used
- Whether the applicant has experience with wild horses, wild burros, or livestock
- Description of relevant animal-handling experience
- Types of feed available, such as hay or grass
- Amount of feed available
- Description of feed resources
- Source of water, such as a tank, a lake, a stream, or a pond

- Description of the water source
- Whether the applicant has a regular veterinarian available to provide care

Transportation Information

- Date the applicant will be ready to pick up the animal(s)
- Type of transportation the applicant will provide, such as stock or horse trailer or other transport
- Description of the transportation arrangement

Certification and Agreement

- Applicant's acknowledgment that purchased wild horses and/or burros cannot be returned to public lands without Forest Service authorization
- Applicant's certification that humane care will be provided
- Applicant's certification that animals will not be sold or transferred to any person or organization intending to resell, trade, give away, or process the animals into commercial products
- Purchaser's signature
- Signature date

Types of Respondents: Households and Individuals.

Estimated Annual Burden per Response: 0.5 hours.

Estimated Annual Number of Respondents: 500.

Estimated Annual Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 250 hours.

FS–2200–0033, Bill of Sale With Limitations for Wild Horses and Burros

The purpose of this form is to document the completed sale of wild horses and/or burros by the Forest Service, identify the purchaser, provide proof of ownership, and obtain the purchaser's signed acknowledgment and certification that they understand and agree to the sale limitations and animal care requirements. The form also records the identifying information for the animals sold.

The following items are not collected from the public, but instead are to be completed by the Forest Service as part of the official sales record:

- Last name
- First name
- Middle initial
- Street address
- City
- State
- ZIP Code
- Home phone number
- Alternate phone number
- Email address
- Purchaser signature
- Date signed by purchaser
- Purchaser's acknowledgment and certification that:
  - The purchaser has read and understands the terms of sale
  - The purchaser agrees to provide humane care
  - The purchaser agrees not to maliciously or negligently injure the animals
  - The purchaser agrees not to process the animals or their remains into commercial products
  - The purchaser agrees not to knowingly sell or transfer the animals to any person or organization intending to process them, or to resell, trade, or give them away for processing into commercial products
  - The purchaser understands that the animals cannot be returned to public land unless authorized by the Forest Service
  - The purchaser understands the animals are wild and may not become accustomed to human contact
  - The purchaser understands the financial responsibility for care and the need for adequate facilities
  - The purchaser understands that the sale is final upon pick-up
- Date of sale
- Office or facility name
- Address of Forest Service office or facility
- Quantity sold
- Authorized officer signature and date
- Certification of payment and date
- Animal identification details, including sequence number, microchip identification number, signalment key, National Forest, territory, and remarks

Types of Respondents: Households and Individuals.

Estimated Annual Burden per Response: 0 hours.

Estimated Annual Number of Respondents: 0.

Estimated Annual Number of Responses per Respondent: 0.

Estimated Total Annual Burden on Respondents: 0 hours.

FS–2200–0034, Wild Horse and/or Burro Selection

The purpose of this form is to allow a member of the public to identify and request specific wild horse(s) and/or burro(s) for adoption or purchase, provide pickup and transportation information, and communicate handling requests needed for the release of the animal(s). The information is used by the Forest Service to coordinate selection, verify availability, prepare the animal(s) for pickup, and complete adoption or purchase processing.

Information Collected From the Public

- How the individual heard about the program
- Date of form submission
- Last name
- First name
- Middle initial
- Name(s) of person(s) transporting the animal(s)
- Trailer description
- Loading requests
- Requested pick-up date
- Whether the individual requests the animal to be haltered
- Whether the individual requests the Forest Service to remove the animal's neck tag
- Whether the individual requests a health certificate
- Selected animal number(s)
- Selected neck tag number(s)
- Selected animal gender
- Selected animal color
- Selected animal markings
- Selected animal age
- Whether each selected animal is for adoption or purchase

Section C on the form is labeled ''Forest Service Only'' to capture internal agency processing information rather than information collected from the public. This includes availability confirmation, adoption completion, purchase completion, comments, verification of sorting and loading, and approving official information and signature.

Types of Respondents: Households and Individuals.

Estimated Annual Burden per Response: 0.2 hours.

Estimated Annual Number of Respondents: 400.

Estimated Annual Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 80 hours.

FS–2200–0035, Agreement for Maintenance and Care of Wild Horses and Burros

The purpose of this form is to document a maintenance and care agreement between the Forest Service and a private cooperator for wild horses and burros declared excess and made available for private maintenance. The form is used to identify the cooperator, link the cooperator to the animals covered by the agreement, document acceptance of the terms and conditions for humane care and custody, and establish ongoing reporting and compliance responsibilities.

Information Collected From the Public

- Last name
- First name

- Middle initial
- Street address
- City
- State
- ZIP Code
- Home phone number
- Alternate phone number
- Email address
- Cooperator's signature
- Date signed by cooperator
- Notice of address change within 30 days, if applicable
- Notice of death or serious health problems involving the animal(s) within seven days, if applicable
- Written statement from a licensed veterinarian attesting to the present condition and treatment of the animal, unless waived in writing, as part of an application for title

The animal identification fields in Section C are primarily completed by the Forest Service to identify the animals covered by the agreement rather than being collected from the public.

These fields include:

- Sequence number
- Microchip identification number
- Signalment key
- National Forest
- Territory
- Remarks

Section E is also completed by the Forest Service, including approval information such as the authorized officer's signature, title, and date.

Types of Respondents: Households and Individuals.

Estimated Annual Burden per Response: 0.25 hours.

Estimated Annual Number of Respondents: 300.

Estimated Annual Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 75 hours.

FS–2200–0036, Wild Horse and Burro Title Application Inspection Form

The purpose of this form is to collect information needed to evaluate whether a wild horse or burro is eligible for title transfer and whether the adopter/cooperator is providing proper care and an adequate environment. The form is used to verify the animal's identity, document its physical condition, assess the adequacy of feed, water, shelter, fencing, and overall care, and obtain the certifications and signatures needed to support the title application review.

Information Collected From the Public

- Cooperator's/adopter's last name
- Cooperator's/adopter's first name
- Middle initial
- Street address
- City
- State
- ZIP Code
- Home phone number
- Alternate phone number
- Email address

Animal Identification Information Submitted With the Form

- Microchip number
- Species
- Sex
- Color
- Markings
- Brands
- Age
- Notes

Animal Physical Condition Information Submitted With the Form

- General attitude and demeanor
- Appetite
- Body condition score
- Skin and coat condition
- Mane and tail condition
- Comments on visible wounds or scars
- Movement condition for each limb
- Head, face, and throat appearance
- Left eye condition
- Right eye condition
- Mucous membrane condition
- Limb appearance
- Hoof appearance
- Body, neck, and back appearance
- Underbelly appearance
- Tail and under-tail appearance
- Sheath

Care Environment Information Submitted With the Form

- Type of shelter
- Whether shelter size is adequate or inadequate
- Fencing adequacy and description of type, condition, and safety hazards
- Enclosure size
- Number of horses
- Number and species of other animals
- Manure accumulation
- Ammonia odor level
- Fly presence
- Water availability and quality
- Hay availability, quality, and quantity
- Other feed availability, quality, and quantity

Supporting Documentation and Certifications

- Illustration or notation of wounds, scars, brands, and other notable items
- Photographs from the day of inspection
- Adopter's signature
- Adopter's date
- Inspecting the officer's signature, credentials, title, and date
- Licensed veterinarian's signature, state/license number, title, and date

Types of Respondents: Households and Individuals.

Estimated Annual Burden per Response: 0.5 hours.

Estimated Annual Number of Respondents: 350.

Estimated Annual Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 175 hours.

The collected data will help verify that individuals or entities acquiring animals have the necessary facilities and resources to provide humane care, as required by the program. This information is critical to advancing the Forest Service's goal of achieving Appropriate Management Levels on National Forest System rangelands while ensuring the welfare of excess animals. These forms are being submitted to the Office of Management and Budget for approval as a new information collection request under the Paperwork Reduction Act. The report below includes the total of five forms.

Estimated Annual Burden per Response: Between 12 and 30 minutes to complete, depending on complexity and required detail.

Types of Respondents: Households and Individuals.

Estimated Annual Number of Respondents: 1,550.

Estimated Annual Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 580 hours.

Comment is requested on (1) whether this collection of information is necessary for the stated purposes and the proper performance of the functions of the Agency, including whether the information will have practical or scientific utility; (2) the accuracy of the Agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All comments received in response to this notice, including names and addresses when provided, will be a matter of public record. Comments will be summarized and included in the package submitted to the Office of

Management and Budget for approval of the new ICR.

Lisa Northrop,

Associate Deputy Chief, State, Private, and Tribal Forestry; National Forest System.

[FR Doc. 2026–05670 Filed 3–23–26; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[S–152–2026]

Foreign-Trade Zone 104; Application for Subzone; Supreme International LLC dba Perry Ellis International; Dublin, Georgia

An application has been submitted to the Foreign-Trade Zones (FTZ) Board by the World Trade Center Savannah, LLC grantee of FTZ 104, requesting subzone status for the facility of Supreme International LLC dba Perry Ellis International, located in Dublin, Georgia. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the FTZ Board (15 CFR part 400). It was formally docketed on March 19, 2026.

The proposed subzone (133.35 acres) is located at 125 Old Valambrosia Road, Dublin, Georgia. No authorization for production activity has been requested at this time. The proposed subzone would be subject to the existing activation limit of FTZ 104.

In accordance with the FTZ Board's regulations, Juanita Chen of the FTZ Staff is designated examiner to review the application and make recommendations to the Executive Secretary.

Public comment is invited from interested parties. Submissions shall be addressed to the FTZ Board's Executive Secretary and sent to: *ftz@trade.gov.* The closing period for their receipt is May 4, 2026. Rebuttal comments in response to material submitted during the foregoing period may be submitted through May 18, 2026.

A copy of the application will be available for public inspection in the ''Online FTZ Information Section'' section of the FTZ Board's website, which is accessible via *www.trade.gov/ftz.*

For further information, contact Juanita Chen at *juanita.chen@trade.gov.*

Dated: March 19, 2026.

Elizabeth Whiteman,

Executive Secretary.

[FR Doc. 2026–05736 Filed 3–23–26; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

Foreign-Trade Zone 68—El Paso, Texas; Site Renumbering Notice

Foreign-Trade Zone 68 was approved by the Foreign-Trade Zones Board on April 14, 1981 (Board Order 175), and expanded on May 2, 1984 (Board Order 255), on January 3, 1991 (Board Order 504), on January 20, 1999 (Board Order 1019), on September 8, 2000 (Board Order 1119), and on June 16, 2006 (Board Order 1456). On September 30, 1982 (Board Order 193), the grant of authority was transferred to the City of El Paso.

FTZ 68 currently consists of 18 ''sites'' totaling 3,467.8469 acres in the El Paso area. The current update does not alter the physical boundaries that have previously been approved but instead involves an administrative renumbering of existing Sites 2 and 3 to separate unrelated, non-contiguous sites for record-keeping purposes. Existing Site 2 consists of 6 separate ''parcels'' and will be designated as Sites 2, 20, 21, 22, 23, and 24. Existing Site 3 consists of 4 separate ''parcels'' and will be designated as Sites 3, 25, 26 and 27. The other existing sites will not be affected. (Note: Site 5 was removed from the zone and the site number will not be reused.)

Under this revision, the site list for FTZ 68 will be as follows: *Site 1* (1,065 acres total) El Paso International Airport's Butterfield Trail Industrial Park (590 acres) and Air Cargo complex and adjacent park (475 acres); *Site 2* (281 acres) Americas Avenue/Zaragosa Bridge Industrial Park, El Paso; *Site 3* (579 acres) Eastern Region Industrial Park, Americas Avenue and Interstate 10, El Paso; *Site 4* (130 acres) Copperfield Industrial Park, located at Hawkins Boulevard at Tony Lama Street, El Paso; *Site 6* (10 acres) Cazador Logistics, LLC, 13010 Gateway Boulevard East, Clint; *Site 7* (1.7 acres) Kuehne + Nagel, Inc., 1325 Pendale Drive, Suite F, El Paso; *Site 8* (2.93 acres) Gamer Logistics, 11333 Rojas Drive, Suites A, B & C, El Paso; *Site 9* (15.1 acres) Brokers Logistics, 1000 Hawkins Boulevard, El Paso; *Site 10* (22.1728 acres) Woodbridge Group, 9900 Railroad Drive, El Paso; *Site 11* (6.68 acres) TVL, Inc., 1320 Henry Brennan Drive, El Paso; *Site 12* (0.76 acres) Cesar-Scott, Inc., 1724 Texas Avenue and 1731 Myrtle Avenue, El Paso; *Site 13* (25.4575 acres) CEVA Logistics LLC, 950 Loma Verde Drive, Suite C, El Paso; *Site 14* (10.3943 acres) VRP Transportation, Inc., 300 Revere Street, Suite B, El Paso; *Site 15* (1.741 acres) El Paso Communication Systems, Inc., 1630 E. Paisano Drive, El Paso; *Site 16* (6.79 acres) OLA Logistics, LLC, 11350 James Watt Drive, El Paso; *Site 17* (25 acres) Kuehne + Nagel, Inc., 490A Bill Burnett Drive, El Paso; *Site 18* (15 acres) Schenker, Inc., 12240 Paseo Del Este Boulevard, El Paso; *Site 19* (19.1 acres) Worldhaul Logistics, LLC, 13490 Pellicano Drive, El Paso; *Site 20* (51 acres) El Paso Public Service Board Park, El Paso; *Site 21* (55 acres) Ivey Development/AAA Park, El Paso; *Site 22* (64 acres) Yselta Industrial Park, El Paso; *Site 23* (200 acres) Americas Industrial Park and two adjacent parcels, El Paso; *Site 24* (145 acres) Socorro Industrial Development, Socorro; *Site 25* (222.6613 acres) 10/375 Industrial Park and two adjacent parcels, El Paso; *Site 26* (321.61 acres) Vista del Sol Industrial Park, El Paso; and, *Site 27* (190.75 acres) located at Montana Avenue, east of Loop 375, El Paso.

For further information, contact Camille Evans at *Camille.Evans@trade.gov.*

Dated: March 20, 2026.

Elizabeth Whiteman,

Executive Secretary.

[FR Doc. 2026–05735 Filed 3–23–26; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–937]

Citric Acid and Certain Citrate Salts From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2023–2024

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (Commerce) continues to determine that RZBC Group Co., Ltd., RZBC Co., Ltd., RZBC Import & Export Co., Ltd. (RZBC IE), and RZBC (Juxian) Co., Ltd. (collectively, RZBC) did not sell subject merchandise in the United States at prices below normal value (NV) during the period of review (POR), May 1, 2023, through April 30, 2024.

DATES: Applicable March 24, 2026.

FOR FURTHER INFORMATION CONTACT: Luke Caruso, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–2081.

SUPPLEMENTARY INFORMATION:

Background

On September 11, 2025, Commerce published the *Preliminary Results* of the 2023–2024 administrative review of the antidumping duty order on citric acid and certain citrate salts (citric acid) from the People's Republic of China (China) [1] in the **Federal Register** and invited interested parties to comment.[2] We received no comments on the *Preliminary Results.* Accordingly, no decision memoranda accompany this notice and the final results are unchanged from the *Preliminary Results.* Commerce conducted this administrative review in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act).

Due to the lapse in appropriations and Federal Government shutdown, on November 14, 2025, Commerce tolled all deadlines in administrative proceedings by 47 days.[3] Additionally, due to a backlog of documents that were electronically filed via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS) during the Federal Government shutdown, on November 24, 2025, Commerce tolled all deadlines in administrative proceedings by an additional 21 days.[4] Accordingly, the deadline for these final results is now March 18, 2026.

Scope of the Order

The merchandise covered by the *Order* is citric acid from China. For a full description of the scope of the *Order, see Preliminary Results.*[5]

The China-Wide Entity

Because no party requested a review of the China-wide entity, and Commerce no longer considers the China-wide entity as an exporter conditionally subject to administrative reviews,[6] we did not conduct a review of the China-wide entity. Thus, the weighted-average dumping margin for the China-wide entity (*i.e.,* 156.87 percent [7]) is not subject to change as a result of this review.

Final Results of Review

In the *Preliminary Results,* Commerce preliminarily determined that RZBC did not sell subject merchandise in the United States at prices below NV during the POR.[8] Because we received no comments and made no changes from the *Preliminary Results,* we continue to find that RZBC did not sell subject merchandise in the United States at prices[9] below NV.

Exporter	Weighted-average dumping margin (percent)
RZBC Import & Export Co., Ltd.[9]	0.00

Disclosure

Normally, Commerce discloses to interested parties the calculations of the final results of an administrative review within five days of a public announcement or, if there is no public announcement, within five days of the date of publication of the notice of final results in the **Federal Register**, in accordance with 19 CFR 351.224(b). However, because we made no changes from the *Preliminary Results,* there are no new calculations to disclose.

Assessment Rates

Pursuant to section 751(a)(2)(C) of the Act and 19 CFR 351.212(b), Commerce has determined, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries of subject merchandise covered this review. Because the respondent's weighted-average dumping margin or an importer-specific assessment rate is zero or *de minimis* in the final results of this review, we intend to instruct CBP to liquidate entries without regard to antidumping duties.[10] The final results of this administrative review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the final results of this review and for future deposits of estimated duties, where applicable.[11]

Commerce intends to issue assessment instructions to CBP no earlier than 35 days after the date of publication of these final results of this review in the **Federal Register**. If a timely summons is filed at the U.S. Court of International Trade, the assessment instructions will direct CBP not to liquidate relevant entries until the time for parties to file a request for a statutory injunction has expired (*i.e.,* within 90 days of publication).

Cash Deposit Requirements

The following deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of citric acid from China entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(2)(C) of the Act: (1) for RZBC, the cash deposit rate will be the margin listed above; (2) for previously investigated or reviewed Chinese and non-Chinese exporters not listed above that have separate rates, the cash deposit rate will continue to be the exporter-specific rate published for the most recently completed segment of this proceeding in which they were reviewed; (3) for all Chinese exporters of subject merchandise that have not been found to be entitled to a separate rate, the cash deposit rate will be equal to the weighted-average dumping margin for the China-wide entity (*i.e.,* 156.87 percent); and (4) for all non-Chinese exporters of subject merchandise which have not received their own separate rate, the cash deposit rate will be the rate applicable to the Chinese exporter(s) that supplied that non-Chinese exporter. These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping and/or countervailing duties prior to liquidation of the relevant entries during the POR. Failure to comply with this requirement could result in Commerce's presumption that reimbursement of antidumping and/or countervailing duties occurred and the subsequent assessment of double antidumping duties, and/or an increase in the amount of antidumping duties by the amount of countervailing duties.

[1] *See Citric Acid and Certain Citrate Salts from Canada and the People's Republic of China: Antidumping Duty Orders,* 74 FR 25703 (May 29, 2009) (*Order*).

[2] *See Citric Acid and Certain Citrate Salts From the People's Republic of China: Preliminary Results of the Antidumping Duty Administrative Review; 2023–2024;* 90 FR 44010 (September 11, 2025) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum (PDM).

[3] *See* Memorandum, ''Deadlines Affected by the Shutdown of the Federal Government,'' dated November 14, 2025.

[4] *See* Memorandum, ''Tolling of all Case Deadlines,'' dated November 24, 2025.

[5] *See Preliminary Results* PDM at 3.

[6] *See Antidumping Proceedings: Announcement of Change in Department Practice for Respondent Selection in Antidumping Duty Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Duty Proceedings,* 78 FR 65963, 65969–70 (November 4, 2013).

[7] *See Order.*

[8] *See Preliminary Results* PDM at 1.

[9] Eligibility for a separate rate has only been established for RZBC IE, as the sole exporter of citric acid manufactured by RZBC.

[10] *See Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings; Final Modification,* 77 FR 8101, 8102–03 (February 14, 2012); *see also* 19 CFR 351.106(c)(2).

[11] *See* section 751(a)(2)(C) of the Act.

Administrative Protective Order (APO)

This notice also serves as a final reminder to parties subject to an APO of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation subject to sanction.

Notification to Interested Parties

Commerce is issuing and publishing the final results of this review in accordance with sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.221(b)(5).

Dated: March 18, 2026.

Christopher Abbott,

Deputy Assistant Secretary for Policy and Negotiations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2026–05737 Filed 3–23–26; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[Docket No. 251211–0089]

Notice of the Opening of the Inclusions Window for the Section 232 Automobile Parts Tariff Inclusions Process

AGENCY: International Trade Administration, Office of Transportation and Machinery, U.S. Department of Commerce.

ACTION: Notice.

SUMMARY: The Bureau of Industry and Security (BIS), working with the International Trade Administration (ITA) has established a process for including additional automobile parts within the scope of the duties authorized by the President under section 232 of the Trade Expansion Act of 1962. This notice opens the April 2026 inclusions window for submissions.

DATES: The inclusions window will open on April 1, 2026, and close at 11:59 p.m. ET on April 14, 2026.

ADDRESSES: Submissions for inclusions requests must be emailed to the automobile parts inclusion inbox at *AutoInclusions@trade.gov.*

FOR FURTHER INFORMATION CONTACT: For questions regarding this notice or the inclusions process overall, email *AutoInclusions@trade.gov* regarding automobile parts inclusion requests.

SUPPLEMENTARY INFORMATION: On March 26, 2025, the President issued Proclamation 10908, ''Adjusting Imports of Automobiles and Automobile Parts Into the United States'' (Automobile Proclamation). This proclamation imposed specified rates of duty on imports of automobiles and certain automobile parts.

The Automobile Proclamation also required the Secretary of Commerce to establish a process for including additional automobile parts within the scope of the duties established in the Automobile Proclamation. An interim final rule (IFR) published on September 17, 2025 (90 FR 44767) established a process for including additional automobile parts within the scope of the duties authorized by the President under section 232 of the Trade Expansion Act of 1962, as amended (Section 232). This IFR established recurring two-week windows each year for submissions of automobile parts in January, April, July, and October, beginning on the first of those months.

This notice announces the opening of the April 2026 inclusions window for submissions for automobile parts for two weeks starting on April 1, 2026, and closing at 11:59 p.m. ET on April 14, 2026. Requests must be submitted to the automobile parts inclusion inbox at *AutoInclusions@trade.gov.* Following the close of the submission window, accepted inclusion requests will be posted for a two-week public comment period on Docket ID ITA–2025–0040 on *Regulations.gov.* See the prior published IFR for details on the inclusions submission process.

Prior to submission, please ensure that automobile parts being submitted for consideration are not already within the scope of the duties imposed by the Automobile Proclamation. Furthermore, if a decision has not been made on a previously submitted inclusions request, please do not submit an additional request with the same automobile parts unless new pertinent information is available for consideration.

Dated: March 19, 2026.

Andrew Farquharson,

Acting Deputy Assistant Secretary for Manufacturing. United States Department of Commerce.

[FR Doc. 2026–05681 Filed 3–23–26; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XF596]

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to the Naval Base Point Loma Deperming Pier Replacement Project and the Naval Base San Diego Chollas Creek Quay Wall Repair Project in San Diego Bay, California

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; issuance of two incidental harassment authorizations.

SUMMARY: In accordance with regulations implementing the Marine Mammal Protection Act (MMPA) as amended, notification is hereby given that NMFS has issued two separate incidental harassment authorizations (IHAs) to the United States (U.S.) Navy (Navy) for authorization to take marine mammals incidental to the Naval Base Point Loma (NBPL) Deperming Pier Replacement Project and the Naval Base San Diego (NBSD) Chollas Creek Quay Wall Repair Project, respectively, both in San Diego Bay, California (CA).

DATES: Each authorization is effective for 1 year from the date of notification by the IHA-holder, not to exceed 1 year from the date of issuance.

ADDRESSES: Electronic copies of the application and supporting documents, as well as a list of the references cited in this document, can be obtained online at: *https://www.fisheries.noaa.gov/action/incidental-take-authorization-united-states-navys-naval-base-point-loma-deperming-pier.* For any issues accessing these documents, please contact the person listed below.

FOR FURTHER INFORMATION CONTACT: Krista Graham, Office of Protected Resources, NMFS, (301) 427–8401.

SUPPLEMENTARY INFORMATION:

MMPA Background and Determinations

The MMPA prohibits the ''take'' of marine mammals, with certain exceptions. Among the exceptions is section 101(a)(5)(D) of the MMPA (16 U.S.C. 1361 *et seq.*), which directs the Secretary of Commerce (as delegated to NMFS) to allow, upon request, the incidental, but not intentional, taking by harassment of small numbers of marine mammals by U.S. citizens who engage

in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made, and the public has an opportunity to comment on the proposed IHA.

Specifically, NMFS shall issue an IHA if it determines that the taking will have a negligible impact on the species or stock(s) and will not have an unmitigable adverse impact on the availability of the species or stock(s) for taking for subsistence uses (where relevant). Further, NMFS must prescribe the permissible methods of taking and other ''means of effecting the least [practicable] adverse impact'' on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stocks for taking for certain subsistence uses (referred to here as ''mitigation''). NMFS must also prescribe requirements pertaining to the monitoring and reporting of such takings. The definitions of key terms, such as ''take,'' ''harassment,'' and ''negligible impact,'' are found in the MMPA and in NMFS' implementing regulations (see 16 U.S.C. 1362; 50 CFR 216.103).

On February 3, 2026, a notice of NMFS' proposal to issue separate IHAs to the Navy for take of marine mammals incidental to the NBPL Deperming Pier Replacement Project and the NBSD Chollas Creek Quay Wall Repair Project, respectively, both in San Diego Bay, CA, was published in the **Federal Register** (91 FR 4875). In that notice, NMFS provided estimates of the numbers, types, and methods of incidental take proposed for each species or stock, as well as the mitigation, monitoring, and reporting measures that would be required should the IHA be issued. The **Federal Register** notice also included an analysis to support NMFS' preliminary conclusions and determinations that each IHA, if issued, would satisfy the requirements of section 101(a)(5)(D) of the MMPA for issuance of the IHA. The **Federal Register** notice included web links to each draft IHA for review, along with other supporting documents.

No substantive comments were received during the public comment period. There are no changes to the specified activities, the species taken, the type or methods of take, or the mitigation, monitoring, or reporting measures in the proposed IHAs notice. No new information has become available that would substantively change any of the preliminary analyses, conclusions, or determinations in either of the proposed IHA. Therefore, the preliminary analyses, conclusions, and determinations included in the two proposed IHAs are considered final.

Changes From the Proposed IHAs to the Final IHAs

There are no changes from the draft IHAs posted on our website during the 30-day public comment period and the issued IHAs. However, after publication in the **Federal Register**, we identified a few minor numerical errors (such as transposed numbers) in tables 6 and 7 of the **Federal Register** notice for the proposed IHAs and discovered a formatting error in the heading columns. The errors are as follows:

(a) In table 6 (User Spreadsheet Input Parameters Used for Calculating Level A Harassment Isopleths), the table should indicate four piles per day (instead of three) for the impact installation of 16-inch round plastic piles (NBPL Project). However, we based our calculations on four piles per day, so this minor error does not affect the analysis. Elsewhere in the **Federal Register** notice, it correctly states that up to four piles per day may be installed by this method for this pile type (*e.g.,* page 4880).

(b) In table 7 (Calculated Distances to the Level A Harassment and Level B Harassment Thresholds by Marine Mammal Hearing Group and Activity), under the NBPL Deperming Pier Replacement Project Pile Installation Activities section, the Level A harassment zones for 16-inch round plastic piles are transposed for the ''OW'' (Otariid in-water) and ''PW'' (Phocid in-water) columns. For OW, the Level A harassment zone should be 2.2 meters (m), and for PW, it should be 6.7 m, which are the same as the calculations for the vibratory extraction of 16-inch round timber piles.

(c) Additionally, in table 7, under the NBPL Deperming Pier Replacement Project Installation Activities section, the Level B harassment zone for 16-inch round plastic piles should be 1,445 m, not 1,455 m, which is the same as the calculation for the vibratory extraction of 16-inch round timber piles.

(d) We also identified a formatting error in table 7, where the information in each column was not properly aligned with the correct column title.

We notified the Office of the Federal Register of this error, and the Office published a notice correcting the table (see table 7; 91 FR 6827, February 13, 2026).

In summary, we have identified relatively minor errors in the notice of proposed IHAs that, upon correction, do not substantially alter the analysis or our findings. That is, based on the analysis contained in the notice of proposed IHAs (91 FR 4875, February 3, 2026) of the likely effects of the specified activities on marine mammals and their habitat, and taking into consideration the implementation of the monitoring and mitigation measures for each project, NMFS finds that the total marine mammal take authorized in each IHA will have a negligible impact on all affected marine mammal species or stocks and will not have an unmitigable adverse impact on the availability of marine mammals for subsistence use.

National Environmental Policy Act

To comply with the National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321 *et seq.*) and NOAA Administrative Order (NAO) 216–6A, NMFS must review our proposed action (*i.e.,* the issuance of two separate IHAs) with respect to potential impacts on the human environment.

This action is consistent with categories of activities identified in Categorical Exclusion B4 (IHAs with no anticipated serious injury or mortality) of the Companion Manual for NAO 216–6A, which do not individually or cumulatively have the potential for significant impacts on the quality of the human environment, and for which we have not identified any extraordinary circumstances that would preclude this categorical exclusion. Accordingly, NMFS has determined that the issuance of these two separate IHAs qualifies for categorical exclusion from further NEPA review.

Endangered Species Act (ESA)

Section 7(a)(2) of the ESA of 1973 (16 U.S.C. 1531 *et seq.*) requires that each Federal agency ensure that any action it authorizes, funds, or carries out is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of designated critical habitat. To ensure ESA compliance for issuing IHAs, NMFS consults internally whenever we propose to authorize take for endangered or threatened species.

No incidental take of ESA-listed species was proposed for authorization or expected to result from these activities. Therefore, NMFS has determined that formal consultation under section 7 of the ESA is not required for these actions.

Authorization

Accordingly, consistent with the requirements of section 101(a)(5)(D) of the MMPA, NMFS has issued separate IHAs to the Navy for authorization to take marine mammals incidental to the NBPL Deperming Pier Replacement

Project and the NBSD Chollas Creek Quay Wall Repair Project, respectively, both in San Diego Bay, CA.

Dated: March 20, 2026.

Kimberly Damon-Randall,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2026–05698 Filed 3–23–26; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648–XF633]

Marine Mammals; File No. 29456

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; receipt of application.

SUMMARY: Notice is hereby given that Steven Reilly, Ph.D., Yale University, Genetics, 300 Cedar Street, New Haven, CT 06519 has applied in due form for a permit to import, export, and receive cetacean parts for scientific research.

DATES: Written comments must be received on or before April 23, 2026.

ADDRESSES: The application and related documents are available for review by selecting ''Records Open for Public Comment'' from the ''Features'' box on the Applications and Permits for Protected Species home page, *https://apps.nmfs.noaa.gov,* and then selecting File No. 29456 from the list of available applications. These documents are also available upon written request via email to *NMFS.Pr1Comments@noaa.gov.*

Written comments on this application should be submitted via email to *NMFS.Pr1Comments@noaa.gov.* Please include File No. 29456 in the subject line of the email comment.

Those individuals requesting a public hearing should submit a written request via email to *NMFS.Pr1Comments@noaa.gov.* The request should set forth the specific reasons why a hearing on this application would be appropriate.

FOR FURTHER INFORMATION CONTACT: Shasta McClenahan, Ph.D., or Jennifer Skidmore, (301) 427–8401.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the regulations governing the taking and importing of marine mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222–226).

The applicant requests a 3-year permit to develop cell lines and study the genomic basis of exceptional longevity. Parts from up to 15 individual cetaceans may be imported, exported, and received annually.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of the application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: March 18, 2026.

Shannon Bettridge,

Chief, Marine Mammal and Sea Turtle Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2026–05695 Filed 3–23–26; 8:45 am]

BILLING CODE 3510–22–P

COMMODITY FUTURES TRADING COMMISSION

Agency Information Collection Activities: Notice of Intent To Extend Collection 3038–0090: Adaptation of Regulations To Incorporate Swaps-Records of Transactions; Exclusion of Utility Operations Related Swaps With Utility Special Entities From De Minimis Threshold for Swaps With Special Entities

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice.

SUMMARY: The Commodity Futures Trading Commission (''CFTC'' or ''Commission'') is announcing an opportunity for public comment on the proposed renewal of a collection of certain information by the agency. Under the Paperwork Reduction Act (''PRA''), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including proposed extension of an existing collection of information, and to allow 60 days for public comment. This notice solicits comments on the recordkeeping obligations set forth in certain provisions of Commission regulations 1.3, 1.31, 1.33, 1.35, 1.37, and 1.39.

DATES: Comments must be submitted on or before May 26, 2026.

ADDRESSES: You may submit comments, identified by ''OMB Control No. 3038–0090,'' by any of the following methods:

- The Agency's website, at *https://comments.cftc.gov/.* Follow the instructions for submitting comments through the website.
- *Mail:* Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581.
- *Hand Delivery/Courier:* Same as Mail above.

Please submit your comments using only one method.

FOR FURTHER INFORMATION CONTACT: Matthew Boylan, Attorney Advisor, Market Participants Division, Commodity Futures Trading Commission, (202) 418–5382, email: *mboylan@cftc.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA, 44 U.S.C. 3501 *et seq.,* Federal agencies must obtain approval from the Office of Management and Budget (''OMB'') for each collection of information they conduct or sponsor. ''Collection of Information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3 and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA, 44 U.S.C. 3506(c)(2)(A), requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, the CFTC is publishing notice of the proposed extension of the currently approved collection of information listed below. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Title: Adaptation of Regulations to Incorporate Swaps-Records of Transactions; Exclusion of Utility Operations Related Swaps with Utility Special Entities from De Minimis Threshold for Swaps with Special Entities (OMB Control No. 3038–0090). This is a request for extension of a currently approved information collection.

Abstract: Title VII of the Dodd-Frank Wall Street Reform and Consumer Protection Act (''Dodd-Frank Act'', Public Law 111–203, 124 Stat. 1376 (2010)) amended the Commodity

Exchange Act (''CEA'') to establish a comprehensive new regulatory framework for swaps. These amendments required the CFTC to amend several of its regulations to implement the new framework.

The information collection obligations imposed by the ''Adaptation of Regulations to Incorporate Swaps'' final regulations [1] are necessary to implement section 721 of the Dodd-Frank Act, which amended the definitions of futures commission merchant (''FCM'') and introducing broker (''IB'') to permit these intermediaries to trade swaps on behalf of customers. They also are necessary to implement section 733 of the Dodd-Frank Act which introduced swap execution facilities (''SEFs'') as a new trading platform for swaps. As a result of the enactment of sections 721 and 733, the Commission needed to amend certain recordkeeping regulations (1.31, 1.33, 1.35, 1.37, and 1.39) so that records of swap transactions are maintained analogously to how futures transactions are maintained.

Further, the ''Exclusion of Utility Operations-Related Swaps with Utility Special Entities From De Minimis Threshold for Swaps with Special Entities'' [2] regulation amended the Commission's swap dealer definition to permit a person to exclude ''utility operations-related swaps'' with ''utility special entities'' in their de minimis threshold calculations. The regulation requires a person claiming the exclusion to maintain in accordance with Commission regulation 1.31 any written representations that the person receives from utility special entities related to this exclusion.

The information collection burdens associated with these regulations (collectively, the ''Swap Recordkeeping Requirements'') are restricted to the costs associated with the recordkeeping and reporting requirements that these regulations impose upon affected registrants, registered entities, those registered entities' members, and other respondents covered by the final rules.

With respect to the collection of information, the CFTC invites comments on:

- Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have a practical use;
- The accuracy of the Commission's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Ways to enhance the quality, usefulness, and clarity of the information to be collected; and
- Ways to minimize the burden of collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology; *e.g.,* permitting electronic submission of responses.

All comments must be submitted in English, or if not, accompanied by an English translation. Comments will be posted as received to *https://www.cftc.gov.* You should submit only information that you wish to make available publicly. If you wish the Commission to consider information that you believe is exempt from disclosure under the Freedom of Information Act (''FOIA''), a petition for confidential treatment of the exempt information may be submitted according to the procedures established in § 145.9 of the Commission's regulations.[3]

The Commission reserves the right, but shall have no obligation, to review, pre-screen, filter, redact, refuse or remove any or all of your submission from *https://www.cftc.gov* that it may deem to be inappropriate for publication, such as obscene language. All submissions that have been redacted or removed that contain comments on the merits of the information collection will be retained in the public comment file and will be considered as required under the Administrative Procedure Act and other applicable laws, and may be accessible under FOIA.

Burden Statement: The Commission is revising its estimate of the burden for this collection for futures commission merchants, retail foreign exchange dealers, introducing brokers, and members of designated contract markets and swap execution facilities. The respondent burden for this collection is estimated to be as follows: [4]

Estimated Number of Respondents: 15,528.

Estimated Annual Burden Hours per Respondent: 154.

Estimated Total Annual Burden Hours: 2,396,700.

Frequency of Collection: On occasion.

There are no capital costs or operating and maintenance costs associated with this collection.

(Authority: 44 U.S.C. 3501 *et seq.*)

Dated: March 20, 2026.

Christopher Kirkpatrick,

Secretary of the Commission.

[FR Doc. 2026–05720 Filed 3–23–26; 8:45 am]

BILLING CODE 6351–01–P

[1] Adaptation of Regulations to Incorporate Swaps, 77 FR 66288 (Nov. 2, 2012).

[2] Exclusion of Utility Operations-Related Swaps With Utility Special Entities From De Minimis Threshold for Swaps With Special Entities, 79 FR 57767 (Sept. 26, 2014).

[3] 17 CFR 145.9.

[4] These estimates represent the aggregate burden for all data associated with the Swap Recordkeeping Requirements in the collection, namely Swap Recordkeeping (Regulation 1.35), Swap Confirmations (Regulation 1.33), and Utility Special Entities (Regulation 1.3). Please refer to the supporting statement for further explanation of burdens associated with each regulatory requirement.

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Agency Information Collection Activities; Comment Request; Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery

AGENCY: Corporation for National and Community Service.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Corporation for National and Community Service (operating as AmeriCorps) is proposing to renew an information collection for qualitative feedback on agency service delivery.

DATES: Written comments must be submitted to the individual and office listed in the **ADDRESSES** section by May 26, 2026.

ADDRESSES: You may submit comments, identified by the title of the information collection activity, by any of the following methods:

(1) Electronically through *www.regulations.gov* (preferred method).

(2) *By mail sent to:* AmeriCorps, Attention Office of General Counsel, 250 E Street SW, Washington, DC 20525.

(3) By hand delivery or by courier to the AmeriCorps mailroom at the mail address given in paragraph (2) above, between 9 a.m. and 4 p.m. Eastern Time, Monday through Friday, except Federal holidays.

Comments submitted in response to this notice may be made available to the public through *regulations.gov*. For this reason, please do not include in your comments information of a confidential nature, such as sensitive personal information or proprietary information. If you send an email comment, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the internet. Please note that responses to

this public comment request containing any routine notice about the confidentiality of the communication will be treated as public comment that may be made available to the public, notwithstanding the inclusion of the routine notice.

FOR FURTHER INFORMATION CONTACT: Elizabeth K. Appel, Acting General Counsel, 202–606–3614, or by email at *eappel@americorps.gov.*

SUPPLEMENTARY INFORMATION:

Title of Collection: Generic Clearance for Collection of Qualitative Feedback on Agency Service Delivery.

OMB Control Number: 3045–0137.

Type of Review: Renewal.

Respondents/Affected Public: Individuals and Households.

Total Estimated Number of Annual Responses: 10,000.

Total Estimated Number of Annual Burden Hours: 1,667.

Abstract: The proposed information collection activity provides a means to obtain qualitative feedback from customers and stakeholders in an efficient, timely manner to improve service delivery. By qualitative feedback, we mean information that provides useful perceptions and opinions (but not statistical surveys yielding quantitative results that could be generalized to the population of study). This feedback provides insights into customer or stakeholder perceptions, experiences, and expectations; provides an early warning of issues with service; or focuses attention on areas where communication, training, or changes in operations might improve delivery of products or services. The collection allows for ongoing, collaborative, and actionable communication between AmeriCorps and its customers and stakeholders and contributes directly to the improvement of program management. AmeriCorps will solicit feedback on target areas such as timeliness, appropriateness, accuracy of information, courtesy, efficiency of service delivery, and resolution of issues with service delivery. We use the responses to inform our efforts to improve or maintain the quality of service offered to the public. If this information is not collected, vital feedback from customers and stakeholders about the Agency's services will be unavailable. AmeriCorps will only submit a collection for approval under this generic clearance if it meets the following conditions:

- The collection is voluntary;
- The collection is low-burden for respondents (based on consideration of total burden hours, total number of respondents, or burden-hours per respondent) and is low-cost for both the respondents and the Federal Government;
- The collection is noncontroversial and does not raise issues of concern to other Federal agencies;
- The collection is targeted to the solicitation of opinions from respondents who have experience with the program or may have experience with the program in the near future;
- Personally identifiable information (PII) is collected only to the extent necessary and is not retained;
- The information gathered will be used only internally, for general service improvement and program management purposes, and is not intended for release outside of AmeriCorps;
- The information gathered will not be used to substantially inform policy decisions;
- The information gathered will be qualitative, not quantitative; and
- The collection will not be designed to yield statistically reliable results, nor will the results be used as though they are generalizable to the population.

Generic clearances for qualitative collections will not be used to gather data that are designed to yield reliably actionable results, such as monitoring trends over time or documenting program performance. Using data for those purposes requires more rigorous designs that address a range of complete factors.

As a general matter, information collections will not result in any new system of records containing privacy information. They will not ask questions of a sensitive nature such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private. Generic qualitative information collections will be used in the same manner as current generic qualitative information collections. AmeriCorps also seeks to continue using the currently approved generic information collection until the revised information collection is approved by OMB. The currently approved information collection is due to expire on May 31, 2026. Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. Comments are invited on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility;

(b) the accuracy of the agency's estimate of the burden of the collection of information;

(c) ways to enhance the quality, utility, and clarity of the information to be collected;

(d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose, or provide information to or for a Federal agency. This includes the time needed to review instructions; to develop, acquire, install, and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information; and to transmit or otherwise disclose the information. All written comments will be available for public inspection on *regulations.gov*.

Elizabeth Appel,

Acting General Counsel.

[FR Doc. 2026–05696 Filed 3–23–26; 8:45 am]

BILLING CODE 6050–28–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DOD–2026–OS–0232]

Request for Information for 2028 Department of War (DoW) State Priorities Impacting Service Members and Their Families

AGENCY: Deputy Assistant Secretary of Defense for Military Community and Family Policy, Department of Defense (DoD).

ACTION: Request for information.

SUMMARY: This request for information provides an opportunity for the public to submit issues that have an impact on Service members and their families where State governments are the primary agents for making positive change. Each year, the DoW selects State policy priorities for States to consider that represent barriers resulting from the transience and uncertainty of military life. For example, DoW has asked States to consider remedies to improve school transitions for children in active duty

military families to overcome problems with records transfer, class and course placement, qualifying for extra-curricular activities, and fulfilling graduation requirements. The DoW will consider the public submissions in setting those priorities.

DATES: Consideration will be given to all submissions received by April 23, 2026.

ADDRESSES: You may submit information in response to this request, identified by docket number and title, by any of the following methods:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments.

Mail: Department of War, Office of the Director of Administration and Management, Privacy, Civil Liberties, and Transparency Directorate, Regulatory Division, 4800 Mark Center Drive, Mailbox #24, Suite 05F16, Alexandria, VA 22350–1700.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for submissions from members of the public is to make these submissions available for public viewing on the internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Mr. Christopher R. Arnold, (571) 309–4712 (voice), *christopher.r.arnold18.civ@mail.mil* (email), 1500 Defense Pentagon, Room 1C514/1C549, Washington, DC 20301–1500 (mailing address).

SUPPLEMENTARY INFORMATION: Current DoW State policy priorities may be found at the official Defense-State Liaison Office website: *https://statepolicy.militaryonesource.mil.*

Issues represent potential State priorities the public believes should be considered by the Department. The proposed solution should positively impact the quality of life of Service members and their families, positively contribute to readiness, or both. Inputs include the following information in order to be considered:

A. Issue title.

B. Description of the issue to include a problem statement and who is impacted by this issue.

C. Description of a potential solution to this issue, including whether the issue can be improved through a change in State procedures, State regulations, or State statutes.

D. Description of the current status of the issue and a description of the policies or practices enacted by one or more State governments, if known.

E. Your contact information so that we can follow up if we need any clarification.

Dated: March 19, 2026.

Stephanie J. Bost,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2026–05688 Filed 3–23–26; 8:45 am]

BILLING CODE 6001–FR–P

DEPARTMENT OF EDUCATION

Eligibility Designations; Programs Under Section 312 of the Higher Education Act of 1965, as Amended (HEA)

AGENCY: Office of Postsecondary Education, Department of Education.

ACTION: Notice.

SUMMARY: The Department of Education (Department) announces the process for the designation of eligible institutions for fiscal year (FY) 2026.

DATES:

Applications Available: March 24, 2026.

Deadline for Transmittal of Applications: April 23, 2026.

FOR FURTHER INFORMATION CONTACT: Nemeka Mason-Clercin, Telephone: (202) 987–1340. Email: *nemeka.mason@ed.gov.*

If you are deaf, hard of hearing, or have a speech disability and wish to access telecommunications relay services, please dial 7–1–1.

SUPPLEMENTARY INFORMATION: The Department announces the process for the designation of eligible institutions under section 312 of the HEA for FY 2026.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Programs: Under certain HEA programs, including the Strengthening Institutions Program, institutions are eligible to apply for grants if they meet specific statutory and regulatory eligibility requirements.

Section 312 of the HEA, 34 CFR 607.2–607.5, includes many of the basic eligibility requirements for its grant programs. Section 312(b)(1)(B) of the HEA provides that, to be eligible for these programs, an institution of higher education's average ''educational and general expenditures'' (E&G) per full-time equivalent (FTE) undergraduate student must be less than the average E&G expenditures per FTE undergraduate student of institutions that offer similar instruction (public 2-year, public 4-year, private 2-year, and private 4-year) in that year.

The National Center for Education Statistics (NCES) calculates Core Expenses per FTE of institutions, a statistic like E&G per FTE. Both E&G per FTE and Core Expenses per FTE are based on regular operational expenditures of institutions (excluding auxiliary enterprises, independent operations, and hospital expenses). They differ only in that E&G per FTE is based on fall undergraduate enrollment, while Core Expenses per FTE is based on 12-month undergraduate enrollment for the academic year.

To avoid inconsistency in the data submitted to, and produced by, the Department, for the purpose of section 312(b)(1)(B) of the HEA, E&G per FTE is calculated using the same methodology as Core Expenses per FTE. Accordingly, the Department will apply the NCES methodology for calculating Core Expenses per FTE. Institutions requesting an eligibility exemption determination must use the Core Expenses per FTE data reported to NCES' Integrated Postsecondary Education Data System (IPEDS) for the most currently available academic year, in this case academic year 2023–2024.

Special Note: The most recent data available in IPEDS for Core Expenses per FTE are for base year 2023–2024. To award FY 2026 grants in a timely manner, we will use these data to evaluate eligibility.

Each institution interested in applying for a grant program for which eligibility under section 312 of the HEA is required must be designated as an eligible institution in FY 2026. *See* 34 CFR 607.5.

Eligible Applicants: The eligibility requirements for the authorized programs are in section 312 of the HEA (20 U.S.C. 1058) and in 34 CFR 607.2–607.5.

The Department has instituted a process known as the Eligibility Matrix (EM), under which we use information institutions submitted to IPEDS to determine which institutions meet the basic eligibility requirements under section 312 of the HEA. The data are utilized in the Department's eligibility system to calculate and determine which institutions meet the eligibility requirements. To make eligibility determinations for FY 2026, we use an institution's 2023–2024 enrollment and fiscal data. Beginning March 24, 2026, an institution will be able to review the Department's eligibility decision by checking the eligibility system linked through the Department's Institutional Service Eligibility website: *https://www.ed.gov/grants-and-programs/grants-higher-education/eligibility-designations-higher-education-*

programs. The direct link is *https://HEPIS.ed.gov/.*

During the application period, the EM can be reviewed within the eligibility system (*https://HEPIS.ed.gov*). The eligibility system maintains a record of all postsecondary institutions that are potentially eligible to apply under section 312 of the HEA. If the eligibility system's entry for your institution indicates your institution is eligible, you will not need to apply for eligibility or submit a waiver request. Rather, if you choose to apply for the grant, you may print out the eligibility letter directly. If your institution is not shown as eligible, you must submit the application discussed in this notice before the application deadline.

To check your institution's eligibility, go to *https://HEPIS.ed.gov/,* and log into the system using a *Login.gov* account. If you are not sure whether you have an account in the system, click the ''Request Account'' button. If you do not have an account, the system will walk you through setup. Note that it may take up to five business days to verify user identity and to complete new account setup, so please allow enough time to complete the application. If the Grant Eligibility Application (GEA) system is open for new applications, you may check your institution's eligibility status by clicking the ''View pre-Eligibility Information'' button.

If the system does not show that your institution is eligible for a program you can apply for reconsideration using the process described in this notice. The application process mirrors that used in previous years. You will first complete an application on the website at *https://HEPIS.ed.gov/.*

Enrollment of Needy Students: Under section 312 of the HEA, an institution is considered to have an enrollment of needy students if it meets either of the following two criteria: (1) at least 50 percent of its degree-seeking students received financial assistance under the Federal Pell Grant, FSEOG, or FWS programs; or (2) the percentage of its undergraduate degree-seeking students who were enrolled on at least a half-time basis and received Federal Pell Grants exceeded the median percentage of undergraduate degree students who were enrolled on at least a half-time basis and received Federal Pell Grants at comparable institutions that offer similar instruction.

To qualify under the second criterion, an institution's Federal Pell Grant percentage for base year 2023–2024 must be more than the median for its category of comparable institutions provided in the 2023–2024 Median Pell Grant and Average Core Expenses per FTE Student Table in this notice. If your institution qualifies only under the first criterion, you must submit an application containing the data necessary to satisfy the first criterion (showing at least 50 percent of your degree-seeking students received financial assistance under one of several Federal student aid programs (the Federal Pell Grant, FSEOG, or FWS programs)), since these data are not available in IPEDS.

Core Expenses per FTE Student: For each of the following programs, an institution should compare its base year 2023–2024 Core Expenses per FTE student to the average Core Expenses per FTE student for its category of comparable institutions using the 2023–2024 Median Pell Grant and Average Core Expenses per FTE Student Table in this notice for certain programs under section 312 of the HEA. An institution satisfies the program eligibility requirement if its Core Expenses for the 2023–2024 base year are less than the average Core Expenses of its comparable institutional category.

The IPEDS definition of Core Expenses is used for eligibility purposes. ''*Core Expenses*'' are defined as the total expenses for the essential education activities of the institution. Core Expenses for public institutions reporting under the Governmental Accounting Standards Board (GASB) requirements include expenses for instruction, research, public service, academic support, student services, institutional support, operation and maintenance of plant, depreciation, scholarships and fellowships, interest, and other operating and non-operating expenses. Core Expenses for institutions reporting under the Financial Accounting Standards Board (FASB) standards (primarily private, not-for-profit, and for-profit institutions) include expenses for instruction, research, public service, academic support, student services, institutional support, net grant aid to students, and other expenses. Core Expenses do not include Federal student aid for the purposes of eligibility. For both FASB and GASB institutions, Core Expenses do not include expenses for auxiliary enterprises (*e.g.,* bookstores, dormitories), hospitals, and independent operations.

The following table identifies base year 2023–2024 median Federal Pell Grant percentages and average Core Expenses per FTE student for the four categories of comparable institutions:

Type of institution	Base year 2023–2024 median Pell Grant percentage	Base year 2023–2024 average core expenses per FTE student
2-year Public Institutions	44	$19,004
2-year Nonprofit Private Institutions	48	17,453
4-year Public Institutions	37	39,350
4-year Nonprofit Private Institutions	36	50,027

In accordance with 34 CFR 607.3(d), the Department publishes the following table identifying the low-income levels (at 150 percent of the poverty level) for various family sizes:

2024 ANNUAL LOW-INCOME LEVELS

Size of family unit	Family income for the 48 contiguous states, DC, and outlying jurisdictions	Family income for Alaska	Family income for Hawaii
1	$22,590.00	$28,215.00	$25,965.00
2	30,660.00	38,310.00	35,250.00
3	38,730.00	48,405.00	44,535.00
4	46,800.00	58,500.00	53,820.00

2024 ANNUAL LOW-INCOME LEVELS—Continued

Size of family unit	Family income for the 48 contiguous states, DC, and outlying jurisdictions	Family income for Alaska	Family income for Hawaii
5	54,870.00	68,595.00	63,105.00
6	62,940.00	78,690.00	72,390.00
7	71,010.00	88,785.00	81,675.00
8	79,080.00	98,880.00	90,960.00

Note: We use the 2024 annual low-income levels because those are the amounts that apply to the family income reported by students enrolled for the fall 2023 semester. For family units with more than eight members, add the following amount for each additional family member: $8,070 for the contiguous 48 States, the District of Columbia, and outlying jurisdictions; $10,095 for Alaska; and $9,285 for Hawaii.

The figures shown under family income represent amounts equal to 150 percent of the family income levels annually established by the U.S. Census Bureau for determining poverty status. For 2024, the poverty guidelines were published in the **Federal Register** on January 17, 2024, by the U.S. Department of Health and Human Services (89 FR 2961), with an effective date of January 11, 2024.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 75, 77, 79, 82, 84, 86, 97, 98, and 99. (b) The Office of Management and Budget Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) in 2 CFR 180, as adopted and amended as regulations of the Department in 2 CFR part 3485. (c) The Guidance for Federal Financial Assistance in 2 CFR part 200, as adopted and amended as regulations of the Department in 2 CFR part 3474. (d) The regulations for certain programs under section 312 of the HEA in 34 CFR part 607.

Note: The regulations in 34 CFR part 79 apply to all applicants except federally recognized Indian Tribes.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education only.

II. Other Information

Accessible Format: On request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**, individuals with disabilities can obtain this document and a copy of the application package in an accessible format. The Department will provide the requestor with an accessible format that may include Rich Text Format (RTF) or text format (txt), a thumb drive, an MP3 file, braille, large print, audiotape, compact disc, or other accessible format.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. You may access the official edition of the **Federal Register** and the Code of Federal Regulations at *www.govinfo.gov* and *www.federalregister.gov.*

David Barker,

Assistant Secretary for Postsecondary Education.

[FR Doc. 2026–05689 Filed 3–23–26; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Accrediting Agencies Currently Undergoing Review for the Purpose of Recognition by the U.S. Secretary of Education

AGENCY: U.S. Department of Education, Office of Postsecondary Education.

ACTION: Call for written third-party comments.

SUMMARY: This notice provides information to members of the public on submitting written comments for accrediting agencies currently undergoing review for the purpose of recognition by the Secretary of Education.

DATES: Comments must be received on or before 30 days from publication of this notice in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Elizabeth Daggett, Director, Accreditation Group, Office of Postsecondary Education, U.S. Department of Education, 400 Maryland Avenue SW, fifth floor, Washington, DC 20202, telephone: (202) 453–7615, or email: *elizabeth.daggett@ed.gov.*

SUPPLEMENTARY INFORMATION: This request for written third-party comments concerning the performance of accrediting agencies under review by the Secretary of Education is required by Section 496(n)(1)(A) of the Higher Education Act of 1965, as amended, 20 U.S.C. 1001, *et seq.* (HEA), and pertains to the second meeting in 2027 of the National Advisory Committee on Institutional Quality and Integrity (NACIQI). The meeting date will be announced in a later **Federal Register** notice and will describe how to register to provide oral comments at the meeting. Written comments submitted in response to this **Federal Register** notice must be submitted to the electronic mail address identified below on or before the comment due date.

Agencies Under Review and Evaluation: The Department requests written comments from the public on the following accrediting agencies, which are currently undergoing review and evaluation by the Accreditation Group, and which will be reviewed at the second 2027 NACIQI meeting.

The agencies are listed by the type of application each agency has submitted. Please note, each agency's current scope of recognition is indicated below. If any agency requested to expand its scope of recognition, both the current scope of recognition and the requested scope of recognition are identified below.

Applications for Renewal of Recognition

1. Accreditation Council for Pharmacy Education. Scope of Recognition. The accreditation and preaccreditation of professional degree programs in pharmacy leading to the degree of Doctor of Pharmacy, including those programs offered via distance education. Geographic Area of Accrediting Activities: Throughout the United States.

2. American Dental Association, Commission on Dental Accreditation. Scope of Recognition: The accreditation of predoctoral dental education programs (leading to the D.D.S. or D.M.D. degree), advanced dental education programs, and allied dental education programs that are fully operational or have attained ''Initial Accreditation'' status, including programs offered via distance education. Geographic Area of Accrediting Activities: Throughout the United States.

3. American Occupational Therapy Association, Accreditation Council for

Occupational Therapy Education. Scope of Recognition: The accreditation and preaccreditation of occupational therapy educational programs offering the professional master's degree and occupational therapy doctorate (OTD) degree; the accreditation of occupational therapy assistant programs offering a baccalaureate degree and associate degree; and the accreditation of these programs offered via distance education. Geographic Area of Accrediting Activities: Throughout the United States.

4. Association for Biblical Higher Education, Commission on Accreditation. Scope of Recognition: The accreditation and preaccreditation (''Candidate Status'') of institutions of biblical higher education offering undergraduate certificates, associate degrees, baccalaureate degrees, graduate certificates, and master's degrees, including the accreditation of educational programs offered via distance education and direct assessment. Geographic Area of Accrediting Activities: Throughout the United States. Requested Scope of Recognition: The accreditation and preaccreditation (''Candidate Status'') of institutions of biblical higher education offering undergraduate certificates, associate degrees, baccalaureate degrees, graduate certificates, master's degrees, and doctoral degrees, including the accreditation of educational programs offered via distance education and direct assessment. Geographic Area of Accrediting Activities: Throughout the United States.

5. Distance Education Accrediting Commission. Scope of Recognition: The accreditation of postsecondary institutions that offer degree and/or non-degree programs primarily by the distance or correspondence education method, including through direct assessment, up to and including the professional doctoral degree, including those institutions that are specifically certified by the Agency as accredited for Title IV purposes. Geographic Area of Accrediting Activities: Throughout the United States.

6. Middle States Commission on Secondary Schools. Scope of recognition: The accreditation of institutions with postsecondary, non-degree granting career and technology programs to include the accreditation of postsecondary, non-degree granting institutions that offer all or part of their educational programs via distance education modalities. Geographic Area of Accrediting Activities: Throughout the United States.

Submission of Written Comments Regarding a Specific Accrediting Agency or State Agency Under Review

Written comments in response to this **Federal Register** notice about the recognition of any of the accrediting agencies listed above must be received on or before the comment due date, in the *ThirdPartyComments@ed.gov* mailbox. Please include in the subject line ''Written Comments: (agency name).'' The electronic mail (email) must include the name(s), title, organization/affiliation, mailing address, email address, and telephone number of the person(s) making the comment. Comments should be submitted as a PDF, Microsoft Word document, or in a medium compatible with Microsoft Word that is attached to an email or provided in the body of an email message. Comments about an agency that has submitted a petition for initial recognition, renewal of recognition, or an expansion of scope must relate to the agency's compliance with the Criteria for the recognition of Accrediting Agencies, which are available at: *https://www.ecfr.gov/current/title-34/subtitle-B/chapter-VI/part-602?toc=1.*

Only written materials submitted by the deadline to the email address listed in this notice, and in accordance with these instructions, become part of the official record concerning agencies scheduled for review and are considered by the Department and NACIQI in their deliberations. Comments about the agencies listed in this **Federal Register** notice may also be provided orally at the second 2027 NACIQI meeting, which has not yet been scheduled, but which will be announced in a future **Federal Register** notice.

Electronic Access to this Document: The official version of this document is the document published in the **Federal Register**. Free internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *https://www.govinfo.gov/.* At this site, you can view this document, as well as all other documents of the Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF). To use PDF, you must have Adobe Acrobat Reader, which is available free at the site. You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Authority: 20 U.S.C. 1099b; 20 U.S.C. 1011c.

David Barker,

Assistant Secretary for Postsecondary Education.

[FR Doc. 2026–05692 Filed 3–23–26; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2026–SCC–0694]

Agency Information Collection Activities; Comment Request; Student Assistance General Provisions—Satisfactory Academic Progress Policytudent Assistance General Provision—Subpart E—Verification Student Aid Application Information

AGENCY: Federal Student Aid (FSA), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act (PRA) of 1995, the Department is proposing an extension without change of a currently approved information collection request (ICR).

DATES: Interested persons are invited to submit comments on or before May 26, 2026.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number ED–2026–SCC–0694. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. If the *regulations.gov* site is not available to the public for any reason, the Department will temporarily accept comments at *ICDocketMgr@ed.gov.* Please include the docket ID number and the title of the information collection request when requesting documents or submitting comments. Please note that comments submitted after the comment period will not be accepted. Written requests for information or comments submitted by postal mail or delivery should be addressed to Carolyn Rose, U.S. Department of Education, Federal Student Aid, 400 Maryland Avenue SW, Washington, DC 20202–1200.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Carolyn Rose, (202) 453–5967.

SUPPLEMENTARY INFORMATION: The Department, in accordance with the

Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. The Department is soliciting comments on the proposed information collection request (ICR) that is described below. The Department is especially interested in public comment addressing the following issues: (1) is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Student Assistance General Provisions—Satisfactory Academic Progress Policy.

OMB Control Number: 1845–0108.

Type of Review: Extension without change of a currently approved ICR.

Respondents/Affected Public: Private Sector; State, Local, and Tribal Governments; Individuals and Households.

Total Estimated Number of Annual Responses: 31,575,067.

Total Estimated Number of Annual Burden Hours: 1,383,595.

Abstract: The Department of Education (the Department) is requesting an extension of the current approval of the policies and procedures for determining satisfactory academic progress (SAP) as required in Section 484 of the Higher Education Act of 1965, as amended (HEA). A link to the Satisfactory Academic Progress regulations is provided at 34 CFR 668.34 and 34 CFR 600.55.

These regulations identify the policies and procedures to track if students are making satisfactory academic progress in their program at a pace and a level to receive or continue to receive Title IV, HEA program funds. If there is lapse in progress, the policy must identify how the student will be notified and what steps are available to a student not making satisfactory academic progress toward the completion of their program, and under what conditions a student who is not making satisfactory academic progress may continue to receive Title IV, HEA program funds. There have been no changes to this collection.

Brian Fu,

Program and Management Analyst, Office of the Chief Data Officer, Office of Planning, Evaluation and Policy Development.

[FR Doc. 2026–05657 Filed 3–23–26; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Privacy Act of 1974; System of Records

AGENCY: United States Department of Energy.

ACTION: Notice of a new system of records.

SUMMARY: As required by the Privacy Act of 1974 and the Office of Management and Budget (OMB) Circulars A–108 and A–130, the Department of Energy (DOE or the Department) is publishing notice of a newly established Privacy Act System of Records. DOE proposes to reestablish system of records DOE–21 ''Asset Readiness Management System (ARMS).'' The Office of Nuclear Incident Response uses ARMS to quantify, monitor, and track readiness of and deploy personnel and equipment as part of a coordinated Federal government response to an emergency involving nuclear or radiological materials.

DATES: This System of Records Notice (SORN) will become applicable following the end of the public comment period on April 23, 2026 unless comments are received that result in a contrary determination.

ADDRESSES: Written comments should be sent to Nicole Sanchez, Chief Privacy Officer, U.S. Department of Energy, 1000 Independence Avenue SW, Rm 8H–085, Washington, DC 20585, by facsimile at 202–586–8151, or by email at *privacy@hq.doe.gov.*

FOR FURTHER INFORMATION CONTACT: Nicole Sanchez, Chief Privacy Officer, U.S. Department of Energy, 1000 Independence Avenue SW, Rm 8H–085, Washington, DC 20585, 202–586–0166, or by email at *privacy@hq.doe.gov.*

SUPPLEMENTARY INFORMATION: On January 9, 2009, DOE published a Compilation of its Privacy Act systems of records, which included system of records DOE–21 ''Asset Readiness Management System (ARMS).'' DOE rescinded the SORN on September 11, 2024. At this time, DOE proposes reestablishing this SORN as this SORN is applicable to the U.S. National Nuclear Security Administration (NNSA).

SYSTEM NAME AND NUMBER:

DOE–21 Asset Readiness Management System (ARMS).

SECURITY CLASSIFICATION:

Classified and Unclassified.

SYSTEM LOCATION(S):

Headquarters: U.S. Department of Energy, 1000 Independence Avenue SW, Washington, DC 20585.

Headquarters: U.S. Department of Energy, National Nuclear Security Administration HQ, 1000 Independence Ave SW, Washington, DC 20585.

SYSTEM MANAGER(S):

Headquarters: U.S. Department of Energy, Director, Office of Nuclear Incident Response, NA–84, National Nuclear Security Administration, 1000 Independence Avenue SW, Washington, DC 20585.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

42 U.S.C. 7101 *et seq.;* 50 U.S.C. 2401 *et seq.;* Homeland Security Presidential Directive 5 (HSPD–5), ''Management of Domestic Incidents,'' The Homeland Security Act of 2002, Public Law 107–296, 116 Stat. 2135 (Nov. 25, 2002), Robert T. Stafford Disaster Relief and Emergency Assistance Act, Public Law 106–390, 114 Stat. 1552–1575 (October 30, 2000).

PURPOSE(S) OF THE SYSTEM:

For those records described in *Categories of Records in the System,* such records are maintained and used by the Office of Nuclear Incident Response to quantify, monitor, and track readiness of and deploy personnel and equipment as part of a coordinated Federal government response to an emergency involving nuclear or radiological materials.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Federal employees, including DOE and National Nuclear Security Administration (NNSA) employees, military personnel, contractors, and subcontractors.

CATEGORIES OF RECORDS IN THE SYSTEM:

The following information may be maintained in the system: Names, home addresses, home and work telephone numbers, email addresses, Social Security numbers (SSNs), employee numbers, dates of hire, DOE badge number, security clearance number, dates of birth, tourist passport numbers,

official passport numbers, education level, blood types, immunization records, training records, and other medical information.

RECORD SOURCE CATEGORIES:

Personally identifiable information (PII) is sourced directly from the individual to whom it pertains as well as from training records.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

1. A record from this system may be disclosed as a routine use to officials of the Federal Bureau of Investigation, Department of Defense, Nuclear Regulatory Commission, Environmental Protection Administration, National Aeronautics Space Administration, Department Homeland Security, and Department of State who have been approved as agents by NNSA Office of Nuclear Incident Response for purposes of managing and assessing state of readiness, to obtain visas for official foreign travel, and to provide information to gain access to incident areas controlled by one or more U.S. government agencies under the National Response Plan.

2. A record from the system may be disclosed as a routine use to the appropriate local, state or Federal agency when records alone or in conjunction with other information indicates a violation or potential violation of law whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program pursuant thereto.

3. A record from this system may be disclosed as a routine use for the purpose of an investigation, settlement of claims, or the preparation and conduct of litigation to (1) persons representing the Department in the investigation, settlement or litigation, and to individuals assisting in such representation; (2) others involved in the investigation, settlement, and litigation, and their representatives and individuals assisting those representatives; and (3) witness, potential witness, or their representatives and assistants, and any other person who possesses information pertaining to the matter when it is necessary to obtain information or testimony relevant and necessary to the matter.

4. A record from this system may be disclosed as a routine use in court or administrative proceedings to the tribunals, counsel, other parties, witnesses, and the public (in publicly available pleadings, filings or discussion in open court) when such disclosure: (1) is relevant to, and necessary for, the proceeding; (2) is compatible with the purpose for which the Department collected the records; and (3) the proceedings involve:

a. The Department, its predecessor agencies, current or former contractor of the Department, or other United States Government agencies and their components, or

b. A current or former employee of the Department and its predecessor agencies, current or former contractors of the Department, or other United States Government agencies and their components, who is acting in an official capacity or in any individual capacity where the Department or other United States Government agency has agreed to represent the employee.

5. A record from the system may be disclosed as a routine use to DOE contractors in the performance of their contracts, and their officers and employees who have a need for the record in the performance of their duties. Those provided information under this routine use are subject to the same limitations applicable to Department officers and employees under the Privacy Act.

6. A record from the system may be disclosed as a routine use to a Federal, state, or local agency to obtain information relevant to a Departmental decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit. The Department must deem such disclosure to be compatible with the purpose for which the Department collected the information.

7. A record from this system may be disclosed to a member of Congress submitting a request involving a constituent when the constituent has requested assistance from the member concerning the subject of the record; the member must provide a copy of the constituent's request for assistance.

8. A record from this system may be disclosed as a routine use to appropriate agencies, entities, and persons when (1) the Department suspects or has confirmed that there has been a breach of the system of records; (2) the Department has determined that as a result of the suspected or confirmed breach there is a risk of harm to economic or property interests, identity theft or fraud to individuals, DOE (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

9. A record from this system may be disclosed as a routine use to another Federal agency or Federal entity, when the Department determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records will be stored as electronic records in a computer database.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records are retrieved by name, employee number, email address, work telephone number, or home telephone number.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records retention and disposal authorities are contained in the General Records Schedule and DOE record schedules that have been approved by the National Archives and Records Administration (NARA). Some records in this system are currently unscheduled, which requires the records to be retained as permanent until NARA approves a DOE Records Disposition Schedule, while other records will be destroyed between 3–250 years.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

- *Administrative:* Access to all records is limited to need-to-know personnel only, with access to electronic records based on role and either two-factor authentication or password protection. The system requires passwords to be complex and to be changed frequently. Users accessing system records undergo frequent training in Privacy Act and information security requirements. Security and privacy controls are reviewed on an ongoing basis.
- *Technical:* Computerized records systems are safeguarded on Departmental networks configured for role-based access based on job responsibilities and organizational affiliation. Privacy and security controls

are in place for this system and are updated in accordance with applicable requirements as determined by the National Institute for Standards and Technology (NIST) including NIST Special Publication (SP) 800–53.

• *Physical:* Computer servers on which electronic records are stored are located in secured Department facilities, which are protected by security guards, identification badges, and cameras. Paper copies of all records are locked in file cabinets, file rooms, or offices and under the control of authorized personnel. Access to these facilities is granted only to authorized personnel and each person granted access to the system must be individual authorized to use the system.

RECORD ACCESS PROCEDURES:

The Department follows the procedures outlined in 10 CFR 1008.4. Valid identification of the individual making the request is required before information will be processed, given, access granted, or a correction considered, to ensure that information is processed given, corrected, or records disclosed or corrected only at the request of the proper person.

CONTESTING RECORD PROCEDURES:

Any individual may submit a request to the System Manager and request a copy of any records relating to them. Any individual may appeal the denial of a request made by him or her for information about or for access to or correction or amendment of records. An appeal shall be filed within 90 calendar days after receipt of the denial. When an appeal is filed by mail, the postmark is conclusive as to timeliness. The appeal shall be in writing and must be signed by the individual. The words ''PRIVACY ACT APPEAL'' should appear in capital letters on the envelope and the letter. Appeals relating to DOE records shall be directed to the Director, Office of Hearings and Appeals (OHA), 1000 Independence Ave. SW, Washington, DC 20585.

NOTIFICATION PROCEDURES:

In accordance with the DOE regulation implementing the Privacy Act, 10 CFR 1008, a request by an individual to determine if a system of records contains information about themselves should be directed to the U.S. Department of Energy, Headquarters, Privacy Act Officer. The request should include the requester's complete name and the time period for which records are sought.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

This SORN was originally published in the **Federal Register**, 74 FR 1022, pages 1022–1023, on January 9, 2009. This SORN was rescinded on September 11, 2024, in the **Federal Register**, 89 FR 155, pages 65618–65619.

Signing Authority

This document of the Department of Energy was signed on March 19, 2026, by Dawn Zimmer, Senior Agency Official for Privacy, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on March 20, 2026.

Jennifer Hartzell,

Alternate Federal Register Liaison Officer, U.S. Department of Energy.

[FR Doc. 2026–05690 Filed 3–23–26; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Privacy Act of 1974; System of Records

AGENCY: Department of Energy.

ACTION: Notice of a modified system of records.

SUMMARY: As required by the Privacy Act of 1974 and the Office of Management and Budget (OMB) Circulars A–108 and A–130, the Department of Energy (DOE) is publishing notice of a modification of the DOE Systems of Records Notices (SORN) for the DOE systems of records listed in the table. This notice amends the DOE systems of records listed in the table by adding two routine uses that allow for the disclosure of records to the Department of the Treasury for the purposes of identifying, preventing, or recouping fraud and improper payments, to the extent permissible by law.

DATES: These modified SORNs will become applicable following the end of the public comment period on April 23, 2026 unless comments are received that result in a contrary determination.

ADDRESSES: Written comments should be sent to Nicole Sanchez, Chief Privacy Officer, U.S. Department of Energy, 1000 Independence Avenue SW, Rm. 8H–085, Washington, DC 20585, by facsimile at (202) 586–8151, or by email at *privacy@hq.doe.gov.*

FOR FURTHER INFORMATION CONTACT: Nicole Sanchez, Chief Privacy Officer, U.S. Department of Energy, 1000 Independence Avenue SW, Rm. 8H–085, Washington, DC 20585, by facsimile at (202) 586–8151, by email at *privacy@hq.doe.gov,* or by telephone at (202) 586–0166.

SUPPLEMENTARY INFORMATION: On March 25, 2025, the President signed E.O. 14249, *Protecting America's Bank Account Against Fraud, Waste, and Abuse,* which requires Executive Branch agencies to take action to defend against financial fraud and prevent improper payments in collaboration with Treasury, the Federal Government's largest financial payment manager. The Payment Integrity Information Act of 2019 (PIIA) requires ''[e]ach executive agency ... [to] ensure that a thorough review of available databases with relevant information on eligibility occurs to determine program or award eligibility and prevent improper payments before the release of any Federal funds'' and provides that ''[f]or purposes of identifying and preventing improper payments, each executive agency shall have access to, and use of, the Do Not Pay Initiative to verify payment or award eligibility.'' E.O. 14249 enhances the requirement for agencies to use Do Not Pay as part of a pre-certification verification process for payment and award eligibility. Pursuant to E.O. 14249 and its implementing guidance, M–25–32, this notice amends all the DOE systems of records listed in the table by adding two routine uses that allow for the disclosure of records to the Department of the Treasury for the purposes of identifying, preventing, or recouping fraud and improper payments, to the extent permissible by law.

SYSTEM NAME AND NUMBER:

First, the systems of records to be modified by including the new routine uses described in this notice are set forth in the table. Second, please refer to the specific individual SORN for additional governing elements unchanged by this notice.

System No. and name	**Federal Register**, citation(s)
DOE–8 Intergovernmental Personnel Act (IPA)	* 89 FR 37221.
DOE–13 Payroll and Leave Records	* 89 FR 15561.
DOE–14 Report of Compensation	* 89 FR 104119.
DOE–16 Federal Employee Subsidy Program Records	* 74 FR 1018.
DOE–18 Financial Accounting System	* 89 FR 73640.
DOE–26 Official Travel Records	* 89 FR 95196.
DOE–27 Foreign Travel Management System (FTMS)	* 89 FR 92670.
DOE–28 General Training Records	* 89 FR 102874.

An asterisk (*) designates the last full **Federal Register** notice that includes all the elements that are required to be in a System of Records Notice.

SECURITY CLASSIFICATION:

The applicable security classification is identified in each notice.

SYSTEM LOCATION:

The applicable Departmental Element is identified in each notice.

SYSTEM MANAGER(S):

The applicable system manager(s) is identified in each notice.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

1. A record from this system may be disclosed as a routine use to the U.S. Department of the Treasury when disclosure of the information is relevant to review payment and award eligibility through the Do Not Pay Working System for the purposes of identifying, preventing, or recouping improper payments to an applicant for, or recipient of, Federal funds, including funds disbursed by a state (meaning a state of the United States, the District of Columbia, a territory or possession of the United States, or a federally recognized Indian tribe) in a state-administered, federally funded program.

2. A record from this system may be disclosed as a routine use to the U.S. Department of the Treasury for administering Treasury initiatives under the Payment Integrity Information Act of 2019 (PIIA). As required by PIIA, records may be disclosed by DOE, DOE's integrated and M&O contractors, and the Power Marketing Administrations (PMAs) to (a) a Federal or state agency, its employees, agents (including contractors of its agents) or contractors; or, (b) a fiscal or financial agent designated by the Bureau of Fiscal Service or other Department of the Treasury bureau or office, including employees, agents or contractors of such agent; or, (c) a contractor of the Bureau of Fiscal Service, for the purpose of identifying, preventing, and recovering improper payments to an applicant for, or recipient of, Federal funds, including funds disbursed by a state in a state administered, federally-funding program. Records disclosed under this routine use may be used to conduct computerized comparison to identify, prevent and recover improper payments, and to identify and mitigate fraud, waste, and abuse in federal payments.

These routine uses will be added to each SORN referenced in the table as it is updated and published.

HISTORY:

The SORNs listed in this notice were last published in the **Federal Register** (FR), 89 FR 37221, on May 6, 2024, 89 FR 15561, on March 4, 2024, 89 FR 104119, on December 20, 2024, 74 FR 1018, on January 9, 2009, 89 FR 73640, on September 11, 2024, 89 FR 95196, on December 2, 2024, 89 FR 92670, on November 22, 2024, and 89 FR 102874, on December 18, 2024.

Signing Authority

This document of the Department of Energy was signed on March 16, 2026, by Dawn Zimmer, Senior Agency Official for Privacy, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on March 20, 2026.

Jennifer Hartzell,

Alternate Federal Register Liaison Officer, U.S. Department of Energy.

[FR Doc. 2026–05728 Filed 3–23–26; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Renewal of Environmental Management Site-Specific Advisory Board

AGENCY: Office of Environmental Management, Department of Energy.

ACTION: Notice of renewal.

SUMMARY: Pursuant to the Federal Advisory Committee Act and following consultation with the Committee Management Secretariat of the General Services Administration (GSA), notice is hereby given that the Environmental Management Site-Specific Advisory Board (EM SSAB or Board) will be renewed for a two-year period. The Board will provide advice and recommendations from a community perspective to the Department of Energy's (DOE) Environmental Management (EM) program's Assistant Secretary for Environmental Management or Field Managers on a continuing basis.

DATES: The projected renewal date is April 7, 2026.

FOR FURTHER INFORMATION CONTACT: Kelly Snyder at 702–918–6715; email: *kelly.snyder@em.doe.gov.*

SUPPLEMENTARY INFORMATION: The majority of Board members live and/or work near EM cleanup sites. At the request of the Assistant Secretary, Field Managers, or the Designated Federal Officer (DFO), the Board may provide community-based advice and recommendations concerning any EM program activities, such as clean-up activities and environmental restoration; waste management and disposition; excess facilities; future land use and long-term stewardship; communications; and budget priorities. Membership and representation of all interests are determined in accordance with the requirements of the Federal Advisory Committee Act and implementing regulations. The renewal of the Board has been deemed essential to the DOE's business and in the public interest in conjunction with the

performance of duties imposed upon the DOE, by law and agreement.

Public Interest Determination: Pursuant to 41 CFR 102–3.65(a), DOE is providing a written public interest determination approved by the Secretary of Energy detailing why this committee is essential to the conduct of agency business and that the information to be obtained is not already available through another advisory committee or source within the Federal Government.

1. *Annual budget:* Approximately $2.9 million (M) (includes costs for the eight field site chapters)

a. Federal personnel on a full-time equivalent (FTE) basis—the estimated annual person years of Federal support required is 4 FTE, at an estimated annual cost of $563,000.

b. Other Federal internal costs—the estimate for other Federal internal costs, which include Federal travel, meeting/administrative expenses, and contractor costs, is $2.27M.

c. Proposed payments to members—$0.

d. Proposed number of members—approximately 160 members.

e. Reimbursable costs—the estimate for reimbursable costs, including members' travel expenses, is $89,000.

2. *Total dollar value of grants expected to be recommended during the Fiscal Year:* not applicable.

3. *Criteria for selecting members to ensure the committee has the necessary expertise and fairly balanced membership:* The majority of EM SSAB members live or work in counties near eight EM sites located throughout the United States (U.S.) where environmental cleanup is underway to address the legacy resulting from historic nuclear weapons development and testing. Recruitment and outreach for local chapters are conducted by associated EM field offices after an analysis is completed to achieve a balance of community viewpoints. No expertise is needed for Board membership.

4. *Other DOE Federal advisory committees:*

21st Century Energy Workforce Advisory Board
Advisory Committee for Nuclear Security
Appliance Standards and Rulemaking Federal Advisory Committee
Biomass Research and Development Technical Advisory Committee
Carbon Dioxide Capture, Utilization, and Sequestration Federal Lands Permitting Task Force
Carbon Dioxide Capture, Utilization, and Sequestration Non-Federal Lands Permitting Task Force
Electricity Advisory Committee
Electric Vehicle Working Group
Hydrogen and Fuel Cell Technical Advisory Committee
Isotope Research & Development and Production Advisory Committee
Industrial Technology Innovation Advisory Committee
Methane Hydrate Advisory Committee
National Coal Council
National Petroleum Council
National Quantum Initiative Advisory Committee
President's Council of Advisors on Science and Technology
Office of Science Advisory Committee
Secretary of Energy Advisory Board
State Energy Advisory Board
Technical Panel on Magnetic Fusion

5. *Justification that the information or advice provided by the Federal advisory committee is not available from another Federal advisory committee, another Federal Government source, or any other more cost-effective and less burdensome source:* The EM SSAB is an established mechanism for members of the public to provide community-based recommendations to DOE, which is responsible for cleaning up contamination from nuclear weapons development and testing near the communities the members represent. The EM SSAB is the only viable mechanism DOE has to obtain recommendations from uncompensated community representatives to help satisfy public participation requirements. Obtaining similar recommendations from community representatives located throughout the U.S. using other means, such as grants, would cost taxpayers more than the already established EM SSAB, and require additional administrative actions and resources.

6. *Summary of the previous accomplishments of the committee and the reasons it needs to continue:* Since 1994, the EM SSAB has provided nearly 1,830 recommendations to DOE, of which 84 percent have been accepted or partially accepted, resulting in cost-savings, gained efficiencies, streamlining, and process improvement. During the past two years, the EM SSAB provided DOE with 42 recommendations, of which 90 percent were either fully or partially implemented.

The recommendations have expedited cleanup at DOE sites throughout the U.S. For DOE sites that have already achieved closure, such as Rocky Flats in Colorado and Fernald in Ohio, the EM SSAB played a vital part in obtaining stakeholder, intergovernmental, and public support, which helped facilitate completion of the cleanup. The model used for those sites is being used at the other locations that are working toward closure.

7. *Explanation of why the committee is essential to the conduct of agency business:* The EM SSAB helps satisfy public participation requirements outlined in the Comprehensive Environmental Response, Compensation, and Liability Act; Resource Conservation and Recovery Act; six Federal Facility Agreements and Consent Orders (signed by the states of Washington, Idaho, Kentucky, Nevada, South Carolina, and Tennessee, and by the Environmental Protection Agency, DOE Office of Legacy Management, the National Nuclear Security Administration, and the Department of Defense); one Consent Decree (Ohio); and one Settlement Agreement (New Mexico).

Signing Authority

This document of the Department of Energy was signed on March 19, 2026, by David Borak, Committee Management Officer, pursuant to delegated authority from the Secretary of Energy. That document with the original signature and date is maintained by DOE. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DOE Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of the Department of Energy. This administrative process in no way alters the legal effect of this document upon publication in the **Federal Register**.

Signed in Washington, DC, on March 20, 2026.

Jennifer Hartzell,

Alternate Federal Register Liaison Officer, U.S. Department of Energy.

[FR Doc. 2026–05693 Filed 3–23–26; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP26–649–000.

Applicants: Transcontinental Gas Pipe Line Company, LLC.

Description: § 4(d) Rate Filing: LSS, SS–2, and Firm and Interruptible

Transportation Fuel Effective 4/1/2026 to be effective 4/1/2026.

Filed Date: 3/18/26.

Accession Number: 20260318–5106.

Comment Date: 5 p.m. ET 3/30/26.

Docket Numbers: RP26–650–000.

Applicants: Northern Natural Gas Company.

Description: § 4(d) Rate Filing: 20260318 Negotiated Rate Filing to be effective 3/19/2026.

Filed Date: 3/18/26.

Accession Number: 20260318–5144.

Comment Date: 5 p.m. ET 3/30/26.

Docket Numbers: RP26–651–000.

Applicants: Equitrans, L.P.

Description: § 4(d) Rate Filing: Formula Based Negotiated Rates—4/1/2026 to be effective 4/1/2026.

Filed Date: 3/19/26.

Accession Number: 20260319–5027.

Comment Date: 5 p.m. ET 3/31/26.

Docket Numbers: RP26–652–000.

Applicants: Transcontinental Gas Pipe Line Company, LLC.

Description: § 4(d) Rate Filing: Rate Schedule GSS/LSS Fuel Retention Percentage Tracker Filing 2026 to be effective 4/1/2026.

Filed Date: 3/19/26.

Accession Number: 20260319–5088.

Comment Date: 5 p.m. ET 3/31/26.

Any person desiring to intervene, to protest, or to answer a complaint in any of the above proceedings must file in accordance with Rules 211, 214, or 206 of the Commission's Regulations (18 CFR 385.211, 385.214, or 385.206) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

Filings in Existing Proceedings

Docket Numbers: RP26–565–001.

Applicants: Viking Gas Transmission Company.

Description: Tariff Amendment: Amendment to Semi-Annual Fuel and Loss Retention Adjustment—Summer 2026 Rate to be effective 4/1/2026.

Filed Date: 3/19/26.

Accession Number: 20260319–5023.

Comment Date: 5 p.m. ET 3/31/26.

Any person desiring to protest in any the above proceedings must file in accordance with Rule 211 of the Commission's Regulations (18 CFR 385.211) on or before 5:00 p.m. Eastern time on the specified comment date.

The filings are accessible in the Commission's eLibrary system (*https://elibrary.ferc.gov/idmws/search/fercgensearch.asp*) by querying the docket number.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, contact the Office of Public Participation at (202) 502–6595 or *OPP@ferc.gov.*

Dated: March 19, 2026.

Carlos D. Clay,

Deputy Secretary.

[FR Doc. 2026–05703 Filed 3–23–26; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. DI26–3–000]

Chugach Electric Association, Inc.; Notice of Declaration of Intention and Soliciting Comments, Protests, and Motions To Intervene

Take notice that the following application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Declaration of Intention.

b. *Docket No.:* DI26–3–000.

c. *Date Filed:* February 17, 2026.

d. *Applicant:* Chugach Electric Association, Inc.

e. *Name of Project:* Boulder Creek Hydropower Project.

f. *Location:* The proposed Boulder Creek Hydropower Project would be located on Boulder Creek, in Matanuska-Susitna Borough, Alaska. The project would not occupy federal land. All lands associated with the proposed project are owned by the state of Alaska, Cook Inlet Region, Inc., or Chickaloon-Moses Creek Native Association Lands.

g. *Filed Pursuant to:* Section 23(b)(1) of the Federal Power Act, 16 U.S.C. 817(b)(1).

h. *Applicant Contact:* Samantha Owen, McMillen, Inc., 1471 Shoreline Drive, Suite 100, Boise, ID 83702; (305) 409–5201; *owen@mcmillen.com.*

i. *FERC Contact:* Rebecca Martin, (202) 502–6012, or *rebecca.martin@ferc.gov.*

j. *Deadline for filing comments, protests, and motions to intervene is:* April 20, 2026, by 5:00 p.m. Eastern Time.

The Commission strongly encourages electronic filing. Please file comments, protests, and motions to intervene using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852. The first page of any filing should include docket number DI26–2–000. Comments emailed to Commission staff are not considered part of the Commission record.

k. *Description of Project:* The proposed project would consist of a dam (height is undetermined) located within the Boulder Creek Canyon immediately upstream of its confluence with the Chickaloon River. The dam would impound Boulder Creek to a maximum elevation of 1,555 feet, forming a reservoir with a maximum surface area of 270 acres. The proposed dam would be built and operated as a storage-based generation facility and create impoundment capacity suitable for capturing and storing large runoff events in the summer and fall. This would provide stable baseload generation during winter months when precipitation occurs as snow and natural inflows are minimal. An 8-foot diameter concrete lined horseshoe tunnel would extend approximately 8,000 feet from the dam downhill before transitioning to a smaller 5-foot diameter steel penstock for approximately 1,000 feet to the proposed powerhouse. The tunnel and penstock would convey flow through an elevation drop of approximately 440 feet to the powerhouse site located along the Chickaloon River at an elevation of approximately 980 feet. The powerhouse would contain two Francis-type turbine-generator units with a rated capacity of 4.2 megawatts (MW) each for a total powerhouse capacity of 8.5 MW. The potential annual energy generation would be 29 gigawatt-hours (GWh).

Adjacent to the powerhouse would be a substation with a new high voltage transmission line spanning approximately 4,300 feet to an existing transmission line corridor along the Glenn Highway.

When a Declaration of Intention is filed with the Federal Energy Regulatory Commission, the Federal Power Act requires the Commission to investigate and determine if the project would affect the interests of interstate or foreign commerce. The Commission also determines whether or not the project: (1) would be located on a navigable waterway; (2) would occupy public lands or reservations of the United States; (3) would utilize surplus water or water power from a government dam; or (4) would be located on a non-navigable stream over which Congress has Commerce Clause jurisdiction and would be constructed or enlarged after 1935.

l. *Locations of the Application:* This filing may be viewed on the Commission's website at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number excluding the last three digits in the docket number field to access the document. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, call 1–866–208–3676 or email *FERCOnlineSupport@ferc.gov,* for TTY, call (202) 502–8659.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, and .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application. For public inquiries and assistance with intervening or participating, contact the Office of Public Participation at (202) 502–6595 or *OPP@ferc.gov.*

o. *Filing and Service of Responsive Documents:* All filings must bear in all capital letters the title ''COMMENTS'', ''PROTESTS'', and ''MOTIONS TO INTERVENE'', as applicable, and the Docket Number of the particular application to which the filing refers. A copy of any Motion to Intervene must also be served upon each representative of the Applicant specified in the particular application.

p. *Agency Comments:* Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

(Authority: 18 CFR 2.1)

Dated: March 19, 2026.

Carlos D. Clay,

Deputy Secretary.

[FR Doc. 2026–05705 Filed 3–23–26; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RD25–8–000]

North American Electric Reliability Corporation; Order Approving Reliability Standard CIP–002–8

North American Electric Reliability Corporation, 1401 H Street NW, Suite 410, Washington, DC 20005. Attention: Lauren A. Perotti, Sarah P. Crawford, Amy E. Engstrom.

Dear Ms. Perotti, Ms. Crawford, and Ms. Engstrom:

1. On December 20, 2024, the North American Electric Reliability Corporation (NERC), the Commission-certified Electric Reliability Organization, submitted a petition seeking approval of proposed Critical Infrastructure Protection (CIP) Reliability Standard CIP–002–8 (Cyber Security—BES Cyber System Categorization) and the modification of the term control center in the Glossary of Terms Used in NERC Reliability Standards (NERC Glossary).[1] NERC also requested approval of the associated implementation plans, violation risk factors, and violation severity levels, as well as the retirement of Reliability Standard CIP–002–7.[2] For the reasons discussed below, pursuant to section 215(d)(2) of the Federal Power Act (FPA),[3] we approve proposed Reliability Standard CIP–002–8 and the related definition.

2. NERC explains that the purpose of proposed Reliability Standard CIP–002–8 is to identify and categorize bulk electric system (BES) cyber systems and their associated BES cyber assets for the application of cyber security requirements commensurate with the adverse impact that loss, compromise, or misuse of those BES cyber systems could have on the reliable operation of the BES.[4] Further, NERC notes that responsible entities are required to categorize BES cyber systems as low, medium, or high impact based on the characteristics of their BES facilities, which determines the applicability of the suite of CIP Reliability Standards.[5] NERC also states that Attachment 1 of proposed Reliability Standard CIP–002–8 includes the impact rating criteria used to determine the impact level for BES cyber systems.

3. NERC proposes to revise the definition of the term control center in the NERC Glossary to alleviate confusion from a lack of common understanding of the term ''control'' as opposed to ''authority.'' [6] NERC explains that the revision to the definition expands the reach of the term to incorporate transmission owners ''so that a Transmission Owner is considered to have a Control Center if it has the capability to control transmission Facilities at two or more locations using SCADA,'' *i.e.,* supervisory control and data acquisition.[7] NERC asserts that the revised definition of control center advances reliability by clarifying the facilities that are subject to the CIP requirements.

4. NERC proposes to modify Criterion 2.12 of Attachment 1 of proposed Reliability Standard CIP–002–8.[8] NERC explains that proposed Criterion 2.12 assigns a weighted value to the transmission lines that a control center monitors and controls to assess the appropriate impact of BES cyber systems associated with a control center. Pursuant to the results of a field test conducted by the NERC Standards Development Team, NERC determined that a threshold of 6,000 for the total

[1] NERC Petition at 1.

[2] The revisions to proposed Reliability Standard CIP–002 are layered on top of the current NERC Board of Trustees approved draft, proposed Reliability Standard CIP–002–7, which we are approving in a concurrent order. *Id.* at 11; *Virtualization Reliability Standards,* 194 FERC ¶ 61,209 (2026).

[3] 16 U.S.C. 824o(d)(2).

[4] NERC Petition, Ex. A–1 (CIP–002–8 Clean) at 3.

[5] NERC Petition at 3.

[6] *Id.* at 12.

[7] *Id.*

[8] *Id.* at 15–17.

aggregate weighted value,[9] with appropriate inclusion and exclusion criteria, would sufficiently differentiate medium and low impact BES cyber systems associated with control centers that are operated by a transmission operator or owned by a transmission owner.[10] NERC explains that proposed Criterion 2.12 contains an exclusion clause that allows responsible entities to categorize their BES cyber systems at control centers at a level commensurate with the risk for local systems that have limited flow-through or export generation and are primarily designed to serve load without extending the exclusion to large control areas.[11]

5. NERC's proposed implementation plan states that proposed Reliability Standard CIP–002–8 and the proposed definition for control center shall become effective on the later of either the effective date of Reliability Standard CIP–002–7 or the first day of the first calendar quarter that is three calendar months after the effective date of the Commission's order approving proposed Reliability Standard CIP–002–8. NERC concludes that the implementation plan is designed to ''balance the urgency to implement the requirements while affording Responsible Entities time to incorporate the updated requirements into their processes.'' [12]

6. Notice of NERC's petition was published in the **Federal Register**, 90 FR 24606 (June 11, 2025), with interventions and protests due on or before July 7, 2025. Public Citizen, Inc. filed a timely motion to intervene. No comments or protests were submitted. Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure, 18 CFR 385.214 (2025), the timely, unopposed motion to intervene serves to make Public Citizen, Inc. a party to the proceeding.

7. Pursuant to section 215(d)(2) of the FPA, we approve proposed Reliability Standard CIP–002–8 as well as the proposed control center definition for inclusion in the NERC Glossary, as just, reasonable, not unduly discriminatory or preferential, and in the public interest. We also approve the proposed Reliability Standard's associated violation risk factors and violation severity levels, as well as the proposed implementation plans. Finally, we approve the retirement of Reliability Standard CIP–002–7 immediately prior to the effective date of proposed Reliability Standard CIP–002–8.

8. We find that proposed Reliability Standard CIP–002–8 would advance the reliable operation of the BES by better aligning the level of impact BES cyber systems could have on the reliable operation of the Bulk-Power System as a result of loss, compromise, or misuse of those systems. Further, we determine that the proposed definition of control center would strengthen reliability by improving risk identification, allowing responsible entities to focus on protecting assets that pose a higher reliability risk if unavailable, degraded, or compromised. Lastly, the revised definition would also help responsible entities in interpreting the control center definition by making clear that a transmission owner may have a control center through its capability to control transmission facilities.

Information Collection Statement

9. The FERC–725B information collection requirements are subject to review by the Office of Management and Budget (OMB) under section 3507(d) of the Paperwork Reduction Act of 1995. OMB's regulations require approval of certain information collection requirements imposed by agency rules. Upon approval of a collection of information, OMB will assign an OMB control number and expiration date. Respondents subject to the filing requirements will not be penalized for failing to respond to these collections of information unless the collections of information display a valid OMB control number. The Commission solicits comments on the need for this information, whether the information will have practical utility, the accuracy of the burden estimates, ways to enhance the quality, utility, and clarity of the information to be collected or retained, and any suggested methods for minimizing respondents' burden, including the use of automated information techniques.

10. The Commission bases its paperwork burden estimates on the additional paperwork burden presented by the proposed revisions to Reliability Standard CIP–002–8. Reliability Standards are objective-based and allow entities to choose compliance approaches best tailored to their systems. The NERC Compliance Registry, as of June 2025, identifies approximately 1,673 [13] U.S. entities that are subject to mandatory compliance with Reliability Standards.

11. Of this total, we estimate that 1,573 entities will face a minor increase in paperwork burden of two hours each for a total burden hours increase of 3,146 at $97 [14] per hour for $194 per entity and a total $305,162 burden for the first year and no ongoing burdens in addition to the burden already accounted for in the OMB control number for CIP Reliability Standards.

12. Additionally, we estimate that another 100 entities will have a burden of four hours each for a total burden hours increase of 400 at $85 per hour for a total burden of $38,000 for the first year and no ongoing burdens in addition to the burden already accounted for in the OMB control number for CIP Reliability Standards.

13. The responses and burden hours for Years 1–3 will total respectively as follows:

- Year 1–3 each: for proposed Reliability Standard CIP–002–8 will be 557.67 responses; 1,182 hours;
- The annual cost burden for each Year 1–3 is $101,803 for proposed Reliability Standard CIP–002–8.

Title: Mandatory Reliability Standards, Revised Critical Infrastructure Standards.

Action: Revision 8 of CIP–002 under FERC–725B Mandatory Reliability Standards—CIP Reliability Standards.

OMB Control No.: 1902–0248.

Respondents: Businesses or other for-profit institutions; not-for-profit institutions.

Frequency of Responses: On Occasion.

Necessity of the Information: This order approves proposed Reliability Standard CIP–002–8 related to the

[9] Aggregated weighted value is a point system based on voltage values (in kilovolts (kV)) for BES transmission lines that are monitored and controlled by a control center through inclusion of each BES transmission line that is connected between two or more transmission stations or substations. *Id.* at 16. The higher the kV for a BES transmission line, the higher assigned points for that line, indicating a larger potential adverse impact on the BES if the control center was lost, compromised, or misused; thus, meriting classifying the control center as a medium impact BES cyber system. *See id.*

[10] *Id.* at 15 (citing NERC, *NERC Project 2021–03 CIP–002 Transmission Owner Control Center Field Test Final Report* 6 (Jan. 2023), *https://www.nerc.com/globalassets/standards/projects/2021-03/2021-03_cip-002_tocc_field_test_final_report_01262023.pdf* (concluding that under a range of power flow scenarios, 22 entities, which are both below and above the 6,000 aggregated weighted value bright line and are likely to be impacted by a modification to Criterion 2.12, did not experience an adverse impact to the BES that would merit classifying the control centers that are operated by a transmission operator or owned by a transmission owner as medium impact BES cyber systems)).

[11] *Id.* at 17–21.

[12] *Id.* at 22.

[13] The ''Number of Entity'' data is compiled from the June 2025 edition of the NERC Compliance Registry.

[14] The hourly cost for wages is based in part on the average of the occupational categories from the Bureau of Labor Statistics website (*http://www.bls.gov/oes/current/naics2_22.htm*) plus benefits: Legal (Occupation Code: 23–0000): $162.66; Electrical Engineer (Occupation Code: 17–2071): $79.31; Office and Administrative Support (Occupation Code: 43–0000): $48.59 ($162.66 + $79.31 + $48.59) ÷ 3 = $96.85. The figure is rounded to $97.00 for use in calculating wage figures in this Order.

identification and categorization of BES cyber systems and their associated BES cyber assets. As discussed above, the Commission approves the proposed Reliability Standard CIP–002–8 pursuant to section 215(d)(2) of the FPA because the Standard would advance reliability by revising the threshold for applicable transmission owners and transmission operators to categorize their BES cyber systems based on the impact to their associated facilities, systems, and equipment, which, if destroyed, degraded, misused, or otherwise rendered unavailable would affect the reliability of the BES.

Internal Review: The Commission has reviewed the proposed Reliability Standard and made a determination that its action is necessary to implement section 215 of the FPA.

14. Interested persons may obtain information on the reporting requirements by contacting the following: Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426 [Attention: Kayla Williams, Office of the Executive Director, email: *DataClearance@ferc.gov,* phone: (202) 502–6468].

15. For submitting comments concerning the collection(s) of information and the associated burden estimate(s), please send your comments to the Commission, and to the Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, DC 20503 [Attention: Desk Officer for the Federal Energy Regulatory Commission, phone: (202) 395–4638, fax: (202) 395–7285]. For security reasons, comments to OMB should be submitted by email to: *oira_submission@omb.eop.gov.* Comments submitted to OMB should include Docket Number RD25–8–000 and OMB Control Number 1902–0248.

16. In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*).

17. From the Commission's Home Page on the internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

18. User assistance is available for eLibrary and the Commission's website during normal business hours from the Commission's Online Support at (202) 502–6652 (toll free at 1–866–208–3676) or email at *ferconlinesupport@ferc.gov,* or the Public Reference Room at (202) 502–8371, or (202) 502–8659 for TTY. Email the Public Reference Room at *public.referenceroom@ferc.gov.*

19. All submissions must be formatted and filed in accordance with submission guidelines at: *http://www.ferc.gov/help/submission-guide.asp.* For user assistance, contact FERC Online Support by email at *ferconlinesupport@ferc.gov,* or by phone at: (866) 208–3676 (toll-free), or (202) 502–8659 for TTY.

By direction of the Commission.

Issued: March 19, 2026.

Carlos D. Clay,

Deputy Secretary.

[FR Doc. 2026–05715 Filed 3–23–26; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER20–681–016.

Applicants: Tri-State Generation and Transmission Association, Inc.

Description: Compliance filing: Notice of Change in Status to be effective 4/1/2026.

Filed Date: 3/19/26.

Accession Number: 20260319–5128.

Comment Date: 5 p.m. ET 4/9/26.

Docket Numbers: ER25–3327–000; ER25–3327–001.

Applicants: JERA Americas Energy Services LLC.

Description: Supplement to 08/28/2025, JERA Americas Energy Services LLC tariff filing.

Filed Date: 3/18/26.

Accession Number: 20260318–5194.

Comment Date: 5 p.m. ET 3/30/26.

Docket Numbers: ER26–1861–000.

Applicants: Southwest Power Pool, Inc.

Description: § 205(d) Rate Filing: 4127R2 Silver Queen Wind Farm GIA to be effective 3/5/2026.

Filed Date: 3/18/26.

Accession Number: 20260318–5167.

Comment Date: 5 p.m. ET 4/8/26.

Docket Numbers: ER26–1862–000.

Applicants: Southwest Power Pool, Inc.

Description: § 205(d) Rate Filing: 4705 Leeward Renewable Energy Development GIA to be effective 3/9/2026.

Filed Date: 3/19/26.

Accession Number: 20260319–5005.

Comment Date: 5 p.m. ET 4/9/26.

Docket Numbers: ER26–1863–000.

Applicants: Keystone Appalachian Transmission Company.

Description: § 205(d) Rate Filing: KATCO submits Amended Construction Agmnt, SA No. 7169 to be effective 5/19/2026.

Filed Date: 3/19/26.

Accession Number: 20260319–5031.

Comment Date: 5 p.m. ET 4/9/26.

Docket Numbers: ER26–1864–000.

Applicants: Black Hills Power, Inc.

Description: Initial rate filing: Rate Schedule No. 35 Reserve Sharing Energy Agreement to be effective 4/1/2026.

Filed Date: 3/19/26.

Accession Number: 20260319–5032.

Comment Date: 5 p.m. ET 4/9/26.

Docket Numbers: ER26–1865–000.

Applicants: Tri-State Generation and Transmission Association, Inc.

Description: Tariff Amendment: Notice of Cancellation of Service Agreement FERC No. 904 to be effective 5/19/2022.

Filed Date: 3/19/26.

Accession Number: 20260319–5037.

Comment Date: 5 p.m. ET 4/9/26.

Docket Numbers: ER26–1866–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Original GIA No. 7937;Project Identifier No. R49/AF2–376;Cancellation of SA 2697 to be effective 2/17/2026.

Filed Date: 3/19/26.

Accession Number: 20260319–5059.

Comment Date: 5 p.m. ET 4/9/26.

Docket Numbers: ER26–1867–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Original NSA, Service Agreement No. 7946; AE1–183 to be effective 5/19/2026.

Filed Date: 3/19/26.

Accession Number: 20260319–5061.

Comment Date: 5 p.m. ET 4/9/26.

Docket Numbers: ER26–1868–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: § 205(d) Rate Filing: 2026–03–19_MISO Tariff Revisions RE SHECO Integration Att FF–3 & FF–4 to be effective 5/19/2026.

Filed Date: 3/19/26.

Accession Number: 20260319–5098.

Comment Date: 5 p.m. ET 4/9/26.

Docket Numbers: ER26–1869–000.

Applicants: OWGP LLC.

Description: Initial Rate Filing: Petition for Approval of Initial Market-Based Rate Tariff to be effective 3/20/2026.

Filed Date: 3/19/26.

Accession Number: 20260319–5110.
Comment Date: 5 p.m. ET 4/9/26.
Docket Numbers: ER26–1870–000.
Applicants: Alabama Power Company, Georgia Power Company, Mississippi Power Company.
Description: Tariff Amendment: Alabama Power Company submits tariff filing per 35.15: Brooker Trail Solar LGIA Termination Filing to be effective 3/19/2026.
Filed Date: 3/19/26.
Accession Number: 20260319–5111.
Comment Date: 5 p.m. ET 4/9/26.
Docket Numbers: ER26–1871–000.
Applicants: PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: Original GIA, Service Agreement No. 7933; Project Identifier No. AF1–204 to be effective 2/17/2026.
Filed Date: 3/19/26.
Accession Number: 20260319–5135.
Comment Date: 5 p.m. ET 4/9/26.
Docket Numbers: ER26–1872–000.
Applicants: Tri-State Generation and Transmission Association, Inc.
Description: § 205(d) Rate Filing: Amendment to Rate Schedule FERC No. 11 to be effective 5/19/2026.
Filed Date: 3/19/26.
Accession Number: 20260319–5139.
Comment Date: 5 p.m. ET 4/9/26.
Docket Numbers: ER26–1873–000.
Applicants: Hollis Creek PV I, LLC.
Description: Initial Rate Filing: Hollis Creek PV I, LLC—Initial MBR Tariff to be effective 5/18/2026.
Filed Date: 3/19/26.
Accession Number: 20260319–5170.
Comment Date: 5 p.m. ET 4/9/26.

The filings are accessible in the Commission's eLibrary system (*https://elibrary.ferc.gov/idmws/search/fercgensearch.asp*) by querying the docket number. Any person desiring to intervene, to protest, or to answer a complaint in any of the above proceedings must file in accordance with Rules 211, 214, or 206 of the Commission's Regulations (18 CFR 385.211, 385.214, or 385.206) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, contact the Office of Public Participation at (202) 502–6595 or *OPP@ferc.gov.*

Dated: March 19, 2026.

Carlos D. Clay,

Deputy Secretary.

[FR Doc. 2026–05702 Filed 3–23–26; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP26–136–000]

Kinder Morgan Louisiana Pipeline LLC; Notice of Application and Establishing Intervention Deadline

Take notice that on March 6, 2026, Kinder Morgan Louisiana Pipeline LLC (KMLP), 1001 Louisiana Street, Houston, Texas 77002, filed an application under section 7(c) of the Natural Gas Act (NGA) and Part 157 of the Commission's regulations requesting authorization for its Texas Access Project (Project). The project includes a 3.05-mile-long, 48-inch-diameter mainline extension in Jefferson County, Texas, and Cameron Parish, Louisiana (Mainline Extension), along with two aboveground pig launcher/receiver facilities. Additionally, the project involves 540 feet of 42-inch diameter pipeline connecting the Trident Intrastate Pipeline to the Mainline Extension, 70 feet of 42-inch diameter pipeline connecting the Texas Header to the Mainline Extension, and 250 feet of 42- and 36-inch-diameter pipeline connecting the Mainline Extension to KMLP's existing Leg 1 and Leg 2 pipelines. Furthermore, KMLP plans to modify existing regulator and metering facilities at the Sabine Pass Metering Facility and establish a new interconnection and gas measurement building at Louisiana LNG Gas Management, LLC's Woodside Terminal in Calcasieu Parish.

These facilities will enable the transportation of new and diverse natural gas supplies and enable KMLP to transport up to 1,300,000 Dth/d for delivery to various points on its system. KMLP estimates the total Project cost to be $112,000,000, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*). From the Commission's Home Page on the internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

User assistance is available for eLibrary and the Commission's website during normal business hours from FERC Online Support at (202) 502–6652 (toll free at 1–866–208–3676) or email at *ferconlinesupport@ferc.gov,* or the Public Reference Room at (202) 502–8371, TTY (202) 502–8659. Email the Public Reference Room at *public.referenceroom@ferc.gov.*

Any questions regarding the proposed project should be directed to Tina Hardy, Director, Regulatory, 1001 Louisiana Street, Houston, Texas 77002, by phone at (205) 325 3668, or by email at Tina *Hardy@kindermorgan.com.*

Pursuant to section 157.9 of the Commission's Rules of Practice and Procedure,[1] within 90 days of this Notice the Commission staff will either: complete its environmental review and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or environmental assessment (EA) for this proposal. The filing of an EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

Water Quality Certification

KMLP stated that a water quality certificate under section 401 of the Clean Water Act is required for the project from the Railroad Commission of Texas. When available, KMLP should submit to the Commission a copy of the request for certification for the Commission authorization, including the date the request was submitted to the certifying agency, and either (1) a copy of the certifying agency's decision

[1] 18 CFR 157.9.

or (2) evidence of waiver of water quality certification.

Public Participation

There are three ways to become involved in the Commission's review of this project: you can file comments on the project, you can protest the filing, and you can file a motion to intervene in the proceeding. There is no fee or cost for filing comments or intervening. The deadline for filing a motion to intervene is 5:00 p.m. Eastern Time on April 9, 2026. How to file protests, motions to intervene, and comments is explained below.

For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, contact the Office of Public Participation (OPP) at (202) 502–6595 or *OPP@ferc.gov.*

Comments

Any person wishing to comment on the project may do so. Comments may include statements of support or objections, to the project as a whole or specific aspects of the project. The more specific your comments, the more useful they will be.

Protests

Pursuant to sections 157.10(a)(4)[2] and 385.211[3] of the Commission's regulations under the NGA, any person[4] may file a protest to the application. Protests must comply with the requirements specified in section 385.2001[5] of the Commission's regulations. A protest may also serve as a motion to intervene so long as the protestor states it also seeks to be an intervenor.

To ensure that your comments or protests are timely and properly recorded, please submit your comments on or before 5:00 p.m. Eastern Time on April 9, 2026.

There are three methods you can use to submit your comments or protests to the Commission. In all instances, please reference the Project docket number CP26–136–000 in your submission.

(1) You may file your comments electronically by using the eComment feature, which is located on the Commission's website at *www.ferc.gov* under the link to Documents and Filings. Using eComment is an easy method for interested persons to submit brief, text-only comments on a project;

(2) You may file your comments or protests electronically by using the eFiling feature, which is located on the Commission's website (*www.ferc.gov*) under the link to Documents and Filings. With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on ''eRegister.'' You will be asked to select the type of filing you are making; first select ''General'' and then select ''Comment on a Filing''; or

(3) You can file a paper copy of your comments or protests by mailing them to the following address below. Your written comments must reference the Project docket number (CP26–136–000).

To file via USPS: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

To file via any other courier: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852.

The Commission encourages electronic filing of comments (options 1 and 2 above) and has eFiling staff available to assist you at (202) 502–8258 or *FercOnlineSupport@ferc.gov.*

Persons who comment on the environmental review of this project will be placed on the Commission's environmental mailing list, and will receive notification when the environmental documents (EA or EIS) are issued for this project and will be notified of meetings associated with the Commission's environmental review process.

The Commission considers all comments received about the project in determining the appropriate action to be taken. However, the filing of a comment alone will not serve to make the filer a party to the proceeding. To become a party, you must intervene in the proceeding. For instructions on how to intervene, see below.

Interventions

Any person, which includes individuals, organizations, businesses, municipalities, and other entities,[6] has the option to file a motion to intervene in this proceeding. Only intervenors have the right to request rehearing of Commission orders issued in this proceeding and to subsequently challenge the Commission's orders in the U.S. Circuit Courts of Appeal.

To intervene, you must submit a motion to intervene to the Commission in accordance with Rule 214 of the Commission's Rules of Practice and Procedure[7] and the regulations under the NGA[8] by the intervention deadline for the project, which is 5:00 p.m. Eastern Time on April 9, 2026. As described further in Rule 214, your motion to intervene must state, to the extent known, your position regarding the proceeding, as well as your interest in the proceeding. For an individual, this could include your status as a landowner, ratepayer, resident of an impacted community, or recreationist. You do not need to have property directly impacted by the project in order to intervene. For more information about motions to intervene, refer to the FERC website at *https://www.ferc.gov/resources/guides/how-to/intervene.asp.*

There are two ways to submit your motion to intervene. In both instances, please reference the Project docket number CP26–136–000 in your submission.

(1) You may file your motion to intervene by using the Commission's eFiling feature, which is located on the Commission's website (*www.ferc.gov*) under the link to Documents and Filings. New eFiling users must first create an account by clicking on ''eRegister.'' You will be asked to select the type of filing you are making; first select ''General'' and then select ''Intervention.'' The eFiling feature includes a document-less intervention option; for more information, visit *https://www.ferc.gov/docs-filing/efiling/document-less-intervention.pdf.;* or

(2) You can file a paper copy of your motion to intervene, along with three copies, by mailing the documents to the address below. Your motion to intervene must reference the Project docket number CP26–136–000.

To file via USPS: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

To file via any other courier: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852.

The Commission encourages electronic filing of motions to intervene (option 1 above) and has eFiling staff available to assist you at (202) 502–8258 or *FercOnlineSupport@ferc.gov.*

Protests and motions to intervene must be served on the applicant either by mail at: Tina Hardy, Director, Regulatory, 1001 Louisiana Street, Houston, Texas 77002, or by email (with a link to the document) at *Tina_Hardy@kindermorgan.com.* Any subsequent

[2] 18 CFR 157.10(a)(4).

[3] 18 CFR 385.211.

[4] Persons include individuals, organizations, businesses, municipalities, and other entities. 18 CFR 385.102(d).

[5] 18 CFR 385.2001.

[6] 18 CFR 385.102(d).

[7] 18 CFR 385.214.

[8] 18 CFR 157.10.

submissions by an intervenor must be served on the applicant and all other parties to the proceeding. Contact information for parties can be downloaded from the service list at the eService link on FERC Online. Service can be via email with a link to the document.

All timely, unopposed [9] motions to intervene are automatically granted by operation of Rule 214(c)(1).[10] Motions to intervene that are filed after the intervention deadline are untimely, and may be denied. Any late-filed motion to intervene must show good cause for being late and must explain why the time limitation should be waived and provide justification by reference to factors set forth in Rule 214(d) of the Commission's Rules and Regulations.[11] A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies (paper or electronic) of all documents filed by the applicant and by all other parties.

Tracking the Proceeding

Throughout the proceeding, additional information about the project will be available from OPP at (202) 502–6595 or on the FERC website at *www.ferc.gov* using the ''eLibrary'' link as described above. The eLibrary link also provides access to the texts of all formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. For more information and to register, go to *www.ferc.gov/docs-filing/esubscription.asp.*

Intervention Deadline: 5:00 p.m. Eastern Time on April 9, 2026.

(Authority: 18 CFR 2.1)

Dated: March 19, 2026.

Carlos D. Clay,

Deputy Secretary.

[FR Doc. 2026–05704 Filed 3–23–26; 8:45 am]

BILLING CODE 6717–01–P

[9] The applicant has 15 days from the submittal of a motion to intervene to file a written objection to the intervention.

[10] 18 CFR 385.214(c)(1).

[11] 18 CFR 385.214(b)(3) and (d).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 460–120]

City of Tacoma, Washington; Notice of Application for Non-Capacity Amendment of License Accepted for Filing, Soliciting Comments, Motions To Intervene, and Protests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Non-Capacity Amendment of License.

b. *Project No:* 460–120.

c. *Date Filed:* February 28, 2025.

d. *Applicant:* City of Tacoma, Washington.

e. *Name of Project:* Cushman Hydroelectric Project.

f. *Location:* The project is located on the North Fork of the Skokomish River in Mason County, Washington, and occupies federal lands.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.

h. *Applicant Contact:* Matt Peter, Tacoma Power, 3628 S 35th Street, Tacoma, WA 98409, (253) 502–8600, *mpeter@cityoftacoma.org.*

i. *FERC Contact:* Woohee Choi, (202) 502–6336, *woohee.choi@ferc.gov.*

j. *Cooperating agencies:* With this notice, the Commission is inviting federal, state, local, and Tribal agencies with jurisdiction and/or special expertise with respect to environmental issues affected by the proposal, that wish to cooperate in the preparation of any environmental document, if applicable, to follow the instructions for filing such requests described in item k below. Cooperating agencies should note the Commission's policy that agencies that cooperate in the preparation of any environmental document cannot also intervene. *See* 94 FERC ¶ 61,076 (2001).

k. *Deadline for filing comments, motions to intervene, and protests:* April 20, 2026 5:00 p.m. Eastern Time.

The Commission strongly encourages electronic filing. Please file comments, motions to intervene, and protests using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, MD 20852. The first page of any filing should include the docket number P–460–120. Comments emailed to Commission staff are not considered part of the Commission record.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

l. *Description of Request:* The City of Tacoma is seeking Commission approval to perform a non-capacity efficiency rewind on the Cushman No. 2 Powerhouse Unit 32 turbine-generator. This unit has been operational since 1930, with most major turbine components still in their original state. The last significant turbine overhaul was completed in 1995. The purpose of the proposed amendment is to improve Unit 32's reliability through a planned generator rewind, which will extend its effective service life. The efficiency rewind would be carried out entirely within the existing powerhouse, and there would be no ground disturbance outside the powerhouse. The amendment is limited to generator rewinding, aiming to enhance operational reliability and efficiency. Following the rewind, the generator capacity for Unit 32 would increase from 27 megawatts (MW) to 30 MW, while the turbine capacity would remain unchanged.

m. *Locations of the Application:* This filing may be viewed on the Commission's website at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, call 1–866–208–3676 or

email *FERCOnlineSupport@ferc.gov,* for TTY, call (202) 502–8659. Agencies may obtain copies of the application directly from the applicant.

n. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

o. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214, respectively. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

p. *Filing and Service of Documents:* Any filing must (1) bear in all capital letters the title ''COMMENTS'', ''PROTEST'', or ''MOTION TO INTERVENE'' as applicable; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person commenting, protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, motions to intervene, or protests must set forth their evidentiary basis. Any filing made by an intervenor must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 385.2010.

q. For public inquiries and assistance with making filings such as interventions, comments, or requests for rehearing, contact the Office of Public Participation at (202) 502–6595 or *OPP@ferc.gov.*

(Authority: 18 CFR 2.1)

Issued: March 19, 2026.

Carlos D. Clay,

Deputy Secretary.

[FR Doc. 2026–05714 Filed 3–23–26; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. DI26–4–000]

Chugach Electric Association, Inc.; Notice of Declaration of Intention and Soliciting Comments, Protests, and Motions To Intervene

Take notice that the following application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Declaration of Intention.

b. *Docket No:* DI26–4–000.

c. *Date Filed:* February 17, 2026.

d. *Applicant:* Chugach Electric Association, Inc.

e. *Name of Project:* Caribou Creek Hydropower Project.

f. *Location:* The proposed Caribou Creek Hydropower Project would be located on Caribou Creek, in the town of Glacier View, in Matanuska-Susitna Borough, Alaska. The project would not occupy federal land. All lands associated with the proposed project are owned by the state of Alaska or Cook Inlet Region, Inc.

g. *Filed Pursuant to:* Section 23(b)(1) of the Federal Power Act, 16 U.S.C. 817(b)(1).

h. *Applicant Contact:* Samantha Owen, McMillen, Inc., 1471 Shoreline Drive, Suite 100, Boise, ID 83702; (305) 409–5201; *owen@mcmillen.com.*

i. *FERC Contact:* Rebecca Martin, (202) 502–6012, or *rebecca.martin@ferc.gov.*

j. *Deadline for filing comments, protests, and motions to intervene is:* April 20, 2026, by 5:00 p.m. Eastern Time.

The Commission strongly encourages electronic filing. Please file comments, protests, and motions to intervene using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Debbie-Anne A. Reese, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Maryland 20852. The first page of any filing should include docket number DI26–2–000. Comments emailed to Commission staff are not considered part of the Commission record.

k. *Description of Project:* The proposed project would consist of a dam (height is undetermined) located on Caribou Creek approximately two miles upstream of its confluence with the Matanuska River. The proposed dam would consist of a concrete-faced rockfill embankment dam, impounding Caribou Creek to a maximum elevation of up to 2,200 feet, forming a reservoir with a maximum surface area of 980 acres. The proposed dam would be built and operated as a storage-based generation facility and create impoundment capacity suitable for capturing and storing large runoff events in the summer and fall. This would provide stable baseload generation during winter months when precipitation occurs as snow and natural inflows are minimal. A 7-foot diameter penstock would extend approximately 500 feet from the dam downhill to the proposed powerhouse. The penstock would convey flow through an elevation drop of approximately 380 feet to the powerhouse site, with a proposed tailrace elevation of 1,780 feet. The powerhouse would contain two Francis-type turbine-generator units with a rated capacity of 8.8 megawatts (MW) each for a total powerhouse capacity of 18 MW. The potential annual energy generation would be 58 gigawatt-hours (GWh). Adjacent to the powerhouse would be a substation with a new high voltage transmission line spanning approximately 1,500 feet to an existing transmission line running alongside Glenn Highway.

When a Declaration of Intention is filed with the Federal Energy Regulatory Commission, the Federal Power Act requires the Commission to investigate and determine if the project would affect the interests of interstate or foreign commerce. The Commission also determines whether or not the project: (1) would be located on a navigable waterway; (2) would occupy public lands or reservations of the United States; (3) would utilize surplus water or water power from a government dam; or (4) would be located on a non-navigable stream over which Congress has Commerce Clause jurisdiction and would be constructed or enlarged after 1935.

l. *Locations of the Application:* This filing may be viewed on the Commission's website at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number excluding the last three digits in the docket number field to access the document. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, call 1–866–208–3676 or email *FERCOnlineSupport@ferc.gov,* for TTY, call (202) 502–8659.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, and .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application. For public inquiries and assistance with intervening or participating, contact the Office of Public Participation at (202) 502–6595 or *OPP@ferc.gov.*

o. *Filing and Service of Responsive Documents:* All filings must bear in all capital letters the title ''COMMENTS'', ''PROTESTS'', and ''MOTIONS TO INTERVENE'', as applicable, and the Docket Number of the particular application to which the filing refers. A copy of any Motion to Intervene must also be served upon each representative of the Applicant specified in the particular application.

p. *Agency Comments:* Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

(Authority: 18 CFR 2.1)

Dated: March 19, 2026.

Carlos D. Clay,

Deputy Secretary.

[FR Doc. 2026–05706 Filed 3–23–26; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. AD26–5–000]

Transmission Formula Rate Processes; Notice of Staff-Led Workshop

Take notice that on May 12, 2026, from 9:00 a.m. to 12:30 p.m. Eastern Time, the staff of the Federal Energy Regulatory Commission (Commission) will hold a workshop, open to the public, to provide information to jurisdictional utilities, transmission formula rate data users, state regulators, and other stakeholders about the Commission's electric transmission formula rate processes, including the annual update and challenge process and the Commission's electric transmission formula rate audit program. The workshop will provide a forum for Commission staff, jurisdictional utilities, and transmission formula rate data users to discuss: (1) an overview of the mechanics of transmission formula rates; (2) transmission formula rate implementation protocols; (3) transmission formula rate annual updates; (4) the transmission formula rate audit program; (5) common compliance issues in transmission formula rates; and (6) the Commission's regulatory accounting program.

The workshop will take place in a hybrid format, with attendees allowed in person, at the Commission, 888 First Street NE, Washington, DC 20426, or virtually. A detailed agenda and further details on both in-person and virtual attendance will be published in eLibrary prior to the workshop. There is an ''eSubscription'' link on the Commission's website that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

This workshop will be accessible under section 508 of the Rehabilitation Act of 1973. For accessibility accommodations please send an email to *accessibility@ferc.gov* or call toll free (866) 208–3372 (voice) or (202) 502–8659 (TTY), or send a fax to (202) 208–2106 with the required accommodations.

For more information about the workshop, please contact Ben Akintoye of the Commission's Office of Enforcement and Regulatory Accounting at (202) 502–6497 or *ben.akintoye@ferc.gov;* or Bianca Hill of the Commission's Office of Energy Market Regulation at (202) 502–6032 or *bianca.hill@ferc.gov.* Additional information will also be provided on the Calendar of Events on the Commission's website, *www.ferc.gov.*

Dated: March 19, 2026.

Carlos D. Clay,

Deputy Secretary.

[FR Doc. 2026–05701 Filed 3–23–26; 8:45 am]

BILLING CODE 6717–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0865; FR ID 336165]

Information Collection Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written PRA comments should be submitted on or before May 26, 2026. If you anticipate that you will be submitting comments but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060–0865.

Title: Wireless Telecommunications Bureau Universal Licensing System Recordkeeping and Third Party Disclosure Requirements.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities, Individuals or households, Not-for-profit institutions, and State, Local or Tribal Government.

Number of Respondents and Responses: 57,070 respondents; 57,070 responses.

Estimated Time per Response: .166 hours (10 minutes)–4 hours.

Frequency of Response: Recordkeeping and third-party disclosure requirements; on occasion reporting requirement.

Obligation To Respond: Required to obtain or retain benefits. The statutory authority for this collection is contained in 47 U.S.C. 154(i) and 309(j).

Total Annual Burden: 77,811 hours.

Annual Cost Burden: No cost.

Needs and Uses: The Commission will submit this information collection to the Office of Management and Budget (OMB) as an extension after this 60-day comment period to obtain the full three-year clearance from them.

The purpose of this information collection is to continually streamline and simplify processes for wireless applicants and licensees, who previously used a myriad of forms for various wireless services and types of requests, in order to provide the Commission information that has been collected in separate databases, each for a different group of services. Such processes have resulted in unreliable reporting, duplicate filings for the same licensees/applicants, and higher cost burdens to licensees/applicants. By streamlining the Universal Licensing System (ULS), the Commission eliminates the filing of duplicative applications for wireless carriers; increases the accuracy and reliability of licensing information; and enables all wireless applicants and licensees to file all licensing-related applications and other filings electronically, thus increasing the speed and efficiency of the application process. The ULS also benefits wireless applicants/licensees by reducing the cost of preparing applications, and speeds up the licensing process in that the Commission can introduce new entrants more quickly into this already competitive industry. Finally, ULS enhances the availability of licensing information to the public, which has access to all publicly available wireless licensing information on-line, including maps depicting a licensee's geographic service area.

Federal Communications Commission.

Marlene Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2026–05725 Filed 3–23–26; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–1313; FR ID 335661]

Information Collection Being Reviewed by the Federal Communications Commission Under Delegated Authority

AGENCY: Federal Communications Commission.

ACTION: Notice; request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

DATES: Written PRA comments should be submitted on or before May 26, 2026. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicole Ongele, FCC, via email *PRA@fcc.gov* and to *nicole.ongele@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Nicole Ongele, (202) 418–2991.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–1313.

Title: Section 90.175(g)(2), Amendment of Part 90 of the Commission's Rules.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: State, Local or Tribal Government.

Number of Respondents and Responses: 190 respondents, 190 responses.

Estimated Time per Response: 1 hour.

Frequency of Response: On occasion reporting requirement.

Obligation to Respond: Statutory authority for this collection is contained in 47 U.S.C. 154(i), 161, 303(g), 303(r), 332(c)(7), and 1401–1473 of the Communications Act of 1934.

Total Annual Burden: 190 hours.

Total Annual Cost: $209,000.

Needs and Uses: This collection will be submitted as an extension of an existing information collection after this 60-day comment period to the Office of Management and Budget (OMB) in order to obtain the full three-year clearance. The purpose of requiring each public safety applicant to obtain a frequency recommendation from the nationwide Band Manager is to ensure that public safety entities seeking to license new or modify existing facilities in the 4.9 GHz band cause no interference to incumbent licensees or previously filed applicants.

Federal Communications Commission.

Marlene Dortch,

Secretary. Office of the Secretary.

[FR Doc. 2026–05726 Filed 3–23–26; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[FR ID 337206]

Sunshine Act; Open Commission Meeting Thursday, March 26, 2026

March 19, 2026.

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Thursday, March 26, 2026, which is scheduled to commence at 10:30 a.m. in the Commission Meeting Room of the Federal Communications Commission, 45 L Street NE, Washington, DC.

While attendance at the Open Meeting is available to the public, the FCC headquarters building is not open access and all guests must check in with and be screened by FCC security at the main entrance on L Street. Attendees at the Open Meeting will not be required to have an appointment but must otherwise comply with protocols outlined at: *www.fcc.gov/visit.* Open Meetings are streamed live at: *www.fcc.gov/live* and on the FCC's YouTube channel.

Item No.	Bureau	Subject
1	Consumer and Governmental Affairs	*Title:* Improving Customer Service and Protecting Consumers through Onshoring (CG Docket No. 26–52); Advanced Methods to Target and Eliminate Unlawful Robocalls (CG Docket No. 17–59); Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991 (CG Docket No. 02–278). *Summary:* The Commission will consider a Notice of Proposed Rulemaking that proposes a range of actions to address problems with offshore call centers, including actions to encourage and facilitate onshoring of call centers, improve customer service and security of communications, and steps to address illegal robocall scams that originate inside foreign call centers.
2	Wireline Competition	*Title:* Combatting Illegal Robocalls Through FCC Numbering Policies (WC Docket No. 26–49); Implementation of TRACED Act Section 6(a)—Knowledge of Customers by Entities with Access to Numbering Resources (WC Docket No. 20–67); Numbering Policies for Modern Communications (WC Docket No. 13–97); Telephone Number Requirements for IP-Enabled Service Providers (WC Docket No. 07–243). *Summary:* The Commission will consider a Notice of Proposed Rulemaking that would seek comment on and evaluate whether to adopt changes to its numbering policies with respect to how assigned numbering resources are utilized, reported, and resold by service providers as part of its continuing effort to combat illegal robocalls.
3	Wireline Competition	*Title:* Reducing Barriers to Network Improvements and Service Changes (WC Docket No. 25–209); Accelerating Network Modernization (WC Docket No. 25–208). *Summary:* The Commission will consider a Report and Order that adopts measures to reduce regulatory barriers and costs that hinder the transition from outdated legacy networks and services to next-generation, IP-based infrastructure.
4	Space	*Title:* Spectrum Abundance for Weird Space Stuff (SB Docket No. 26–54). *Summary:* The Commission will consider a Notice of Proposed Rulemaking that proposes and seeks comment on ways in which to make additional spectrum available for command and control of spacecraft supporting emergent space operations, but which do not use spectrum as part of any radiocommunications services provided to the public.
5	General Counsel	*Title:* Modernizing Suspension and Debarment Rules (GN Docket No. 19–309). *Summary:* The Commission will consider a Report and Order, Direct Final Rule, and Further Notice of Proposed Rulemaking that would revise the FCC's current nonprocurement suspension and debarment rules by adopting the Office of Management and Budget's (OMB) Guidance for Governmentwide Debarment and Suspension and supplemental FCC-specific rules to expand the Commission's tools for combatting fraud, waste, and abuse, and remove bad actors from Commission programs.
6	Media	*Title:* Amendment of Parts 1, 73, 74 and 76 of the Commission's Rules to Update Rules Applicable to Broadcast Stations (MB Docket No. 24–626); Delete, Delete, Delete (GN Docket No. 25–133). *Summary:* The Commission will consider a Report and Order to update rules for broadcast radio and television stations to reflect current application processing requirements, clarify and harmonize provisions, and remove references to outdated procedures and legacy filing systems.
7	Economics and Analytics	*Title:* Delete, Delete, Delete (GN Docket No. 25–133). *Summary:* The Commission will consider as part of the In re: Delete, Delete, Delete proceeding a Direct Final Rule that would remove 18 rules, including 17 rule provisions impacting the Office of Economics and Analytics' (OEA) Auction Division that are no longer in use by the Commission or govern expired events and one rule relating to the Office of International Affairs (OIA) that imposed carrier burdens under a deleted requirement.

* * * * *

The meeting will be webcast at: *www.fcc.gov/live.* Open captioning will be provided as well as a text only version on the FCC website. Other reasonable accommodations for people with disabilities are available upon request. In your request, include a description of the accommodation you will need and a way we can contact you if we need more information. Last minute requests will be accepted but may be impossible to fill. Send an email to: *fcc504@fcc.gov* or call the Consumer

& Governmental Affairs Bureau at 202–418–0530.

Press Access—Members of the news media are welcome to attend the meeting and will be provided reserved seating on a first-come, first-served basis. Following the meeting, the Chairman may hold a news conference in which he will take questions from credentialed members of the press in attendance. Also, senior policy and legal staff will be made available to the press in attendance for questions related to the items on the meeting agenda. Commissioners may also choose to hold press conferences. Press may also direct questions to the Office of Media Relations (OMR): *MediaRelations@fcc.gov.* Questions about credentialing should be directed to OMR.

Additional information concerning this meeting may be obtained from the Office of Media Relations, (202) 418–0500. Audio/Video coverage of the meeting will be broadcast live with open captioning over the internet from the FCC Live web page at *www.fcc.gov/live.*

Authority: This meeting is held, in accordance with the Government in the Sunshine Act (Sunshine Act), Public Law 94–409, as amended (5 U.S.C. 552b).

Federal Communications Commission.

Marlene Dortch,

Secretary.

[FR Doc. 2026–05750 Filed 3–20–26; 4:15 pm]

BILLING CODE 6712–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–26–1412; Docket No. CDC–2026–0364]

Proposed Data Collection Submitted for Public Comment and Recommendations

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice with comment period.

SUMMARY: The Centers for Disease Control and Prevention (CDC), as part of its continuing effort to reduce public burden and maximize the utility of government information, invites the general public and other federal agencies the opportunity to comment on a continuing information collection, as required by the Paperwork Reduction Act of 1995. This notice invites comment on a proposed information collection project titled DELTA Cooperative Agreement Evaluation. This project is designed to collect data for performance and implementation of the Domestic Violence Prevention Enhancement and Leadership Through Alliances (DELTA) cooperative agreement.

DATES: CDC must receive written comments on or before May 26, 2026.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2026–0364 by either of the following methods:

- *Federal eRulemaking Portal: www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS H21–8, Atlanta, Georgia 30329.

Instructions: All submissions received must include the agency name and Docket Number. CDC will post, without change, all relevant comments to *www.regulations.gov.*

Please note: Submit all comments through the Federal eRulemaking portal (*www.regulations.gov*) or by U.S. mail to the address listed above.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS H21–8, Atlanta, Georgia 30329; Telephone: 404–639–7570; Email: *omb@cdc.gov.*

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. In addition, the PRA also requires federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to the OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

The OMB is particularly interested in comments that will help:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected;

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses; and

5. Assess information collection costs.

Proposed Project

DELTA Cooperative Agreement Evaluation (OMB Control No. 0920–1412, Exp. 8/31/2026)—Revision—National Center for Injury Prevention and Control (NCIPC), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The Centers for Disease Control and Prevention (CDC) seeks OMB approval for three years for this Revision information collection request (ICR) to continue collecting information from 13 recipients (State Domestic Violence Coalitions) funded through CDC's Domestic Violence Prevention Enhancement and Leadership Through Alliances (DELTA) program. CDC will continue to collect information from DELTA recipients as part of its ongoing program evaluation to assess the implementation and impact of the NOFO and further understand the facilitators, barriers, and critical factors to implement specific violence prevention strategies and conduct program evaluation activities.

Intimate Partner Violence (IPV) is a serious, yet preventable public health problem that affects millions of people in the United States each year. Data from CDC's 2023/2024 National Intimate Partner and Sexual Violence Survey (NISVS) indicate that nearly one in three adult women (34%) and approximately one in six men (17%) in the U.S. report having experienced contact sexual violence, physical violence, and/or stalking by a partner. Data from the 2016/2017 NISVS indicate that the lifetime prevalence of experiencing contact sexual violence, physical violence, or stalking by an intimate partner is not shared equally across all groups. Studies also show that people with a disability have nearly double the lifetime risk of IPV

victimization. To achieve optimal level of health for all, including those with the greatest risk for violence, requires focusing prevention efforts where they will have the greatest impact.

Information collected from recipients on state- and local-level provides crucial data for performance monitoring of the cooperative agreement and provides CDC with the capacity to respond in a timely manner to requests for information about the program from the Department of Health and Human Services (HHS), the White House, Congress, and other sources. Information collected also strengthens CDC's ability to monitor awardee progress toward achievement of their stated goals and objectives, provide data-driven technical assistance, and disseminate the most current surveillance data on unintentional and intentional injuries.

Monitoring the impact strategies and identifying new insights and innovative solutions to health problems are two of the noted public health activities that all public health systems should undertake. For NCIPC, these objectives cannot be satisfied without the systematic collection of data and information from state health departments. The information collection will enable accurate, reliable, uniform, and timely submission to NCIPC of each awardee's progress report, strategies and performance measures. Funded recipients are expected to use data to inform prevention practices. By increasing access to conditions needed for health and safety, funded recipients reduce risk factors for and/or increase protective factors against Intimate Partner Violence (IPV). Authorized by the Family Violence and Prevention Services Act (FVPSA), CDC has funded the DELTA Program since 2002. The DELTA program funds State Domestic Violence Coalitions (SDVCs) to implement statewide IPV prevention efforts and assist and fund local communities to do the same.

The information collection and reporting requirements have been revised to streamline the process while still ensuring alignment with and support of the specific goals and outcomes outlined in the cooperative agreement. This funding opportunity includes two funding options. Category A recipients will have existing high capacity to implement primary prevention strategies and will build upon existing efforts. Category B recipients will focus on gathering publicly available data to better understand gaps in IPV prevention resources, building capacity to implement and evaluate IPV primary prevention in their state and selected communities, and using evaluation data for quality improvement.

CDC will use the information collected to further understand the facilitators, barriers, and critical factors to implementing specific violence prevention strategies and conducting related program evaluation activities. Data collected will also be used to inform CDC's training and technical assistance, program improvement, progress toward NOFO goals, and the development of future funding opportunities. Program evaluation activities allow CDC to identify and disseminate information about successful prevention strategies implemented by recipients. These functions are central to NCIPC's broad mission of protecting Americans from violence and injury threats. This information collection will allow CDC to monitor the impact of the strategies implemented by the recipients on outcomes related to intimate partner violence prevention. It is also expected to reduce duplication of effort, enhance program impact, and maximize the use of federal funds.

CDC requests OMB approval for an estimated 130 annual burden hours. There are no direct costs to respondents other than their time to participate.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
DELTA State Domestic Violence Coalition (SDVC) Project Leads.	Annual Performance Report	13	1	10	130
Total					130

Jeffrey M. Zirger,

Lead, Information Collection Review Office, Office of Public Health Ethics and Regulations, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2026–05719 Filed 3–23–26; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–26–1397; Docket No. CDC–2026–0463]

Proposed Data Collection Submitted for Public Comment and Recommendations

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice with comment period.

SUMMARY: The Centers for Disease Control and Prevention (CDC), as part of its continuing effort to reduce public burden and maximize the utility of government information, invites the general public and other federal agencies the opportunity to comment on a continuing information collection, as required by the Paperwork Reduction Act of 1995. This notice invites comment on a proposed information collection project titled CDC's Milestone Tracker App User Surveys. CDC will collect voluntary, anonymous data through three brief web-based surveys administered within the Milestone Tracker mobile app to a convenience sample of parent users and early childhood providers/professionals to assess user satisfaction, usage patterns, and actions taken following identification of a missed developmental milestone or developmental concern.

DATES: CDC must receive written comments on or before May 26, 2026.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2026–0463 by either of the following methods:

- *Federal eRulemaking Portal: www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS H21–8, Atlanta, Georgia 30329.

Instructions: All submissions received must include the agency name and Docket Number. CDC will post, without change, all relevant comments to *www.regulations.gov.*

Please note: Submit all comments through the Federal eRulemaking portal (*www.regulations.gov*) or by U.S. mail to the address listed above.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS H21–8, Atlanta, Georgia 30329; Telephone: 404–639–7570; Email: *omb@cdc.gov.*

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. In addition, the PRA also requires federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to the OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

The OMB is particularly interested in comments that will help:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
3. Enhance the quality, utility, and clarity of the information to be collected;
4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses; and
5. Assess information collection costs.

Proposed Project

CDC's Milestone Tracker App User Surveys (OMB Control No. 0920–1397, Exp. 5/31/26)—Revision—National Center for Birth Defects and Developmental Disabilities (NCBDDD), Centers for Disease Control and Prevention (CDC).

Brief Background and Description

The Centers for Disease Control and Prevention (CDC) seeks a three-year Revision of a currently approved information collection to evaluate the Milestone Tracker mobile application. The Milestone Tracker app, developed under CDC's Learn the Signs. Act Early. program, supports family-engaged developmental monitoring and promotes early identification of developmental delays and disabilities.

The purpose of this data collection is to assess user satisfaction, usage patterns, and actions taken after a missed developmental milestone or developmental concern is identified within the app. The information collected will help CDC understand how users engage with the app, whether follow-up actions are taken after concerns are identified, and how the app functions as a tool to support developmental monitoring. Findings will inform future improvements and ongoing program evaluation.

This Revision request includes one minor, non-substantive clarification to Parent Survey 2. A brief explanatory note was added to Question 1 to clarify why the question is being asked, after some respondents indicated confusion during prior data collection. The question wording and response options remain unchanged. This clarification does not affect the methodology, data collected, or the estimated time per response, which remains five (5) minutes. This Revision also reflects an adjustment to previously approved burden estimates. The original 2023 burden projections were developed without historical response data and were based on anticipated participation levels derived from total app downloads. Actual data collected from 2023–2026 indicate substantially lower response levels. Accordingly, the number of respondents and total annual burden hours have been revised to align with observed participation trends. The revised annual burden estimate is 3,001 hours, a reduction from the previously approved 41,667 hours. While the number of respondents has been adjusted downward to align with realized response levels, the estimated average time per response remains unchanged at five (5) minutes. There have been no changes to the survey instruments or data collection procedures that would affect per-response burden. There are no changes to the instruments, methodology, frequency of collection, or time per response. Without this Revision, CDC would lose access to ongoing data necessary to monitor user experience, assess follow-up actions after identification of developmental concerns, and support continuous program improvement.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden hours
All parents using the *Milestone Tracker* app who complete 65% or more of a checklist using the app.	Parent 1	23,000	1	5/60	1,917
Parents using the *Milestone Tracker* App who complete 65% or more of a checklist using the app AND indicate a missed milestone or identify a developmental concern.	Parent 2	5,000	1	5/60	417

ESTIMATED ANNUALIZED BURDEN HOURS—Continued

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden hours
Early childhood providers/professionals who use the *Milestone Tracker* app at least 3 times.	Provider	8,000	1	5/60	667
Total					3,001

Jeffrey M. Zirger,

Lead, Information Collection Review Office, Office of Public Health Ethics and Regulations, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2026–05718 Filed 3–23–26; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Solicitation of Nominations for Appointment to the Mine Safety and Health Research Advisory Committee

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: In accordance with the Federal Advisory Committee Act, the Centers for Disease Control and Prevention (CDC), within the Department of Health and Human Services (HHS), is seeking nominations for membership on the Mine Safety and Health Research Advisory Committee (MSHRAC). The MSHRAC consists of 10 experts in fields associated with mining safety and health research and practice.

DATES: Nominations for membership on the MSHRAC must be received no later than April 22, 2026. Submissions received after this time will not be considered for the current membership cycle.

ADDRESSES: All nominations should be mailed to Zoe Dugdale, C/o Pauline Benjamin, National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention, 4770 Buford Highway, S108–7, Chamblee, Georgia 30341, or emailed to: *Zdugdale@cdc.gov.*

FOR FURTHER INFORMATION CONTACT: Zoe Dugdale, Designated Federal Officer, Mine Safety and Health Research Advisory Committee, National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention, C/o Pauline Benjamin, 477 Buford Highway, S108–7, Chamblee, Georgia 30341, Telephone (509) 354–8039, Email: *Zdugdale@cdc.gov.*

SUPPLEMENTARY INFORMATION: Nominations are sought for individuals who have the expertise and qualifications necessary to contribute to the accomplishment of the objectives of the Mine Safety and Health Research Advisory Committee (MSHRAC). Nominees will be selected based on expertise in fields associated with mining engineering, industrial hygiene, occupational safety and health engineering, chemistry, safety and health education, ergonomics, statistics, and psychology, and experienced in dissemination of scientific research findings. Federal employees will not be considered for membership. Members may be invited to serve for up to four-year terms. Selection of members is based on candidates' qualifications to contribute to the accomplishment of MSHRAC objectives (*https://www.cdc.gov/faca/committees/mshrac.html*).

Department of Health and Human Services (HHS) policy stipulates that committee membership be balanced in terms of points of view represented and the committee's function. Appointments shall be made without discrimination on the basis of race, religion, color, national origin, age, disability, or sex. Nominees must be U.S. citizens and cannot be full-time employees of the U.S. Government. Current participation on Federal workgroups or prior experience serving on a Federal advisory committee does not disqualify a candidate; however, HHS policy is to avoid excessive individual service on advisory committees and multiple committee memberships. Committee members are Special Government Employees, requiring the filing of financial disclosure reports at the beginning of and annually during their terms. The Centers for Disease Control and Prevention (CDC) reviews potential candidates for MSHRAC membership each year and provides a slate of nominees for consideration to the Secretary of HHS for final selection. HHS notifies selected candidates of their appointment near the start of the term or as soon as the HHS selection process is completed. Note that the need for different expertise varies from year to year and a candidate who is not selected in one year may be reconsidered in a subsequent year.

Candidates should submit the following items:

- Current curriculum vitae, including complete contact information (telephone numbers, mailing address, and email address)
- At least one letter of recommendation from person(s) not employed by HHS. Candidates may submit letter(s) from current HHS employees if they wish, but at least one letter must be submitted by a person not employed by an HHS agency (*e.g.,* CDC, National Institutes of Health, Food and Drug Administration).
- A biographical sketch of the nominee (500 words or fewer)

Nominations may be submitted by the candidate or by the person/organization recommending the candidate. CDC will collect and retain nominations received for up to two years to create a pool of potential MSHRAC nominees. When a vacancy occurs, CDC will review nominations and may contact nominees at that time.

The Director, Office of Strategic Business Initiatives, Office of the Chief Operating Officer, Centers for Disease Control and Prevention, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Kalwant Smagh,

Director, Office of Strategic Business Initiatives, Office of the Chief Operating Officer, Centers for Disease Control and Prevention.

[FR Doc. 2026–05724 Filed 3–23–26; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–26–0255]

Agency Forms Undergoing Paperwork Reduction Act Review

In accordance with the Paperwork Reduction Act of 1995, the Centers for Disease Control and Prevention (CDC) has submitted the information collection request titled ''Resources and Services Database of the CDC National Prevention Information Network (NPIN)'' to the Office of Management and Budget (OMB) for review and approval. CDC previously published a ''Proposed Data Collection Submitted for Public Comment and Recommendations'' notice on December 5, 2025, to obtain comments from the public and affected agencies. CDC received no public comments related to the previous notice. This notice serves to allow an additional 30 days for public and affected agency comments.

CDC will accept all comments for this proposed information collection project. The Office of Management and Budget is particularly interested in comments that:

(a) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(c) Enhance the quality, utility, and clarity of the information to be collected;

(d) Minimize the burden of the collection of information on those who are to respond, including, through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses; and

(e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570. Comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function. Direct written comments and/or suggestions regarding the items contained in this notice to the Attention: CDC Desk Officer, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503 or by fax to (202) 395–5806. Provide written comments within 30 days of notice publication.

Proposed Project

Resources and Services Database of the National Prevention Information Network (NPIN), (OMB Control No. 0920–0255, Exp. 03/31/2026)—Revision—National Center for HIV, Viral Hepatitis, STD, TB Prevention (NCHHSTP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The CDC requests a Revision of the Resources and Services Database of the National Prevention Information Network (NPIN) information collection, currently approved under OMB Control No. 0920–0255, for a period of three years. NCHHSTP has the primary responsibility within the CDC and the U.S. Public Health Service for the prevention and control of HIV infection, viral hepatitis, sexually transmitted diseases (STDs), and tuberculosis (TB), as well as for community-based HIV prevention activities, syphilis, and TB elimination programs. NPIN serves as the U.S. reference, referral, and distribution service for information on HIV/AIDS, viral hepatitis, STDs, and TB, supporting NCHHSTP's mission to link Americans to prevention, education, and care services. NPIN is a critical member of the network of government agencies, community organizations, businesses, health professionals, educators, and human services providers that educate the American public about the grave threat to public health posed by HIV/AIDS, viral hepatitis, STDs, and TB, and provides services for persons infected with human immunodeficiency virus (HIV).

The NPIN Resources and Services Database contains entries on approximately 13,100 organizations and is the most comprehensive listing of HIV/AIDS, viral hepatitis, STD, and TB resources and services available throughout the country. The American public can also access the NPIN Resources and Services database through the NPIN website. More than 616,557 unique visitors and more than 1,045,160 page views are recorded annually.

To accomplish CDC's goal of continuing efforts to maintain an up-to-date, comprehensive database, NPIN plans each year to add up to 1,200 newly identified organizations and to verify those organizations currently described in the NPIN Resources and Services Database each year. Organizations with access to the internet will be given the option to complete and submit an electronic version of the questionnaire by visiting the NPIN website.

CDC requests OMB approval for 1,449 estimated annual burden hours. There are no costs to respondents other than their time to participate.

ESTIMATED ANNUALIZED BURDEN HOURS

Form	Respondents	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
Initial Questionnaire Telephone Script	Registered nurses, Social and community service managers, Health educators, and Social and Human service assistants.	1,200	1	7/60
Telephone Verification	Registered nurses, Social and community service managers, Health educators, and Social and Human service assistants.	11,135	1	6/60
Email Verification	Registered nurses, Health educators, Social and human service assistants, and Social and community service managers.	1,965	1	6/60

Jeffrey M. Zirger,
Lead, Information Collection Review Office, Office of Public Health Ethics and Regulations, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2026–05717 Filed 3–23–26; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Submission to OMB for Review and Approval; Public Comment Request; Bureau of Health Workforce Performance Data Collection, OMB No. 0906–0086–Revision

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, HRSA submitted an Information Collection Request (ICR) to the Office of Management and Budget (OMB) for review and approval. Comments submitted during the first public review of this ICR will be provided to OMB. OMB will accept further comments from the public during the review and approval period. OMB may act on HRSA's ICR only after the 30-day comment period for this notice has closed.

DATES: Comments on this ICR should be received no later than April 23, 2026.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: To request a copy of the clearance requests submitted to OMB for review, email Samantha Miller, the HRSA Information Collection Clearance Officer, at *paperwork@hrsa.gov* or call (301) 443–3983.

SUPPLEMENTARY INFORMATION:

Information Collection Request Title: Bureau of Health Workforce Performance Data Collection, OMB No. 0906–0086–Revision.

Abstract: Over 50 Bureau of Health Workforce programs award grants to health professions schools and training programs across the United States to develop, expand, and enhance training, and to strengthen the distribution of the health workforce. These programs are governed by Titles III, VII, and VIII of the Public Health Service Act. Performance information is collected in the HRSA Performance Report for Grants and Cooperative Agreements. Data collection activities consisting of an annual progress report and an annual performance report satisfy statutory and programmatic requirements for performance measurement and evaluation (including specific Titles III, VII and VIII requirements), as well as the Government Performance and Results Modernization Act of 2010 and the Foundations for Evidence-Based Policymaking Act of 2018 requirements. The performance measures were last revised in 2023 to ensure they addressed programmatic changes, met evolving program management needs, and responded to emerging workforce concerns. Measures were then updated in 2025 to better reflect agency priorities. HRSA will continue with its current performance management strategy and make additional changes that reduce burden, simplify reporting, reflect new legislative or Department of Health and Human Services priorities, and enable longitudinal analysis of program performance. To reduce reporting burden, HRSA will remove four complex interrelated forms and more than 50 questions that are no longer needed. To simplify reporting on the individual characteristics form, four questions will be consolidated into two. HRSA will also amend four training and employment questions to ensure consistent reporting across forms and key outcomes measures are captured. Additionally, the data collection forms will be revised for compliance with OMB's Statistical Policy Directive No. 15. Lastly, the progress report will be updated to include a new summary information section with five questions to capture outcomes at project closeout.

A 60-day notice published in the **Federal Register** on January 8, 2026, vol. 91, No. 5; pp. 713–714. There were no public comments.

Need and Proposed Use of the Information: The purpose of the proposed data collection is to continue analysis and reporting of grantee training activities and education, identify details about the practice locations where trainees work after program completion, and report outcomes of funded initiatives. Data collected from these grant programs will also provide a description of the program activities of approximately 1,968 reporting grantees to inform policymakers on the barriers, opportunities, and outcomes involved in health care workforce development. The proposed measures focus on four key outcomes: (1) increasing the workforce supply of well-educated practitioners in needed professions, (2) increasing the number of practitioners that practice in underserved and rural areas, (3) enhancing the quality of education, and (4) supporting educational infrastructure to increase the capacity to train more health professionals in high demand areas.

Likely Respondents: Respondents are grantees of Bureau of Health Workforce health professions grant programs.

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose, or provide the information requested. This includes the time needed to review instructions; to develop, acquire, install, and utilize technology and systems for the purpose of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information; to search data sources; to complete and review the collection of information; and to transmit or otherwise disclose the information. The total annual burden hours estimated for this ICR are summarized in the table below.

TOTAL ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Number of respondents	Number of responses per respondent	Total responses	Average burden per response (in hours)	Total burden hours
Direct Financial Support Program	602	1	602	2.7	1,625.4
Infrastructure Program	159	1	159	4.1	651.9

TOTAL ESTIMATED ANNUALIZED BURDEN HOURS—Continued

Form name	Number of respondents	Number of responses per respondent	Total responses	Average burden per response (in hours)	Total burden hours
Multipurpose or Hybrid Program	1,207	1	1,207	2.8	3,379.6
Total	1,968		1,968		5,656.9

Maria G. Button,

Director, Executive Secretariat.

[FR Doc. 2026–05671 Filed 3–23–26; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Proposed Collection: Public Comment Request; Information Collection Request Title: Rural Health Care Coordination Program Performance Improvement Measures, OMB No. 0906–0024—Revision

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services.

ACTION: Notice.

SUMMARY: In compliance with the requirement for opportunity for public comment on proposed data collection projects of the Paperwork Reduction Act of 1995, HRSA announces plans to submit an Information Collection Request (ICR), described below, to the Office of Management and Budget (OMB). Prior to submitting the ICR to OMB, HRSA seeks comments from the public regarding the burden estimate, below, or any other aspect of the ICR.

DATES: Comments on this ICR should be received no later than May 26, 2026.

ADDRESSES: Submit your comments to *paperwork@hrsa.gov* or mail the HRSA Information Collection Clearance Officer, Room 13N82, 5600 Fishers Lane, Rockville, Maryland 20857.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection plans and draft instruments, email *paperwork@hrsa.gov* or call Samantha Miller, the HRSA Information Collection Clearance Officer, at (301) 443–3983.

SUPPLEMENTARY INFORMATION: When submitting comments or requesting information, please include the ICR title for reference.

Information Collection Request Title: Rural Health Care Coordination Program Performance Improvement Measures, OMB No. 0906–0024—Revision.

Abstract: The Rural Health Care Coordination (Care Coordination) Program is authorized under 42 U.S.C. 254c(e) (section 330A(e) of the Public Health Service Act) to promote rural health care services outreach by improving and expanding the delivery of health care services through comprehensive care coordination strategies addressing a primary focus area: (1) heart disease, (2) cancer, (3) chronic lower respiratory disease, (4) stroke, or (5) maternal health. HRSA currently collects information about Care Coordination Program grants using an OMB-approved set of performance measures and seeks to revise that approved collection. The proposed changes are a result of keeping this instrument relevant, responsive to the Care Coordination Program needs, and to improve clarity and ease of reporting for respondents.

Need and Proposed Use of the Information: The purpose of the revised data collection is to assess Care Coordination Program awardees' progress in meeting the program goals and how well each awardee meets their community needs. Additionally, HRSA will be able to monitor and assess the impact of the Care Coordination Program and ensure that funds are effectively used to provide services that meet the needs of the awardees' target population(s).

HRSA revised the performance measures that Care Coordination Program awardees will submit to HRSA on an annual basis. The proposed changes include adding one additional response option for the race/ethnicity measures, one additional measure in the Leadership and Workforce Composition section, modifying the text of an existing measure to enhance clarity, and correcting the units of measurement on two existing measures.

There is a proposed increase in the estimated total burden hours compared to the current approved information collection. The increase in burden is to account for changes to the instruments and the time it takes for awardees to refine their existing processes to coordinate and collect data from their partner organizations. These organizations vary in data collection and reporting capacity as well as in the number of member organizations each must coordinate with to report this data to HRSA. The amount of time it takes to build processes to coordinate and collect data from network partners will vary. Larger networks with multiple partners across different organizations are likely to report higher burdens due to the wait time in between coordinating data requests. Networks that already have established working relationships with member organizations may have existing processes in place to effectively collect data for this program.

Likely Respondents: Respondents will be the Care Coordination Program award recipients.

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose, or provide the information requested. This includes the time needed to review instructions; to develop, acquire, install, and utilize technology and systems for the purpose of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information; to search data sources; to complete and review the collection of information; and to transmit or otherwise disclose the information. The total annual burden hours estimated for this ICR are summarized in the table below.

TOTAL ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Number of respondents	Number of responses per respondent	Total responses	Average burden per response (in hours)	Total burden hours
Rural Health Care Coordination Performance Measures	10	1	10	58.18	581.80
Total	10	1	10	58.18	*581.80

* **Note:** Total Burden Hours round up to 582.

HRSA specifically requests comments on (1) the necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Maria G. Button,

Director, Executive Secretariat.

[FR Doc. 2026–05663 Filed 3–23–26; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Submission for OMB Review; 30-Day Comment Request; National Institutes of Health (NIH) Loan Repayment Programs, (Office of the Director)

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request for review and approval of the information collection listed below.

DATES: Comments regarding this information collection are best assured of having their full effect if received by April 23, 2026.

ADDRESSES: Written comments and recommendations for the proposed information collection should be sent to *www.reginfo.gov/public/do/PRAMain.* Find this particular information collection by selecting ''Currently under 30-day Review—Open for Public Comments'' or by using the search function.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact: Matthew Lockhart, Director, Division of Loan Repayment, National Institutes of Health, 6705 Rockledge Dr, 8th Floor (MSC 7963), Bethesda, Maryland 20892–7963 or email your request, including your address to *matthew.lockhart@nih.gov* or call (240) 380–3062. Formal requests for additional plans and instruments must be requested in writing.

SUPPLEMENTARY INFORMATION: This proposed information collection was previously published in the **Federal Register** on December 23, 2025, page numbers 60110–60111 (87 FR 60110) and allowed 60 days for public comment. No public comments were received. The purpose of this notice is to allow an additional 30 days for public comment. The NIH may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

Proposed Collection: Loan Repayment Programs (LRP), 0925–0361, expiration date 03/31/26, EXTENSION, Office of the Director (OD), National Institutes of Health.

Need and Use of Information Collection: The NIH makes available financial assistance, in the form of educational loan repayment, to M.D., Ph.D., Pharm.D., Psy.D., D.O., D.D.S., D.M.D., D.P.M., DC, N.D., O.D., D.V.M, or equivalent doctoral degree holders who perform biomedical or behavioral research in NIH intramural laboratories or as extramural grantees or scientists funded by domestic non-profit organizations for a minimum of two years (three years for the General Research subcategory) in research areas supporting the mission and priorities of the NIH. The information proposed for collection will be used by the DLR to determine an applicant's eligibility for the program.

OMB approval is requested for 3 years. There are no costs to respondents other than their time. The total estimated annualized burden hours are 20,8020.

ESTIMATED ANNUALIZED BURDEN HOURS

Form name	Type of respondent	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total annual burden hours
Applicant	Applicants	2,070	1	8	16,560
Recommender	Recommenders	8,080	1	30/60	4,040
Institutional Business Officer	Institutional Business Officer	2,000	1	5/60	167
NIH LRP Coordinator	NIH LRP Coordinator	70	1	30/60	35
Total	.....	12,220	12,220	.....	20,802

Dated: March 20, 2026.

Jon Lorsch,

Deputy Director for Extramural Research, Office of the Director, National Institutes of Health.

[FR Doc. 2026–05738 Filed 3–23–26; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Request for Information (RFI): Inviting Comments and Suggestions on a Framework for the NIH-Wide Strategic Plan for Fiscal Years 2027–2031

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: This Request for Information (RFI) is intended to gather broad public input to assist the National Institutes of Health (NIH) in developing the NIH-Wide Strategic Plan for Fiscal Years 2027–2031 (FY27–FY31). NIH invites input from stakeholders throughout the scientific research, advocacy, and clinical practice communities, as well as the general public, regarding the proposed framework for the FY27–FY31 NIH-Wide Strategic Plan. Organizations are strongly encouraged to submit a single response that reflects the views of their organization and their membership as a whole.

DATES: Comments regarding this information collection are best assured of having their full effect if received by May 26, 2026.

ADDRESSES: All comments must be submitted electronically on the submission website, available at *https://rfi.grants.nih.gov/?s=6998c3a23eb404a3e80e8212.*

FOR FURTHER INFORMATION CONTACT: Please direct all inquiries to: Marina Volkov, *nihstrategicplan@od.nih.gov,* 301.496.4147.

SUPPLEMENTARY INFORMATION: The purpose of the NIH-Wide Strategic Plan is to communicate how NIH will advance its mission to support research in pursuit of fundamental knowledge about the nature and behavior of living systems, and the application of that knowledge to enhance health, lengthen life, and reduce illness and disability.

The current NIH-Wide Strategic Plan (available at: *https://www.nih.gov/about-nih/nih-wide-strategic-plan*), covering FY21–FY25, was submitted to Congress in July 2021. As part of implementing the *21st Century Cures Act (Pub. L. 114–255),* NIH will update its Strategic Plan, no more than once every six years. The agency is currently developing the NIH-Wide Strategic Plan for FY27–FY31 and anticipates releasing it early FY27.

The NIH-Wide Strategic Plan highlights NIH's approach towards the achievement of its mission while ensuring good stewardship of taxpayer funds. It is not intended to outline the myriads of important research opportunities for specific diseases or conditions. Nor will it focus on the specific research missions of each component Institute, Center and Office. Those opportunities are found within strategic plans that are specific to an Institute, Center, or Office, or specific to a particular disease or disorder. A list of Institute, Center, or Office-specific, topical, and other NIH-wide or interagency strategic plans is available at *https://report.nih.gov/strategicplans/.*

The Framework for the NIH-Wide Strategic Plan for FY27–FY31, below, articulates NIH's priorities in three key areas: biomedical and behavioral science research; scientific research capacity; and scientific research operations. These Priorities apply across NIH.

NIH-Wide Strategic Plan Framework

Priority 1: Research Areas

- Goal 1: Advance Foundational Knowledge of Human Health and Disease
- Goal 2: Prevent Disease and Promote Health Across the Lifespan
- Goal 3: Advance and Optimize Interventions, Treatments, and Cures

Priority 2: Research Capacity

- Goal 1: Develop and Sustain an Interdisciplinary Research Workforce
- Goal 2: Build, Improve, and Sustain Research Resources and Infrastructure

Priority 3: Research Operations

- Goal 1: Enhance Scientific Stewardship and Decision-Making
- Goal 2: Foster Transparency and Accountability to Improve Public Trust in Science

The NIH seeks comments on, but not limited to, NIH's Goals across the three Priorities articulated in the framework—including potential benefits, drawbacks, opportunities, or challenges, and other areas of focus for consideration.

NIH encourages organizations (*e.g.,* patient advocacy groups, professional organizations) to submit a single response reflective of the views of the organization or membership as a whole.

Responses to this RFI are voluntary and may be submitted anonymously. Please do not include any personally identifiable information or any information that you do not wish to make public. Proprietary, classified, confidential, or sensitive information should not be included in your response. The Government will use the information submitted in response to this RFI at its discretion. The Government reserves the right to use any submitted information on public websites, in reports, in summaries of the state of the science, in any possible resultant solicitation(s), grant(s), or cooperative agreement(s), or in the development of future funding opportunity announcements. This RFI is for informational and planning purposes only and is not a solicitation for applications or an obligation on the part of the Government to provide support for any ideas identified in response to it. Please note that the Government will not pay for the preparation of any information submitted or for use of that information.

We look forward to your input and hope that you will share this RFI opportunity with your colleagues.

Dated: March 17, 2026.

Matthew J. Memoli,

Principal Deputy Director, National Institutes of Health.

[FR Doc. 2026–05734 Filed 3–23–26; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of the Director, Notice of Charter Renewal

In accordance with Title 41 of the U.S. Code of Federal Regulations, Section 102–3.65(a), notice is hereby given that the charter for the National Cancer Institute Clinical Trials and Translational Research Advisory Committee (CTAC) is being renewed for an additional two-year period on April 14, 2026.

It is determined that the CTAC is in the public interest in connection with the performance of duties imposed on the National Institutes of Health by law, and that these duties can best be performed through the advice and counsel of this group.

The Public Interest Determination follows:

National Institutes of Health

National Cancer Institute Clinical Trials and Translational Research Advisory Committee (CTAC)

Public Interest Determination

Pursuant to 41 CFR 102–3.60(a), to establish, renew, reestablish, or merge a discretionary (agency discretion) advisory committee, an agency must first consult with the General Services Administration's Committee Management Secretariat (the Secretariat) and, as part of the consultation, provide a written public interest determination approved by the head of the agency to the Secretariat with a copy to the Office of Management and Budget. In addition, pursuant to 41 CFR 102–3.35, an agency shall follow the same consultation process and document in writing the same determination of need before creating a subcommittee under a discretionary committee that is not made up entirely of members of a parent advisory committee.

Information on the following factors for the committee is provided to the Secretariat to demonstrate that renewing the committee is in the public interest:

1. *Annual budget:* The projected total committee cost for FY 2026 is $121,213.

a. *Federal personnel on a full-time equivalent (FTE) basis:* The estimated annual person-years of staff support required is 0.4 FTE at an estimated annual cost of $83,355.

b. *Other Federal internal costs:* The estimated annual cost of other Federal internal expenses is $4,727.

c. *Proposed payments to members:* The estimated annual payments for 19 non-Federal members are $4,600. The estimated prorated salary of two Federal members is $1,496.

d. *Proposed number of members:* The committee will consist of up to 25 non-Federal members, in addition to Federal ex officio members.

e. *Reimbursable costs:* The estimated reimbursable costs, including members' travel expenses, are $27,035.

2. *If applicable, the total dollar value of grants expected to be recommended during the fiscal year:* N/A.

3. *Criteria for selecting members to ensure the committee has the necessary expertise and fairly balanced membership:*

The Committee will consist of up to 25 non-Federal members appointed by the National Cancer Institute (NCI) Director as well as Federal ex officio members. Non-Federal members must be eligible to serve as Special Government Employees (SGEs) and will serve as SGEs as defined by 18 U.S.C. § 202.

The Chair will be selected by the NCI Director from among the non-Federal members. When necessary, up to four members may hold concurrent membership on the National Cancer Advisory Board and/or the NCI Board of Scientific Counselors.

Members will be recognized authorities knowledgeable in fields including community oncology; surgical, medical, radiation, and pediatric oncology; patient advocacy; extramural clinical investigation; regulatory agencies; pharmaceutical industry; public health; clinical trial design, management, and evaluation; drug development and developmental therapeutics; cancer education; cancer information services; community outreach; vaccine development; cellular and molecular oncology; clinical, basic, and translational research; cancer center administration; cancer biology and diagnosis; cancer epidemiology; chemotherapy; oncology health care delivery; pharmacology; pathology; biostatistics; quality of life; health care outcomes; pain management; cancer treatment and restorative care; and education of health professionals.

Non-Federal members, including the Chair, may serve overlapping five-year terms. Members serving concurrently on the National Cancer Advisory Board or the NCI Board of Scientific Counselors will serve no longer than the duration of their respective board terms. An appointed member may continue to serve after term expiration until a successor is appointed.

Non-voting ex officio members may include officials from the Food and Drug Administration (FDA), Centers for Medicare & Medicaid Services (CMS), Department of Defense (DoD), Department of Veterans Affairs (VA), and other Federal officials as appointed by the NCI Director.

4. List of all other Federal advisory committees of the agency:

- Advisory Committee on Research on Women's Health
- Advisory Committee to the Director, National Institutes of Health
- Advisory Council on Parkinson's Research, Care and Services
- Aging and Neurodegeneration Integrated Review Group
- AIDS Research Advisory Committee, NIAID
- Applied Immunology and Disease Control Integrated Review Group
- Applied Therapeutics for Cancer Integrated Review Group
- Biobehavioral and Behavioral Processes Integrated Review Group
- Bioengineering Sciences & Technologies Integrated Review Group
- Biological Chemistry and Macromolecular Biophysics Integrated Review Group
- Board of Regents of the National Library of Medicine
- Board of Scientific Counselors Eunice Kennedy Shriver National Institute of Child Health and Human Development
- Board of Scientific Counselors National Human Genome Research Institute
- Board of Scientific Counselors of the National Heart, Lung, and Blood Institute
- Board of Scientific Counselors of the NIH Clinical Center
- Board of Scientific Counselors, Division of Translational Toxicology
- Board of Scientific Counselors, National Cancer Institute
- Board of Scientific Counselors, National Center for Complementary and Integrative Health
- Board of Scientific Counselors, National Eye Institute
- Board of Scientific Counselors, National Institute of Arthritis and Musculoskeletal and Skin Diseases
- Board of Scientific Counselors, National Institute of Biomedical Imaging and Bioengineering
- Board of Scientific Counselors, National Institute of Dental and Craniofacial Research
- Board of Scientific Counselors, National Institute of Diabetes and Digestive and Kidney Diseases
- Board of Scientific Counselors, National Institute of Environmental Health Sciences
- Board of Scientific Counselors, National Institute of Mental Health
- Board of Scientific Counselors, National Institute of Neurological Disorders and Stroke
- Board of Scientific Counselors, National Institute on Aging
- Board of Scientific Counselors, National Institute on Alcohol Abuse and Alcoholism
- Board of Scientific Counselors, National Institute on Deafness and Other Communication Disorders
- Board of Scientific Counselors, National Institute on Drug Abuse
- Board of Scientific Counselors, National Institute on Minority Health and Health Disparities and National Institute of Nursing Research
- Board of Scientific Counselors, National Library of Medicine
- Brain Disorders and Clinical Neuroscience Integrated Review Group
- Cardiovascular and Respiratory Sciences Integrated Review Group
- Cell Biology Integrated Review Group
- Center for Scientific Review Special Emphasis Panel

- Council of Councils
- Cures Acceleration Network Review Board
- Digestive, Kidney and Urological Systems Integrated Review Group
- Division of Intramural Research Board of Scientific Counselors National Institute of Allergy and Infectious Diseases
- Emerging Technologies and Training Neurosciences Integrated Review Group
- Endocrinology, Metabolism, Nutrition and Reproductive Sciences Integrated Review Group
- Fogarty International Center Advisory Board
- Genes, Genomes, and Genetics Integrated Review Group
- Healthcare Delivery and Methodologies Integrated Review Group
- Infectious Diseases and Immunology A Integrated Review Group
- Infectious Diseases and Immunology B Integrated Review Group
- Integrative, Functional and Cognitive Neuroscience Integrated Review Group
- Interagency Autism Coordinating Committee
- Interagency Pain Research Coordinating Committee
- Interdisciplinary Molecular Sciences and Training Integrated Review Group
- Molecular, Cellular and Developmental Neuroscience Integrated Review Group
- Muscular Dystrophy Coordinating Committee
- Musculoskeletal, Oral, and Skin Sciences Integrated Review Group
- National Advisory Allergy and Infectious Diseases Council
- National Advisory Board on Medical Rehabilitation Research
- National Advisory Child Health and Human Development Council
- National Advisory Council for Biomedical Imaging and Bioengineering
- National Advisory Council for Complementary and Integrative Health
- National Advisory Council for Human Genome Research
- National Advisory Council for Nursing Research
- National Advisory Council on Aging
- National Advisory Council on Alcohol Abuse and Alcoholism
- National Advisory Council on Drug Abuse
- National Advisory Council on Minority Health and Health Disparities
- National Advisory Dental and Craniofacial Research Council
- National Advisory Environmental Health Sciences Council
- National Advisory Eye Council
- National Advisory General Medical Sciences Council
- National Advisory Mental Health Council
- National Advisory Neurological Disorders and Stroke Council
- National Arthritis and Musculoskeletal and Skin Diseases Advisory Council
- National Cancer Advisory Board
- National Cancer Institute Clinical Trials and Translational Research Advisory Committee
- National Cancer Institute Council of Research Advocates
- National Center for Advancing Translational Sciences Advisory Council
- National Deafness and Other Communication Disorders Advisory Council
- National Diabetes and Digestive and Kidney Diseases Advisory Council
- National Heart, Lung, and Blood Advisory Council
- National Science Advisory Board for Biosecurity
- National Toxicology Program Board of Scientific Counselors
- National Toxicology Program Special Emphasis Panel
- NIH Clinical Center Research Hospital Board
- Office of AIDS Research Advisory Council
- Office of Research Infrastructure Programs Special Emphasis Panel
- Oncology 1-Basic Translational Integrated Review Group
- Oncology 2-Translational Clinical Integrated Review Group
- Population Sciences and Epidemiology Integrated Review Group
- President's Cancer Panel
- Risk, Prevention and Health Behavior Integrated Review Group
- Scientific Advisory Committee on Alternative Toxicological Methods
- Scientific and Technical Review Board on Biomedical and Behavioral Research Facilities
- Scientific Management Review Board
- Sickle Cell Disease Advisory Committee
- Sleep Disorders Research Advisory Board
- Social and Community Influences on Health Integrated Review Group
- Surgical Sciences, Biomedical Imaging and Bioengineering Integrated Review Group
- Vaccine Research Center Board of Scientific Counselors National Institute of Allergy and Infectious Diseases
- Vascular and Hematology Integrated Review Group

5. Justification that the information or advice provided by the Federal advisory committee or subcommittee is not available from another Federal advisory committee, another Federal Government source, or any other more cost-effective and less burdensome source.

CTAC is essential to the conduct of NCI and NIH agency business because it provides independent, expert scientific and programmatic advice to the NCI Director on the conduct, oversight, and implementation of the clinical trials and translational research enterprise, which is one of NCI's largest and most complex investment of public funds. It is the only programmatic cancer-related advisory committee whose sole focus is clinical trials and translational research. CTAC was formed pursuant to a 2005 recommendation from the National Cancer Advisory Board for NCI to establish a committee dedicated to clinical trials, given NCI's large investment in this area of research. Other NCI boards and committees do not have the expertise needed to provide in-depth, enterprise-wide advice to ensure accountability and optimal use of taxpayer dollars for NCI's clinical trials networks and associated infrastructure.

CTAC integrates key stakeholders to provide advice that will foster a collaborative, efficient, and innovative system that enables the timely translation of discoveries into benefits for cancer patients. No other Federal advisory committee has the same sole focus on NCI's clinical trials and translational research enterprise or provides coordinated, external advice in this area.

CTAC's current work strengthens the clinical trials enterprise by providing advice to help advance streamlined data collection, real-world data integration, and pragmatic trial design, supporting NIH priorities to reduce burden, improve efficiency, and accelerate innovative cancer prevention, early detection, and treatment approaches. CTAC serves the public interest by providing a transparent, independent forum through which advice is provided to the NCI Director, and visibility into NIH's cancer research activities is ensured. Meetings are open to the public, and membership includes a broad range of experts, including patient advocates.

6. If the consultation is a committee renewal, a summary of the previous accomplishments of the committee and the reasons it needs to continue

Since its inception, CTAC has played a central role in modernizing and improving the efficiency of NCI's federally funded clinical trials system.

The committee has provided invaluable advice on the restructuring of NCI's clinical trials networks, establishing timelines for initiating trials, harmonizing guidelines across programs, and evaluating clinical trials portfolios to enhance NCI's already-productive clinical trials program.

As the conduct of clinical trials has continued to evolve, CTAC has helped NCI to address emerging challenges through a continuous improvement approach and made important recommendations to NCI. CTAC recommendations have focused on operational efficiency, trial cost and complexity, prevention and symptom management, and health-related quality of life across the portfolio, while also reviewing NCI's clinical and translational research portfolios to identify gaps in recalcitrant cancers such as pancreatic, lung, gastric, and glioblastoma cancers. CTAC's recommendations have also informed scientific frameworks, strengthened programs in cancer screening, radiation oncology, quantitative imaging, and clinical trials informatics, and revolutionized government-sponsored clinical trials, enabling faster and more efficient delivery of outcomes to the American public.

CTAC's impact extends beyond NCI by advancing collaboration and improving clinical research practices across NIH and other federal agencies. The scientific framework CTAC recommended for pancreatic cancer led to cross-NIH collaborations, particularly for the early diagnosis of pancreatic cancer and understanding the role of diabetes in cancer etiology. NIH adopted principles of efficiency and centralized trial operations advanced by CTAC to strengthen clinical trial conduct. CTAC's advice also helped NCI to establish the NCI–VA Interagency Group to Accelerate Trials Enrollment (NAVIGATE), which contributed approximately 400 enrollments to NCI trials in 2025 and expanded Veterans' access to cancer clinical trials.

If CTAC were discontinued, key stakeholders in clinical trials and translational research would lose a voice in providing input on NCI's scientific programs and initiatives, creating a void in NIH's ability to better serve the public and achieve the administration's goal of understanding and lowering chronic disease rates across the cancer control spectrum, including prevention, early detection, and treatment.

7. Explanation of why the committee/subcommittee is essential to the conduct of agency business

CTAC is essential to the conduct of NCI and NIH agency business because it provides independent and expert advice that directly informs how NCI manages its clinical trials and translational research enterprise, an area that represents one of NCI's largest and most complex investments of public funds. CTAC provides advice to the NCI Director on the conduct, oversight, and implementation of clinical trials and translational research across the Institute by providing broad scientific and programmatic advice on the investment of taxpayer dollars.

CTAC supports NCI's statutory mission and aligns with the current administration's priorities by supporting a strong and efficient cancer clinical trials research enterprise. Through independent, expert advice on NCI-supported clinical trials and translational research across the cancer control continuum, CTAC advances efforts to reduce the burden of chronic disease, enhances transparency and stewardship of NIH's cancer research investments, and promotes research aimed at lowering cancer rates and improving population health.

In conclusion, this public interest determination documents that renewing the committee is in the public interest, essential to the conduct of agency business, and that the information to be obtained is not already available through another advisory committee or source within the Federal Government.

Inquiries may be directed to Patricia Brandt Hansberger, Acting Director, Office of Federal Advisory Committee Policy, Office of the Director, National Institutes of Health, 6701 Democracy Boulevard, Suite 1000, Bethesda, Maryland 20892 (Mail code 4875), Telephone (301) 496–2123, or *patricia.hansberger@nih.gov.*

Dated: March 20, 2026.

David W. Freeman,

Supervisory Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2026–05694 Filed 3–23–26; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Deafness and Other Communication Disorders; Notice of Closed Meetings

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of meetings of the Board of Scientific Counselors, National Institute on Deafness and Other Communication Disorders.

The meetings will be closed to the public as indicated below in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual grant applications conducted by the National Institute On Deafness And Other Communication Disorders, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors, National Institute on Deafness and Other Communication Disorders.

Date: April 27, 2026.

Time: 9:30 a.m. to 5:25 p.m.

Agenda: To review and evaluate personnel qualifications and performance, and competence of individual investigators.

Address: National Institutes of Health, Porter Neuroscience Research Center, Building 35A, Room 610, 35 Convent Drive, Bethesda, MD 20892.

Meeting Format: In Person and Virtual Meeting.

Contact Person: Lisa L. Cunningham, Ph.D., Scientific Director, National Institute on Deafness, and Other Communication Disorders, National Institutes of Health, 35A Convent Drive, Rockville, MD 20850, (301) 443–2766, *lisa.cunningham@nih.gov.*

Name of Committee: Board of Scientific Counselors, National Institute on Deafness and Other Communication Disorders.

Date: May 1, 2026.

Time: 10:00 a.m. to 3:45 p.m.

Agenda: To review and evaluate personnel qualifications and performance, and competence of individual investigators.

Address: National Institutes of Health, Porter Neuroscience Research Center, Building 35A, 35 Convent Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Lisa L. Cunningham, Ph.D., Scientific Director, National Institute on Deafness, and Other Communication Disorders, National Institutes of Health, 35A Convent Drive, Rockville, MD 20850, (301) 443–2766, *lisa.cunningham@nih.gov.*

In the interest of security, NIH has procedures at *https://security.nih.gov/visitors/Pages/visitor-campus-access.aspx* for entrance into on-campus and off-campus facilities. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors attending a meeting on campus or at an off-campus federal facility will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Information is also available on the Institute's/Center's home page: *https://www.nidcd.nih.gov/about/advisory-committees,* where an agenda and any

additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.173, Biological Research Related to Deafness and Communicative Disorders, National Institutes of Health, HHS)

Dated: March 19, 2026.

Rosalind M. Niamke,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2026–05672 Filed 3–23–26; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 1009 of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Health Services and Systems: Career Development Award Grant Review: Clinical Informatics, Digital Health Tools, and Healthcare Policies for Health Services.

Date: April 17, 2026.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Weiqun Li, MD, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 105–G, Bethesda, MD 20892, 301–594–5966, *wli@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Topics in Clinical Data Management, Analysis, Informatics and Digital Health B.

Date: April 17, 2026.

Time: 9:00 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health Rockledge II 6701 Rockledge Drive Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Siddhartha Shankar Roy, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, 706–373–3901, *royss@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Kidney and Urological Diseases.

Date: April 17, 2026.

Time: 9:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health Rockledge II 6701 Rockledge Drive Bethesda, MD 20892

Meeting Format: Virtual Meeting.

Contact Person: Ganesan Ramesh, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2182 MSC 7818, Bethesda, MD, 20892 301–827–5467, *ganesan.ramesh@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Mentored Research Scientist Development.

Date: April 17, 2026.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive. Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Jolanta Maria Topczewska, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 710–E, Bethesda, MD 20892, 301–451–0000, *jolanta.topczewska@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Mentored Career Development Awards in Social and Community Influences Research Panel A.

Date: April 17, 2026.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Deborah Ismond, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, 301–594–5633, *deborah.ismond@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Program Projects: NIDA Center of Excellence Grant Program.

Date: April 17, 2026.

Time: 10:00 a.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: David E. Pollio, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1006F, Bethesda, MD 20892, 301–594–4002, *polliode@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Program Project: Cancer Research.

Date: April 17, 2026.

Time: 12:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Frank S. De Silva, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 710–J, Bethesda, MD 20892, 240–669–5023, *fdesilva@niaid.nih.gov.*

Name of Committee: Genes, Genomes, and Genetics Integrated Review Group; Prokaryotic Cell and Molecular Biology Study Section.

Date: April 20, 2026.

Time: 8:00 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health Rockledge II 6701 Rockledge Drive Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Rebecca Catherine Burgess, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, 301–480–8034, *rebecca.burgess@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Cardiovascular Research.

Date: April 20, 2026.

Time: 9:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Nawazish Ali Naqvi, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, 301–827–7911, *nawazish.naqvi@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Clinical Endocrinology.

Date: April 20, 2026.

Time: 9:00 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Address: National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892.

Meeting Format: Virtual Meeting.

Contact Person: Tori Stone, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 713–A, Bethesda, MD 20892, 301–594–7549, *tori.stone@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: March 19, 2026.

Denise M. Santeufemio,

Supervisory Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2026–05673 Filed 3–23–26; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[A2407–014–004–065516; #O2412–014–004–047181.1]

Direct Sale of Public Land for Affordable Housing Purposes in the City of Henderson, Nevada

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action.

SUMMARY: The Bureau of Land Management (BLM) proposes to sell an 18.59-acre parcel of public land located in the west portion of Henderson, Nevada, under the authority of section 203 of the Federal Land Policy and Management Act of 1976, as amended (FLPMA); applicable BLM land sale regulations; and the Southern Nevada Public Land Management Act of 1998, as amended (SNPLMA). The BLM intends to conduct a direct sale of the parcel to the City of Henderson, a political subdivision of the State of Nevada, at less than the appraised fair market value, for affordable housing purposes, consistent with section 7(b) of the SNPLMA and applicable BLM policy.

DATES: Submit written comments regarding this direct sale until May 8, 2026.

ADDRESSES: Mail written comments to the BLM Las Vegas Field Office, Assistant Field Manager, Division of Lands, 4701 North Torrey Pines Drive, Las Vegas, Nevada 89130.

FOR FURTHER INFORMATION CONTACT: Stephen (Brad) Gallimore, Supervisory Realty Specialist, email at *BLM_NV_LVFO_LandTenureTeam@blm.gov* or by telephone at (702) 515–5017. For general information about BLM affordable housing land disposals, visit: *https://www.blm.gov/snplma.*

Information concerning the affordable housing sale parcel—including encumbrances of record, appraisals, reservations, procedural requirements, conditions, and documentation related to the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. 9620(h)—as well as other environmental records, are available for public review by appointment during business hours, Monday through Friday, 8 a.m. to 4 p.m. Pacific Time, excluding federal holidays, at the BLM Las Vegas Field Office.

Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or Tele Braille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The City of Henderson has nominated this parcel of case file number NVNV106335451 for direct sale under applicable BLM authorities to support the development of the proposed West Henderson Affordable Housing Apartments. In Nevada, affordable housing land disposals are conducted pursuant to section 7(b) of the SNPLMA (Pub. L. 105–263) and in accordance with BLM Instruction Memorandum (IM) NV–2025–007, which establishes a nominal disposal price of $100 per acre for eligible nominations during fiscal year 2025, representing a price below fair market value.

For purposes of SNPLMA, affordable housing must serve low-income families, as defined in section 104 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12704). Under this definition, ''low-income families'' are those whose incomes do not exceed 80 percent of the Area Median Income (AMI), as determined annually by the U.S. Department of Housing and Urban Development (HUD).

The subject public lands are legally described as:

Mount Diablo Meridian, Nevada

T. 23 S., R. 61 E.,
Sec. 16, W½SW¼SW¼NW¼NW¼NW¼, SE¼SW¼SW¼NW¼NW¼NW¼, W½NE¼NW¼SW¼NW¼NW¼, W½NW¼SW¼NW¼NW¼, W½SE¼NW¼SW¼NW¼NW¼, W½NE¼SW¼SW¼NW¼NW¼, NW¼SW¼SW¼NW¼NW¼, N½SW¼SW¼SW¼NW¼NW¼, and SW¼SW¼SW¼SW¼NW¼NW¼;
Sec. 17, S½SE¼NW¼NE¼NE¼NE¼, SW¼NE¼NE¼NE¼, SW¼NE¼SE¼NE¼NE¼NE¼, NW¼SE¼NE¼NE¼NE¼, S½SE¼NE¼NE¼NE¼, and SE¼NE¼NE¼.

The area described contains 18.59 acres, according to the official plats of the surveys of the said land on file with the BLM.

This direct sale is in conformance with the BLM Las Vegas Resource Management Plan, Record of Decision LD–1, approved on October 5, 1998. The parcel was previously analyzed in the Las Vegas Valley Disposal Boundary Environmental Impact Statement and Record of Decision, issued on December 23, 2004, and further evaluated in the Las Vegas In-Valley Area Multi-Action Analysis Environmental Assessment (DOI–BLM–NV–S010–2016–0054–EA), available at *https://eplanning.blm.gov/eplanning-ui/project/60096/510.*

A parcel-specific Determination of National Environmental Policy Act (NEPA) Adequacy (DOI–BLM–NV–S010–2025–0043–DNA) has been completed in connection with this Notice of Realty Action. The parcel has been reviewed and determined not to be required for any Federal purpose.

Under section 7(b) of the SNPLMA, the Secretary of the Interior—acting in consultation with the Secretary of HUD—may authorize the conveyance of BLM-administered public lands in the State of Nevada for affordable housing purposes at less than fair market value.

Pursuant to IM NV–2025–007, *Fiscal Year 2025 Price for Affordable Housing Land Disposals and Incorporation of the Memorandum of Understanding for Affordable Housing,* the BLM has established a nominal disposal price of $100 per acre for eligible affordable housing land nominations in Nevada during fiscal year 2025 (October 1, 2024, through September 30, 2025). This reduced, non-market-based rate reflects Federal policy to lower land acquisition costs to the minimum practicable level to support affordable housing development. The total sale price for the 18.59-acre parcel is $1,859. Although the conveyance will proceed at the established nominal rate, a formal appraisal will be conducted to determine the parcel's fair market value in accordance with Federal land disposal procedures.

The City of Henderson's nomination includes a comprehensive plan assessing the need for and feasibility of the proposed West Henderson Affordable Housing Apartments. As required under the SNPLMA section 7(b), HUD reviewed the nomination and, in a consultation letter dated July 2, 2024, confirmed that the project will dedicate 100 percent of the parcel to serve low- and very low-income families—defined as those earning 60 percent or less of the AMI. HUD further affirmed that both the project's location and intended use are consistent with section 7(b) of the SNPLMA and the Cranston-Gonzalez National Affordable Housing Act.

In accordance with 43 CFR 2710.0–3(a)(2), the BLM has determined that disposal of the subject parcel would

serve important public objectives, including the expansion of communities and economic development, which cannot be achieved prudently or feasibly on non-public lands, and which outweigh other public objectives and values. Therefore, because the tract would be sold to a local government, the BLM is offering the parcel by direct sale to the City of Henderson pursuant to 43 CFR 2711.3–3(a). The proposed use is further documented in the City's Disposition and Development Agreement for the West Henderson Affordable Housing Apartments.

Under SNPLMA section 4(c), lands located within the Las Vegas Valley Disposal Boundary are withdrawn from location and entry under the mining laws and from operation under the mineral leasing and geothermal leasing laws, subject to valid existing rights, until such time as the Secretary of the Interior terminates the withdrawal or the lands are patented.

Upon publication of this Notice in the **Federal Register**, the subject parcel will be segregated from all forms of appropriation under the public land laws, including the mining laws, except for the sale provisions of FLPMA. During the segregation period, the BLM will not accept new land use applications affecting the parcel. However, previously filed applications may still be processed if the BLM determines they would have no adverse effect on the marketability of title or the fair market value of the parcel. The segregative effect of this notice will terminate upon issuance of a patent or other conveyance document, or upon publication of a notice of termination in the **Federal Register**, whichever occurs first. The total segregation period may not exceed 2 years, unless extended by the BLM Nevada State Director in accordance with 43 CFR 2711.1–2(d).

The subject public land will not be offered for sale to the City of Henderson prior to 60 days from the date of publication of this notice in the **Federal Register**. In addition, this Notice of Realty Action will be published once a week for 3 consecutive weeks in the *Las Vegas Review-Journal* newspaper.

The patent, if issued, will be subject to the following covenants, terms, and conditions:

1. *Affordable Housing:* Pursuant to section 7(b) of Southern Nevada Public Land Management Act of 1998, as amended, the term ''affordable housing'' as used in this sale patent, means housing that serves low-income families as defined in section 104 of the Cranston-Gonzales National Affordable Housing Act (42 U.S.C. 12704).

2. *Certificate of Occupancy:* For purposes of this sale patent, the term ''Certificate of Occupancy'' means a document issued by a State or local governmental entity with jurisdiction upon completion of a structure designed and permitted for immediate occupancy after completion and final approval of all permitted work, including all planned residential living units. This term does not include temporary certificates which require a final certificate to be issued upon completion of all permitted work. Certificates of Occupancy are issued by the City of Henderson Building Official or Building Division in Henderson, Nevada.

3. *Covenant and Restriction:* The City of Henderson is hereby bound and covenants for itself and all successors-in-interest to use the land as approved by the U.S. Department of the Interior, the BLM in consultation with HUD, and as conveyed by this sale patent, only for affordable housing purposes. The City of Henderson further hereby covenants and binds itself and all successors-in-interest to develop the subject parcel according to a binding development agreement, also known as a Disposition and Development Agreement, between the City of Henderson and its co-developers that has received concurrence by the BLM in consultation with HUD. As in this patent, the agreement shall have a provision stating that in the event of any conflict between the terms of the agreement and the patent and applicable laws, the patent and applicable laws will control. This covenant will be deemed appurtenant to and to run with the land.

4. *Limited Reversion of Title:* If, at the end of 5 years from the date of this sale patent, except as provided herein, the affordable housing project described in the aforementioned development agreement between the City of Henderson and its co-developers is not authorized for residential occupancy through a final Certificate of Occupancy then, at the option of the United States, the lands, or parts thereof, will revert to the United States, or, in the alternative, the United States may require payment by the owner to the United States of the then-current fair market value. Patentee may request in writing to have additional time under this paragraph to obtain residential occupancy through a final Certificate of Occupancy. The United States, through the BLM, shall have sole discretion to grant or deny patentee's request.

5. *Time Limit:* The United States will retain the option to revert title to the land until a final Certificate of Occupancy is issued for the applicable affordable housing project.

6. *Fair Market Value:* The City of Henderson or then current landowner may request at any time to purchase the reserved interests of the United States at the then-current fair market value. The requestor will be responsible for paying all costs of the United States, which is under no obligation to agree to sell, to process such a request.

7. *Enforcement:* The covenant/use restriction and the limited reversionary interest may be enforced by the BLM or HUD, or their successors-in-interest, after reasonable notice, which includes an opportunity to cure any default within 90 days, to the City of Henderson and the landowner of record. If any necessary cure has not been completed and is shown to be impossible to complete by the end of the 90 days, and diligent and substantial efforts are underway to cure such default, a request for a reasonable extension of time to complete cure of such default may be considered by the BLM or HUD.

8. *Indemnification and Hold Harmless:* By accepting this sale patent, the City of Henderson, subject to the limitations of law and to the extent allowed by law, will be responsible for the acts or omissions of its officers, directors, and employees in connection with the use or occupancy of the patented real property. Upon transfer as described above, successors-in-interests to the City of Henderson of the patented real property, will indemnify, defend, and hold the United States harmless from any costs, damages, claims, causes of action, penalties, fines, liabilities, and judgments of any kind or nature arising from the past, present, and future acts or omissions of the successors-in-interest, or its employees, agents, contractors, or lessees, or any third-party, arising out of or in connection with the successor-in-interest's use, occupancy, or operations on the patented real property. This indemnification and hold harmless agreement includes, but is not limited to, acts and omissions of the successor-in-interest, and its employees, agents, contractors, or lessees, or any third party, arising out of or in connection with the use and/or occupancy of the patented real property which has already resulted or does hereafter result in: (1) Violations of Federal, State, and local laws and regulations that are now or may in the future become applicable to the real property; (2) Judgments, claims or demands of any kind assessed against the United States; (3) Costs, expenses, or damages of any kind incurred by the United States; (4) Other releases or threatened releases of solid or hazardous waste(s) and/or hazardous substances(s), as defined by Federal or

State environmental laws, off, on, into or under land, property and other interests of the United States; (5) Other activities by which solid or hazardous substances or wastes, as defined by Federal and State environmental laws are generated, released, stored, used or otherwise disposed of on the patented real property, and any cleanup response, remedial action or other actions related in any manner to said solid or hazardous substances or wastes; or (6) Natural resource damages as defined by Federal and State law. This covenant will be construed as running with the parcel of land patented or otherwise conveyed by the United States and may be enforced against successors-in-interest by the United States in a court of competent jurisdiction. No representation or warranty of any kind, express or implied, is given or will be given by the United States as to the title, the physical condition, or the past, present, or potential uses of the land proposed for sale. However, to the extent required by law, such land is subject to the requirements of section 120(h) of the Comprehensive Environmental Response Compensation and Liability Act, as amended 42 U.S.C. 9620(h).

9. Additional terms and conditions that the authorized officer deems appropriate. If patented, title to the land will be subject to the following reservations to the United States:

1. All minerals are reserved to the United States. Permittees, licensees, and lessees of the United States retain the right to prospect for, mine, and remove such leasable and saleable minerals under applicable law and any regulations prescribed by the Secretary of the Interior, together with all necessary rights of access and egress.

2. A right-of-way is reserved for ditches and canals constructed by authority of the United States under the Act of August 30, 1890 (43 U.S.C. 945).

3. A reversionary interest, as defined in the covenants, conditions, and restrictions referenced in this Notice.

In addition, title to the land will be subject to the following valid existing rights and encumbrances of record:

1. Valid existing rights, including but not limited to those documented on the BLM public land records at the time of sale;

2. A right-of-way for Federal highway roads, ditches, and canals to the Nevada Department of Transportation, its successors and assigns, by right-of-way number NVCC–0019435, pursuant to the provisions of section 17 of the Act of November 9, 1921 (42 Stat. 212);

3. A right-of-way for oil and gas pipeline granted to Calnev Pipeline Company, its successors and assigns, by right-of-way number NEV–056213, pursuant to the Act of February 15, 1901 (43 U.S.C. 959);

4. A right-of-way for oil and gas pipeline granted to Calnev Pipeline Company, its successors and assigns, by right-of-way number N–007100 pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C 185);

5. A right-of-way for Federal highway roads, ditches, and canals granted to Nevada Department of Transportation, its successors and assigns, by right-of-way number NEV–033732, pursuant to the provisions of section 17 of the Act of November 9, 1921 (23 U.S.C. 18);

6. A right-of-way for fiber optic line granted to MCI Communications Services, its successors and assigns, by right-of-way number N–43923, pursuant to title V of the Act of October 21, 1976 (43 U.S.C. 1761);

7. A right-of-way for fiber optic cable granted to Sprint Communication Company, its successors and assigns, by right-of-way number NV–47888, pursuant to title V of the Act of October 21, 1976 (43 U.S.C. 1761);

8. A right-of-way for underground fiber optic line granted to AT&T, its successors and assigns, by right-of-way number N–48572, pursuant to title V of the Act of October 21, 1976 (43 U.S.C. 1761);

9. A right-of-way for 15kV underground powerline granted to Nevada Power Company, its successors and assigns, by right-of-way number N–50538, pursuant to title V of the Act of October 21, 1976 (43 U.S.C. 1761);

10. A right-of-way for telephone distribution line granted to Sprint Central Telephone, its successors and assigns, by right-of-way number N–63157, pursuant to title V of the Act of October 21, 1976 (43 U.S.C. 1761);

11. A right-of-way for public roadway granted to Clark County Nevada, its successors and assigns, by right-of-way number N–76066, pursuant to title V of the Act of October 21, 1976 (43 U.S.C. 1761);

12. A right-of-way for underground water pipeline granted to Las Vegas Valley Water District, its successors and assigns, by right-of-way number N–78907, pursuant to title V of the Act of October 21, 1976 (43 U.S.C. 1761);

13. A right-of-way for temporary use granted to Las Vegas Valley Water District, its successors and assigns, by right-of-way number N–7890702, pursuant to title V of the Act of October 21, 1976 (43 U.S.C. 1761);

14. A right-of-way for temporary use granted to Las Vegas Valley Water District, its successors and assigns, by right-of-way number N–7890703, pursuant to title V of the Act of October 21, 1976 (43 U.S.C. 1761);

15. A right-of-way for paved roadway, drainage, trails, utilities, and related appurtenances granted to City of Henderson, its successors and assigns, by right-of-way number N–100527, pursuant to title V of the Act of October 21, 1976 (43 U.S.C. 1761);

16. A right-of-way for distribution line granted to NV Power Company, its successors and assigns, by right-of-way number NVNV106392735, pursuant to title V of the Act of October 21, 1976 (43 U.S.C. 1761);

17. A right-of-way for power transmission line granted to NV Power Company, its successors and assigns, by right-of-way number NVNV106695252, pursuant to title V of the Act of October 21, 1976 (43 U.S.C. 1761);

18. A right-of-way for temporary use granted to Ovation Design & Development Inc., its successors and assigns, by right-of-way number NVNV106715338, pursuant to title V of the Act of October 21, 1976 (43 U.S.C. 1761).

The parcel is subject to limitations prescribed by law and regulation, and certain encumbrances in favor of third parties.

The City of Henderson will have until 4 p.m. Pacific Time, 30 calendar days from the date of receiving the official sale offer, to submit a formal written offer to purchase the parcel. If the City of Henderson elects to proceed, the full purchase price must be received by the BLM Las Vegas Field Office no later than 30 calendar days from the date of the City of Henerson's receipt of the sale offer, regardless of when the formal offer is submitted. Payment must be made in U.S. dollars and submitted by certified check, postal money order, bank draft, cashier's check, or electronic funds transfer (EFT), payable to the ''Department of the Interior—Bureau of Land Management.'' If paying by EFT, arrangements must be made with the BLM at least 14 calendar days prior to the payment deadline to ensure processing. Failure to submit a timely offer or full payment by the stated deadline will result in the sale being voided, and any funds received will be forfeited to the United States.

In accordance with 43 CFR 2711.3–1(f), the BLM may accept or reject any offer to purchase or withdraw any parcel of land or interest therein from sale within 30 days, if the BLM authorized officer determines consummation of the sale would be inconsistent with any law, or for other reasons as may be provided by applicable law or regulations. No

contractual or other rights against the United States may accrue until the BLM officially accepts the offer to purchase and the full price is paid.

To the extent required by law, the parcel is subject to the requirements of section 120(h) of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. 9620(h), as amended. Accordingly, notice is hereby given that the lands have been examined, and no evidence was found to indicate that any hazardous substances have been stored for 1 year or more, nor that any hazardous substances have been disposed of or released on the subject properties.

It is the buyer's responsibility to be aware of all applicable Federal, State, and local government laws, regulations, and policies that may affect the subject land, including any required dedication of lands for public uses. It is also the buyer's responsibility to be aware of existing or prospective uses of nearby properties. When conveyed out of Federal ownership, the land will be subject to any applicable laws, regulations, and policies of the applicable local government for proposed uses. It is the responsibility of the buyer to be aware through due diligence of those laws, regulations, and policies, and to seek any required local approvals for uses. The buyer should make itself aware of any Federal or State law or regulation that may impact the use of the property.

Public comments regarding the sale may be submitted in writing to the address in the **ADDRESSES** section. Before including your address, phone number, email address, or other personally identifiable information in your comment, you should be aware that your entire comment—including any personally identifiable information—may be made publicly available at any time. While you can ask us in your comment to withhold your personally identifiable information from public review, we cannot guarantee that we will be able to do so.

Information concerning the sale parcel, including encumbrances of record, appraisal (when available), reservations, procedures and conditions, Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C 9620(h), and other environmental documents that may appear in the BLM public files for the sale parcel, are available for review.

Any comments regarding the proposed sale will be reviewed by the BLM Nevada State Director, who may sustain, vacate, or modify this realty action in response to such comments. In the absence of any adverse comments, this realty action will become the final determination of the Department of the Interior.

(Authority: 43 CFR 2711.1–2)

Bruce Sillitoe,

Field Manager, Las Vegas Field Office.

[FR Doc. 2026–05669 Filed 3–23–26; 8:45 am]

BILLING CODE 4331–21–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–499–500 and 731–TA–1215–1216, 1221–1223 (Second Review)]

Oil Country Tubular Goods From India, South Korea, Turkey, Ukraine, and Vietnam; Scheduling of Full Five-Year Reviews

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice of the scheduling of full reviews pursuant to the Tariff Act of 1930 to determine whether revocation of the countervailing duty orders on oil country tubular goods from India and Turkey and the antidumping duty orders on oil country tubular goods from India, South Korea, Turkey, Ukraine, and Vietnam would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. The Commission has determined to exercise its authority to extend the review period by up to 90 days.

DATES: March 18, 2026.

FOR FURTHER INFORMATION CONTACT: Jesse Sanchez ((202) 205–2402), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*https://www.usitc.gov*). The public record for this proceeding may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background.—On November 24, 2025, the Commission determined that responses to its notice of institution of the subject five-year reviews were such that full reviews should proceed (91 FR 5110, February 4, 2026); accordingly, full reviews are being scheduled pursuant to section 751(c)(5) of the Tariff Act of 1930 (19 U.S.C. 1675(c)(5)). A record of the Commissioners' votes, the Commission's statement on adequacy, and any individual Commissioner's statements are available from the Office of the Secretary and at the Commission's website.

Participation in the reviews and public service list.—Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in these reviews as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, by 45 days after publication of this notice. A party that filed a notice of appearance following publication of the Commission's notice of institution of the reviews need not file an additional notice of appearance. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the reviews.

For further information concerning the conduct of these reviews and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A and B (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

Please note the Secretary's Office will accept only electronic filings during this time. Filings must be made through the Commission's Electronic Document Information System (EDIS, *https://edis.usitc.gov*). No in-person paper-based filings or paper copies of any electronic filings will be accepted until further notice.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in these reviews available to authorized applicants under the APO issued in the reviews, provided that the application is made by 45 days after publication of this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the reviews. A party granted access to BPI following publication of the Commission's notice of institution of the reviews need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff report.—The prehearing staff report in the reviews will be placed in the nonpublic record on July 8, 2026, and a public version will be issued thereafter, pursuant to section 207.64 of the Commission's rules.

Hearing.—The Commission will hold an in-person hearing in connection with the reviews beginning at 9:30 a.m. on Thursday, July 23, 2026. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before 5:15 p.m. on Wednesday, July 17, 2026. Any requests to appear as a witness via videoconference must be included with your request to appear. Requests to appear via videoconference must include a statement explaining why the witness cannot appear in person; the Chairman, or other person designated to conduct the reviews, may in their discretion for good cause shown, grant such a request. Requests to appear as remote witness due to illness or a positive COVID–19 test result may be submitted by 3 p.m. the business day prior to the hearing. Further information about participation in the hearing will be posted on the Commission's website at *https://www.usitc.gov/calendarpad/calendar.html.*

A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference, if deemed necessary, to be held at 9:30 a.m. on Wednesday, July 22, 2026. Parties shall file and serve written testimony and presentation slides in connection with their presentation at the hearing by no later than noon on July 22, 2026. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), and 207.24 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 business days prior to the date of the hearing.

Written submissions.—Each party to the reviews may submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.65 of the Commission's rules; the deadline for filing is 5:15 p.m. on July 16, 2026. Parties shall also file written testimony in connection with their presentation at the hearing, and posthearing briefs, which must conform with the provisions of section 207.67 of the Commission's rules. The deadline for filing posthearing briefs is 5:15 p.m. on August 3, 2026. In addition, any person who has not entered an appearance as a party to the reviews may submit a written statement of information pertinent to the subject of the reviews on or before 5:15 p.m. on August 3, 2026. On September 1, 2026, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before 5:15 p.m. on September 3, 2026, but such final comments must not contain new factual information and must otherwise comply with section 207.68 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's *Handbook on Filing Procedures,* available on the Commission's website at *https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf,* elaborates upon the Commission's procedures with respect to filings.

Additional written submissions to the Commission, including requests pursuant to section 201.12 of the Commission's rules, shall not be accepted unless good cause is shown for accepting such submissions, or unless the submission is pursuant to a specific request by a Commissioner or Commission staff.

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the reviews must be served on all other parties to the reviews (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

The Commission has determined that these reviews are extraordinarily complicated and therefore has determined to exercise its authority to extend the review period by up to 90 days pursuant to 19 U.S.C. 1675(c)(5)(B).

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.62 of the Commission's rules.

By order of the Commission.

Issued: March 19, 2026.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2026–05675 Filed 3–23–26; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 731–TA–1132 and 1134 (Third Review) and 701–TA–415 and 731–TA–933–934 (Fourth Review)]

Polyethylene Terephthalate Film, Sheet, and Strip From China, India, Taiwan, and the United Arab Emirates; Determinations

On the basis of the record [1] developed in the subject five-year reviews, the United States International Trade Commission (''Commission'') determines, pursuant to the Tariff Act of 1930 (''the Act''), that revocation of the countervailing duty order on polyethylene terephthalate film, sheet, and strip (''PET film'') from India and the antidumping duty orders on PET film from China, India, Taiwan, and the United Arab Emirates would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

Background

The Commission instituted these reviews on August 1, 2025 (90 FR 36188) and determined on December 22, 2025, that it would conduct expedited reviews (91 FR 9884, February 27, 2026).

The Commission made these determinations pursuant to section 751(c) of the Act (19 U.S.C. 1675(c)). It completed and filed its determinations in these reviews on March 19, 2026. The views of the Commission are contained in USITC Publication 5718 (March 2026), entitled *Polyethylene Terephthalate Film, Sheet, and Strip from China, India, Taiwan, and the United Arab Emirates: Investigation Nos. 731–TA–1132 and 1134 (Third Review) and 701–TA–415 and 731–TA–933–934 (Fourth Review).*

By order of the Commission.

Issued: March 19, 2026.

Lisa Barton,

Secretary to the Commission.

[FR Doc. 2026–05665 Filed 3–23–26; 8:45 am]

BILLING CODE 7020–02–P

[1] The record is defined in § 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act

On March 19, 2026, the Department of Justice lodged a proposed consent decree with the United States District Court for the District of South Carolina, in the lawsuit entitled *United States of America* v. *ABB, Inc.,* Civil Action No. 0:26–cv–1144.

The United States' complaint seeks recovery of its costs incurred in responding to the release or threat of release of hazardous substances at the Henry's Knob Superfund Site in York County, South Carolina, as well as injunctive relief. Under the consent decree, ABB, Inc. will pay all of the United States' unreimbursed past response costs, totaling $471,405.16, as well as the United States' future response costs. ABB, Inc. will also perform the interim remedial action that EPA selected for the site. In return, the United States agrees not to sue ABB, Inc. under sections 106 and 107 of CERCLA.

The publication of this notice opens a period for public comment on the consent decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States* v. *ABB, Inc.,* D.J. Ref. No. 90–11–3–12317. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	*Send them to:*
By email	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ–ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Any comments submitted in writing may be filed by the United States in whole or in part on the public court docket without notice to the commenter.

During the public comment period, the consent decree may be downloaded and examined from this Justice Department website: *https://www.justice.gov/enrd/consent-decrees.* If you require assistance accessing the consent decree, you may request assistance by email or by mail to the addresses provided above for submitting comments.

Scott Bauer,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2026–05674 Filed 3–23–26; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF LABOR

Employment and Training Administration

Revised Schedule of Remuneration for the Unemployment Compensation for Ex-Servicemembers (UCX) Program That Reflects the Military Pay Increase Effective

January 1, 2026.

AGENCY: Employment and Training Administration, U.S. Department of Labor.

ACTION: Notice.

Each year, the Department of Defense issues a Schedule of Remuneration used by states for UCX purposes. States use the schedule to determine Federal military wages for UCX ''first claims'' only when the Federal Claims Control Center (FCCC) responds to a request for information indicating that there is no Department of Labor copy of the Certificate of Release or Discharge from Active Duty, commonly known DD Form 214 (DD214) for an individual under the social security number provided. A response from the FCCC that indicates ''no DD214 on file'' will prompt the state to start the affidavit process and to use the attached schedule to calculate the Federal military wages for an unemployment insurance or UCX monetary determination.

The schedule applies to UCX ''first claims'' filed beginning with the first day of the first week that begins on or after January 1, 2026, pursuant to the UCX program regulations (see 20 CFR 614.12(c)). States must continue to use the 2025 schedule (or other appropriate schedule) for UCX ''first claims'' filed before the effective date of the revised schedule. Below is the 2026 Federal Schedule of Remuneration recently released by the Department of Defense.

2026 Federal Schedule of Remuneration

[20 CFR 614.12(d)]

Pay grade	Monthly rate	Weekly (7/30th)	Daily (1/30th)
1. *Commissioned Officers:*			
O–10	24,711.56	5,766.03	823.72
O–9	24,711.56	5,766.03	823.72
O–8	24,711.56	5,766.03	823.72
O–7	22,733.46	5,304.47	757.78
O–6	19,831.53	4,627.36	661.05
O–5	16,753.62	3,909.18	558.45
O–4	14,373.12	3,353.73	479.10
O–3	11,368.79	2,652.72	378.96
O–2	9,224.27	2,152.33	307.48
O–1	7,130.62	1,663.81	237.69
2. *Commissioned Officers With Over 4 Years Active Duty As An Enlisted Member or Warrant Officer:*			
O–3 E	13,301.20	3,103.61	443.37
O–2 E	11,023.26	2,572.09	367.44
O–1 E	9,605.77	2,241.35	320.19
3. *Warrant Officer:*			

2026 FEDERAL SCHEDULE OF REMUNERATION—Continued

[20 CFR 614.12(d)]

Pay grade	Monthly rate	Weekly (7/30th)	Daily (1/30th)
W–5	15,581.57	3,635.70	519.39
W–4	14,030.91	3,273.88	467.70
W–3	12,005.99	2,801.40	400.20
W–2	10,298.33	2,402.94	343.28
W–1	8,708.22	2,031.92	290.27
4. *Enlisted Personnel:*			
E–9	13,140.81	3,066.19	438.03
E–8	10,809.61	2,522.24	360.32
E–7	9,648.02	2,251.21	321.60
E–6	8,473.63	1,977.18	282.45
E–5	7,428.96	1,733.42	247.63
E–4	6,382.78	1,489.32	212.76
E–3	5,771.62	1,346.71	192.39
E–2	5,479.80	1,278.62	182.66
E–1	5,146.43	1,200.83	171.55

The Federal Schedule includes columns reflecting derived weekly and daily rates. This revised Federal Schedule of Remuneration is effective for UCX ''first claims'' filed beginning with the first day of the first week which begins on or after January 1, 2026, pursuant to 20 CFR 614.12(c).

Henry Maklakiewicz,

Assistant Secretary for Employment and Training, Labor.

[FR Doc. 2026–05700 Filed 3–23–26; 8:45 am]

BILLING CODE 4510–FW–P

DEPARTMENT OF LABOR

Employment and Training Administration

Agency Information Collection Activities for Application for Prevailing Wage Determination; Comment Request

AGENCY: Employment and Training Administration, Department of Labor.

ACTION: Notice; request for comments.

SUMMARY: The Department of Labor's (DOL) Employment and Training Administration (ETA) is soliciting comments concerning a proposed extension to the information collection request (ICR) titled ''Application for Prevailing Wage Determination,'' and related information collection and retention requirements (OMB Control Number 1205–0508), which covers Forms ETA–9141, *Application for Prevailing Wage Determination;* Form ETA–9141, *General Instructions;* Form ETA–9141, Appendix A, *Request for Additional Worksite(s);* Form ETA 9165, *Employer-Provided Survey Attestations to Accompany H–2B Prevailing Wage Determination Request Based on a Non-OEWS Survey;* and Form ETA–9165, *General Instructions.* This action seeks to extend the forms without changes. This comment request is part of continuing Departmental efforts to reduce paperwork and respondent burden in accordance with the Paperwork Reduction Act of 1995 (PRA).

DATES: Consideration will be given to all written comments received by May 26, 2026.

ADDRESSES: To submit written comments and/or request a copy of this ICR (*e.g.,* forms; instructions; supporting documents, etc.), for free, please send an email to Brian Pasternak, Administrator, Office of Foreign Labor Certification (OFLC), at *ETA.OFLC.Forms@dol.gov.* To ensure proper consideration, include the OMB control number 1205–0508.

FOR FURTHER INFORMATION CONTACT: Brian Pasternak, Administrator, Office of Foreign Labor Certification by email at *ETA.OFLC.Forms@dol.gov.*

Authority: 44 U.S.C. 3506(c)(2)(A).

SUPPLEMENTARY INFORMATION: DOL, in its continuing efforts to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies an opportunity to comment on proposed and/or continuing collections of information before submitting them to the Office of Management and Budget (OMB) for final approval. This program ensures the public provides all necessary data in the desired format, the reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements can be properly assessed.

This information collection is required by the Immigration and Nationality Act (INA), which, assigns the responsibilities to the Secretary of Labor (Secretary) relating to the entry and employment of certain categories of immigrant and nonimmigrant foreign workers under the PERM, H–2B, H–1B, H–1B1, and E–3 programs. The INA prohibits the admission of certain employment-based immigrants unless the Secretary has certified that (1) there are not sufficient workers who are able, willing, qualified and available at the time of application for a visa and admission to the United States and at the place where the foreign worker is to perform such skilled or unskilled labor, and (2) the employment of such foreign worker will not adversely affect the wages and working conditions of workers in the United States similarly employed. *See* 8 U.S.C. 1182(a)(5)(A)(i)(II); 8 CFR 204.5(k)(4)(i), 214.2(h)(4)(i)(B)(*1*), (h)(6)(iii)(A), and (h)(6)(iv)(A). Similarly, the INA prohibits the employment of foreign workers under the H–1B, H–1B1, and E–3 Labor Condition Application (LCA) programs unless the Secretary has approved an LCA in which the employer attests to pay the foreign worker at least the prevailing wage level for the occupational classification in the area of employment or the actual wage level paid by the employer to workers with similar experience and qualifications for the specific employment in question, whichever is greater. *See* 8 U.S.C. 1182(n)(1)(A)(i)(I)–(II) and (t)(1)(A)(i)(I)–(II).

Prior to filing a PERM or H–2B labor certification application, the employer must apply for prevailing wage determination (PWD) from OFLC. Employers seeking to employ foreign workers under the H–1B, H–1B1, and E–3 programs are not required to obtain a

PWD from the NPWC but may choose to do so.

ETA is seeking comments on proposed extension without change to the covers Form ETA–9141, *Application for Prevailing Wage Determination;* Form ETA–9141, *General Instructions;* Form ETA–9141, Appendix A, *Request for Additional Worksite(s);* Form ETA–9165, *Employer-Provided Survey Attestations to Accompany H–2B Prevailing Wage Determination Request Based on a Non-OEWS Survey,* and its related form instructions.

This information collection is subject to PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The current ICR expires July 31, 2026. DOL obtains OMB approval for this information collection under Control Number 1205–0508. DOL notes that existing information collection requirements submitted to OMB receive a month-to-month extension while they undergo review.

Interested parties are encouraged to provide comments regarding this ICR to the contact shown in the **ADDRESSES** section. Comments must be written to receive consideration, and they will be summarized and included in the request for OMB approval of the final ICR. To help ensure appropriate consideration, comments should mention OMB control number 1205–0508.

Submitted comments will also be a matter of public record for this ICR and posted on the internet, without redaction. DOL encourages commenters not to include personally identifiable information, confidential business data, or other sensitive statements/information in any comments.

DOL is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology (*e.g.,* permitting electronic submission of responses).

Agency: DOL–ETA.

Action: Extension without Changes.

Title of Collection: Application for Prevailing Wage Determination.

OMB Control Number: 1205–0508.

Affected Public: Private Sector (businesses or other for-profits); Not-for-Profit Organizations; Government, State, Local and Tribal Governments.

Form(s): Form ETA–9141, *Application for Prevailing Wage Determination;* Form ETA–9141, *General Instructions;* Form ETA–9141, Appendix A, *Request for Additional Worksite(s);* Form ETA–9165, *Employer-Provided Survey Attestations to Accompany H–2B Prevailing Wage Determination Request Based on a Non-OEWS Survey,* and Form ETA–9165, *General Instructions.*

Total Estimated Number of Annual Respondents: 61,109.

Frequency: On Occasion.

Total Estimated Annual Responses: 498,432.

Average Time per Response: 1 hour and 42 minutes.

Total Estimated Annual Time Burden: 226,292.84.

Total Estimated Annual Other Costs Burden: $188,939.45.

Authority: 44 U.S.C. 3507(a)(1)(D).

Henry Maklakiewicz,

Assistant Secretary for Employment and Training, Labor.

[FR Doc. 2026–05683 Filed 3–23–26; 8:45 am]

BILLING CODE 4510–FP–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Humanities

Meeting of Humanities Panel

AGENCY: National Endowment for the Humanities; National Foundation on the Arts and the Humanities.

ACTION: Notice of meeting.

SUMMARY: The National Endowment for the Humanities (NEH) will hold six meetings, by video conference, of the Humanities Panel, a federal advisory committee, during April 2026. The purpose of the meetings is for panel review, discussion, evaluation, and recommendation of applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965.

DATES: See **SUPPLEMENTARY INFORMATION** for meeting dates. The meetings will open at 1:00 p.m. and will adjourn by 5:00 p.m. on the dates specified below.

FOR FURTHER INFORMATION CONTACT: Elizabeth Voyatzis, Committee Management Officer, 400 7th Street SW, Room 4060, Washington, DC 20506; (202) 606–8322; *evoyatzis@neh.gov.*

SUPPLEMENTARY INFORMATION: Pursuant to section 1009(a)(2) of the Federal Advisory Committee Act, as amended (5 U.S.C. 1001, *et seq.*), notice is hereby given of the following meetings:

1. Date: April 6, 2026

This video meeting will discuss applications on the topic of Higher Education 3, for the Endowments for Advancing the Humanities grant program, submitted to the Division of Collections and Infrastructure.

2. Date: April 7, 2026

This video meeting will discuss applications on the topic of Higher Education 4, for the Endowments for Advancing the Humanities grant program, submitted to the Division of Collections and Infrastructure.

3. Date: April 8, 2026

This video meeting will discuss applications on the topic of Higher Education 1, for the Endowments for Advancing the Humanities grant program grant program, submitted to the Division of Collections and Infrastructure.

4. Date: April 10, 2026

This video meeting will discuss applications on the topic of Higher Education 2, for the Endowments for Advancing the Humanities grant program, submitted to the Division of Collections and Infrastructure.

5. Date: April 10, 2026

This video meeting will discuss applications on the topic of Collecting Organizations, for the Endowments for Advancing the Humanities grant program, submitted to the Division of Collections and Infrastructure.

6. Date: April 13, 2026

This video meeting will discuss applications on the topic of Independent Educational Organizations, for the Endowments for Advancing the Humanities grant program, submitted to

the Division of Collections and Infrastructure.

Because these meetings will include review of personal and/or proprietary financial and commercial information given in confidence to the agency by grant applicants, the meetings will be closed to the public pursuant to sections 552b(c)(4) and 552b(c)(6) of Title 5, U.S.C., as amended. I have made this determination pursuant to the authority granted me by the Chair's Delegation of Authority to Close Advisory Committee Meetings dated April 15, 2016.

Dated: March 20, 2026.

Kimberly Hylan,

Attorney-Advisor, National Endowment for the Humanities.

[FR Doc. 2026–05729 Filed 3–23–26; 8:45 am]

BILLING CODE 7536–01–P

NATIONAL SCIENCE FOUNDATION

Sunshine Act Meetings

The National Science Board (NSB) Committee on Oversight (CO) hereby gives notice of scheduling a videoconference for the transaction of NSB business pursuant to the National Science Foundation Act and the Government in the Sunshine Act.

TIME AND DATE: Friday, March 27, 2026, from 11:00 a.m.–12:00 p.m. ET.

PLACE: The meeting will be held by videoconference through the National Science Foundation, 401 Dulaney Street, Alexandria, Virginia 22314. Members of the public can observe this meeting through a YouTube livestream link: *https://www.youtube.com/watch?v=7dMgGdS8GLA.* The link is also available on the NSB 'Events' web page.

STATUS: Open.

MATTERS TO BE CONSIDERED: Committee Chair's opening remarks and approval of prior minutes; presentation of FY2026 OIG Audit Plan; Discussion of Merit Review report implementation goals; discussion of ''State of NSF''—potential approach to tracking efficacy and impact of NSF; and Committee Chair's closing remarks.

CONTACT PERSON FOR MORE INFORMATION: The point of contact for this meeting is Chris Blair, *cblair@nsf.gov,* 703–292–7000.

Ann E. Bushmiller,

Senior Counsel to the National Science Board.

[FR Doc. 2026–05754 Filed 3–20–26; 4:15 pm]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Sunshine Act Meetings

The National Science Board (NSB) ad hoc Committee on Nominations for NSB Elections hereby gives notice of scheduling a videoconference for the transaction of NSB business pursuant to the National Science Foundation Act and the Government in the Sunshine Act.

TIME AND DATE: Friday, March 27, 2026, from 4:00–4:45 p.m. ET.

PLACE: The meeting will be held by videoconference through the National Science Foundation, 401 Dulaney Street, Alexandria, Virginia 22314. Members of the public can observe this meeting through a YouTube livestream link: *https://www.youtube.com/watch?v=DmZn32fZdU0.* The link is also available on the NSB 'Events' web page.

STATUS: Open.

MATTERS TO BE CONSIDERED: Committee Chair's opening remarks; discussion of process to build a slate of nominees for NSB Chair and Vice Chair positions for the 2026–2028 term; assign tasks and determine next steps.

CONTACT PERSON FOR MORE INFORMATION: The point of contact for this meeting is Chris Blair, *cblair@nsf.gov,* 703–292–7000.

Ann E. Bushmiller,

Senior Counsel to the National Science Board.

[FR Doc. 2026–05682 Filed 3–20–26; 11:15 am]

BILLING CODE 7555–01–P

NEIGHBORHOOD REINVESTMENT CORPORATION

Sunshine Act Meetings

TIME AND DATE: 3:00 p.m., Monday, March 30, 2026.

PLACE: via ZOOM.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Special Board of Directors meeting.

The General Counsel of the Corporation has certified that in her opinion, one or more of the exemptions set forth in the Government in the Sunshine Act, 5 U.S.C. 552b(c)(2) permit closure of the following portion(s) of this meeting:

- Executive (Closed) Session

Agenda

I. Call to Order
II. Action Item: Resolution to Elect a Temporary Board Chair
III. Sunshine Act Approval of Executive (Closed) Session
IV. Executive Session: FY26 Final Budget
V. Action Item: Approval of Final Budget

PORTIONS OPEN TO THE PUBLIC: Everything except the Executive (Closed) Session.

PORTIONS CLOSED TO THE PUBLIC: Executive (Closed) Session.

CONTACT PERSON FOR MORE INFORMATION: Jenna Sylvester, Paralegal, (202) 568–2560; *jsylvester@nw.org.*

Jenna Sylvester,

Paralegal.

[FR Doc. 2026–05742 Filed 3–20–26; 4:15 pm]

BILLING CODE 7570–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–261; NRC–2025–0076]

Duke Energy Progress, LLC; H.B. Robinson Steam Electric Plant, Unit No. 2; Exemption

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has issued an exemption, on its own initiative, from the regulation that would have required Duke Energy Progress, LLC (Duke) to submit an amendment to the application for subsequent renewal of Renewed Facility Operating License No. DPR–23 for H.B. Robinson Steam Electric Plant, Unit No. 2 (Robinson), each year following its submittal and at least 3 months before scheduled completion of the NRC review, that identifies any change to the current licensing basis of the facility that materially affects the content of the application during the NRC's review of that application. Due to this exemption, such amendments are no longer required for the Robinson subsequent license renewal application.

DATES: The exemption was issued on March 17, 2026.

ADDRESSES: Please refer to Docket ID NRC–2025–0076 when contacting the NRC about the availability of information regarding this document. You may obtain publicly available information related to this document using any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2025–0076. Address questions about Docket IDs in *Regulations.gov* to Bridget Curran; telephone: 301–415–1003; email:

Bridget.Curran@nrc.gov. For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin ADAMS Public Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, at 301–415–4737, or by email to *PDR.Resource@nrc.gov.*
- *NRC's PDR:* The PDR, where you may examine and order copies of publicly available documents, is open by appointment. To make an appointment to visit the PDR, please send an email to *PDR.Resource@nrc.gov* or call 1–800–397–4209 or 301–415–4737, between 8 a.m. and 4 p.m. eastern time (ET), Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mark Yoo, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–8583; email: *Mark.Yoo@nrc.gov.*

SUPPLEMENTARY INFORMATION: The text of the exemption is attached.

Dated: March 19, 2026.

For the Nuclear Regulatory Commission.

Mark Yoo,

Senior Project Manager, License Renewal Projects Branch, Division of New and Renewed Licenses, Office of Nuclear Reactor Regulation.

Attachment—Exemption

NUCLEAR REGULATORY COMMISSION

Docket No. 50–261; Duke Energy Progress, LLC; H.B. Robinson Steam Electric Plant, Unit No. 2; Exemption

I. Background

Duke Energy Progress, LLC (Duke) is the holder of Renewed Facility Operating License No. DPR–23 for H.B. Robinson Steam Electric Plant, Unit No. 2 (Robinson). The license provides, among other things, that the licensee is subject to all rules, regulations, and orders of the U.S. Nuclear Regulatory Commission (NRC, the Commission) now or hereafter in effect. Robinson consists of one Westinghouse three-loop pressurized-water reactor with a licensed power level of 2,339 megawatts thermal and is located in Hartsville, South Carolina.

On April 1, 2025, Duke submitted to the NRC an application for subsequent renewal of Renewed Facility Operating License No. DPR–23 for Robinson, pursuant to title 10 of the *Code of Federal Regulations* (10 CFR) part 54, ''Requirements for Renewal of Operating Licenses for Nuclear Power Plants,'' requesting subsequent renewal for a period of 20 years beyond the current renewed facility operating license's expiration date of July 31, 2030 (Agencywide Documents Access and Management System Accession No. ML25091A291). A final NRC decision on this application is expected on or about April 27, 2026.

The NRC's regulations governing license renewal, which are applicable to the Robinson subsequent license renewal application, include 10 CFR 54.21, ''Contents of application—technical information,'' which at paragraph (b) states that ''[e]ach year following submittal of the license renewal application and at least 3 months before scheduled completion of the NRC review, an amendment to the renewal application must be submitted that identifies any change to the CLB [current licensing basis] of the facility that materially affects the contents of the license renewal application, including the FSAR [final safety analysis report] supplement.''

On May 23, 2025, the President issued Executive Order (E.O.) 14300 (90 FR 22587), ''Ordering the Reform of the Nuclear Regulatory Commission,'' and section 5(a) of E.O. 14300 directs the NRC, in part, to establish fixed deadlines for its evaluation and approval of license renewals. Specifically, the E.O. directs the NRC to establish ''a deadline of no more than 1 year for final decision on an application to continue operating an existing reactor of any type, commencing with the first required step in the regulatory process.''

Pursuant to 10 CFR 54.15, ''Specific exemptions,'' exemptions from the requirements of 10 CFR part 54 may be granted by the Commission in accordance with 10 CFR 50.12, ''Specific exemptions.'' Pursuant to 10 CFR 50.12, the Commission may, upon application by an interested person or upon its own initiative, grant exemptions from its requirements when: (1) the exemptions are authorized by law, will not present an undue risk to the public health and safety, and are consistent with the common defense and security; and (2) special circumstances are present. Under 10 CFR 50.12(a)(2)(ii), special circumstances are present whenever application of the regulation in the particular circumstances would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule. Under 10 CFR 50.12(a)(2)(vi), special circumstances are also present whenever there is present any material circumstance not considered when the regulation was adopted for which it would be in the public interest to grant an exemption.

II. Action

Based on the direction in E.O. 14300, its review of its regulations in 10 CFR part 54, and the specific circumstances of the Robinson subsequent license renewal application review, the NRC has determined that the granting of an exemption upon its own initiative, pursuant to 10 CFR 54.15 and 10 CFR 50.12, from the requirements of 10 CFR 54.21(b) with respect to the Robinson subsequent license renewal application is warranted. Moreover, for the reasons explained below, the NRC has determined that the requirements of 10 CFR 54.15 and 10 CFR 50.12 are met. Therefore, an exemption from the requirements of 10 CFR 54.21(b) with respect to the Robinson subsequent license renewal application is granted.

III. Discussion

The Exemption Is Authorized by Law

The exemption would remove the 10 CFR 54.21(b) requirement for Duke to submit an amendment to the Robinson subsequent license renewal application, each year following its submittal and at least 3 months before scheduled completion of the NRC review, that identifies any change to the CLB of the facility that materially affects the content of the application during the NRC's review of that application. As previously stated, 10 CFR 54.15 and 10 CFR 50.12 allow the NRC to grant exemptions from the requirements of 10 CFR part 54, including 10 CFR 54.21(b), when the exemptions are authorized by law. The requirement of 10 CFR 54.21(b) is not required by the Atomic Energy Act of 1954, as amended (AEA), or any other law and granting an exemption from that requirement would not result in a violation of the AEA or the NRC's regulations. As explained in subsequent sections of this document, the exemption will not present an undue risk to the public health and safety and is consistent with the common defense and security. Therefore, the NRC finds that the exemption is authorized by law.

The Exemption Will Not Present an Undue Risk to the Public Health and Safety

The exemption would remove the 10 CFR 54.21(b) requirement for Duke to submit an amendment to the Robinson

subsequent license renewal application, each year following its submittal and at least 3 months before scheduled completion of the NRC review, that identifies any change to the CLB of the facility that materially affects the content of the application during the NRC's review of that application. As previously stated, 10 CFR 54.15 and 10 CFR 50.12 allow the NRC to grant exemptions from the requirements of 10 CFR part 54, including 10 CFR 54.21(b), when the exemptions will not present an undue risk to the public health and safety.

The standards in 10 CFR 54.29, ''Standards for issuance of a renewed license,'' that must be met before the Commission issues renewed licenses would not be affected by an exemption from 10 CFR 54.21(b). Moreover, the NRC staff has a robust process for reviewing how license renewal applications address the standards in 10 CFR 54.29 (and other relevant regulations). This process includes considering new information such as supplements to license renewal applications, of which Duke submitted two such supplements, by letters dated August 28, 2025 (ML25240B655), and October 1, 2025 (ML25274A131), as part of the NRC staff's determination of whether the standards for license renewal are met. For the Robinson subsequent license renewal, no further supplements are expected, and the NRC staff expects to complete its review of the Robinson subsequent license renewal application at approximately the same time that the annual amendment to the subsequent license renewal application would be due. This NRC staff review schedule is consistent with that directed by E.O. 14300 of one year for final decision on license renewal applications. Therefore, although Duke is required by 10 CFR 54.21(b) to submit amendments annually and at least 3 months before scheduled completion of the NRC review, these amendments would have no impact on the NRC staff's determination of whether the license renewal standards are met. Accordingly, the NRC finds that an exemption from the amendment requirement of 10 CFR 54.21(b) in this instance will not present an undue risk to the public health and safety.

The Exemption Is Consistent With the Common Defense and Security

The exemption would remove the 10 CFR 54.21(b) requirement for Duke to submit an amendment to the Robinson subsequent license renewal application, each year following its submittal and at least 3 months before scheduled completion of the NRC review, that identifies any change to the CLB of the facility that materially affects the content of the application during the NRC's review of that application. As previously stated, 10 CFR 54.15 and 10 CFR 50.12 allow the NRC to grant exemptions from the requirements of 10 CFR part 54, including 10 CFR 54.21(b), when the exemptions are consistent with the common defense and security. The NRC has determined that the exemption does not impact the common defense and security because the common defense and security is not within the scope of license renewal reviews, which, instead, focuses on the effects of aging on systems, structures, and components. When promulgating revisions to its license renewal rule in 1995 (60 FR 22461, 22463–64), the Commission re-affirmed its philosophy that the existing regulatory process is adequate to ensure that the licensing bases of all currently operating plants provide and maintain an acceptable level of safety such that their operation will not be inimical to the public health and safety or common defense and security. Therefore, the NRC finds that the exemption is consistent with the common defense and security.

Special Circumstances Are Present

The exemption would remove the 10 CFR 54.21(b) requirement for Duke to submit an amendment to the Robinson subsequent license renewal application, each year following its submittal and at least 3 months before scheduled completion of the NRC review, that identifies any change to the CLB of the facility that materially affects the content of the application during the NRC's review of that application. As previously stated, 10 CFR 54.15 and 10 CFR 50.12 allow the NRC to grant exemptions from the requirements of 10 CFR part 54, including 10 CFR 54.21(b), when special circumstances are present. Special circumstances are present, in part, whenever: (1) application of the regulation in the particular circumstances would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule (10 CFR 50.12(a)(2)(ii)); and (2) there is present any other material circumstance not considered when the regulation was adopted for which it would be in the public interest to grant an exemption (10 CFR 50.12(a)(2)(vi)).

The underlying purpose of 10 CFR 54.21(b) is to ensure that the effect of changes to a renewal applicant's existing licensing basis is evaluated during the review of a renewal application (56 FR 64954). Since the promulgation of 10 CFR part 54 in 1991, the NRC has developed a robust, well-established process to review license renewal applications, which is discussed in NUREG–1800, Revision 2, ''Standard Review Plan for Review of License Renewal Applications for Nuclear Power Plants'' (ML103490036). As part of that process, during its review of a license renewal application, the NRC staff routinely identifies and communicates to the renewal applicant any changes to the license renewal application that are needed to complete the NRC staff's review. During the NRC staff's review of the Robinson subsequent license renewal application, Duke submitted two supplements, by letters dated August 28, 2025 (ML25240B655), and October 1, 2025 (ML25274A131), that document changes to the Robinson subsequent license renewal application resulting from NRC staff feedback as part of the license renewal process. The NRC staff expects to finish its safety review of the Robinson subsequent license renewal application before Duke would have the opportunity to submit the annual and the three-months-before-scheduled-completion amendments required under 10 CFR 54.21(b). Because of the NRC's license renewal review process, the specific circumstances of the Robinson subsequent license renewal application review, and the schedule for the completion of that review, the application of the amendment requirement of 10 CFR 54.21(b) is not necessary in this instance to achieve the underlying purpose of that rule of ensuring that the effect of changes to a renewal applicant's existing licensing basis are evaluated during the review of a renewal application.

Furthermore, there is present a material circumstance not considered when 10 CFR 54.21(b) was adopted for which it would be in the public interest to grant an exemption. At the time that 10 CFR 54.21(b) was adopted, the NRC staff expected the review of a license renewal application to take three to four years. However, E.O. 14300 has since directed the NRC to complete license renewal reviews in one year. This direction is a material circumstance that, because it was issued in 2025, was necessarily not considered when the NRC adopted 10 CFR 54.21(b) in 1991 and decided to require amendments to license renewal applications at specific times. Additionally, it would be in the public interest to grant an exemption from the requirements of 10 CFR 54.21(b) with respect to the Robinson subsequent license renewal application

because, under the circumstances, they are not necessary.

On these bases, the NRC finds that the special circumstances of 10 CFR 50.12(a)(2)(ii) and 10 CFR 50.12(a)(2)(vi) are present.

Environmental Considerations

The exemption would remove the 10 CFR 54.21(b) requirement for Duke to submit an amendment to the Robinson subsequent license renewal application, each year following its submittal and at least 3 months before scheduled completion of the NRC review, that identifies any change to the CLB of the facility that materially affects the content of the application during the NRC's review of that application. The NRC has determined that this exemption does not have a significant effect on the human environment and, therefore, that a categorical exclusion under 10 CFR 51.22, ''Criterion for categorical exclusion; identification of licensing and regulatory actions eligible for categorical exclusion or otherwise not requiring environmental review,'' is appropriate. Specifically, under 10 CFR 51.22(c)(25), categories of actions that are categorical exclusions include the granting of an exemption from the requirements of any NRC regulation, provided that: (i) there is no significant hazards consideration; (ii) there is no significant change in the types or significant increase in the amounts of any effluents that may be released offsite; (iii) there is no significant increase in individual or cumulative public or occupational radiation exposure; (iv) there is no significant construction impact; (v) there is no significant increase in the potential for or consequences from radiological accidents; and (vi) the requirements from which the exemption is sought involve, in part, recordkeeping requirements, reporting requirements, or other requirements of an administrative, managerial, or organizational nature. As explained below, these criteria are satisfied for this exemption.

The criteria for determining whether an action involves no significant hazards consideration are found in 10 CFR 50.92(c). As discussed in this document, the exemption from 10 CFR 54.21(b) with respect to the Robinson subsequent license renewal application would have no impact on the NRC staff's determination of whether the license renewal standards are met. Therefore, the exemption would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. Additionally, the exemption would not change any manner in which the facility would operate; therefore, the exemption would not significantly change the types or significantly increase the amounts of any effluents that may be released offsite, would not significantly increase individual or cumulative public or occupational radiation exposure, would have no significant construction impact, and would not significantly increase the potential for or consequences from radiological accidents. Finally, the requirement from which the exemption is sought, 10 CFR 54.21(b), involves recordkeeping requirements, reporting requirements, or other requirements of an administrative, managerial, or organizational nature. Accordingly, the exemption from 10 CFR 54.21(b) meets the eligibility criteria for categorical exclusion set forth in 10 CFR 51.22(c)(25). Pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared in connection with the issuance of this exemption.

IV. Conclusions

Accordingly, the Commission has determined that, pursuant to 10 CFR 54.15 and 10 CFR 50.12, the exemption from the requirements of 10 CFR 54.21(b) with respect to the Robinson subsequent license renewal application is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security. Also, special circumstances are present. Therefore, the Commission hereby grants an exemption from the requirements of 10 CFR 54.21(b) and, accordingly, Duke is no longer required to submit an amendment to the Robinson subsequent license renewal application, each year following its submittal and at least 3 months before scheduled completion of the NRC review, that identifies any change to the CLB of the facility that materially affects the content of the application during the NRC's review of that application.

The exemption is effective upon issuance.

Dated: March 17, 2026.

For the Nuclear Regulatory Commission.

/RA/

Michele Sampson,

Director, Division of New and Renewed Licenses, Office of Nuclear Reactor Regulation.

[FR Doc. 2026–05658 Filed 3–23–26; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2026–1024]

Applications for Amendments to Facility Operating Licenses Involving Proposed No Significant Hazards Consideration Determination and Containing Sensitive Unclassified Non-Safeguards Information and Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information

AGENCY: Nuclear Regulatory Commission.

ACTION: License amendment request; notice of opportunity to comment, request a hearing, and petition for leave to intervene; order imposing procedures.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC, the Commission) received, and is considering approval of, two requests to amend operating licenses. The license amendment requests are for St. Lucie Plant, Unit No. 1 and Diablo Canyon Nuclear Power Plant, Units 1 and 2. For each amendment request, the NRC proposes to determine that it involves no significant hazards consideration (NSHC). Because each amendment request contains sensitive unclassified non-safeguards information (SUNSI), the NRC is issuing an order imposing procedures to obtain access to SUNSI for contention preparation by persons who file a hearing request or petition for leave to intervene.

DATES: Comments must be filed by April 23, 2026. A request for a hearing or petitions for leave to intervene must be filed by May 26, 2026. Any potential party as defined in section 2.4 of title 10 of the *Code of Federal Regulations* (10 CFR) who believes access to SUNSI is necessary to respond to this notice must request document access by April 3, 2026.

ADDRESSES: You may submit comments by any of the following methods; however, the NRC encourages electronic comment submission through the Federal rulemaking website.

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2026–1024. Address questions about Docket IDs in *Regulations.gov* to Bridget Curran; telephone: 301–415–1003; email: *Bridget.Curran@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Mail Comments to:* Office of Administration, Mail Stop: TWFN–5–

A85, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Program Management, Announcements and Editing Staff.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Paula Blechman, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2242; email: *Paula.Blechman@nrc.gov*.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2026–1024, facility name, unit number(s), docket number(s), application date, and subject when contacting the NRC about the availability of information for this action. You may obtain publicly available information related to this action by any of the following methods:

- *Federal Rulemaking Website:* Go to *https://www.regulations.gov* and search for Docket ID NRC–2026–1024.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *https://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''Begin ADAMS Public Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, at 301–415–4737, or by email to *PDR.Resource@nrc.gov.* The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document.
- *NRC's PDR:* The PDR, where you may examine and order copies of publicly available documents, is open by appointment. To make an appointment to visit the PDR, please send an email to *PDR.Resource@nrc.gov* or call 1–800–397–4209 or 301–415–4737, between 8 a.m. and 4 p.m. eastern time (ET), Monday through Friday, except Federal holidays.

B. Submitting Comments

The NRC encourages electronic comment submission through the Federal rulemaking website (*https://www.regulations.gov*). Please include Docket ID NRC–2026–1024, facility name, unit number(s), docket number(s), application date, and subject, in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at *https://www.regulations.gov* as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Background

Pursuant to section 189a.(1)–(2) of the Atomic Energy Act of 1954, as amended (the Act), the NRC is publishing this notice. The Act requires the Commission to publish notice of any license amendments issued or proposed to be issued and grants the Commission the authority to issue and make immediately effective any amendment to an operating license or combined license, as applicable, upon a determination by the Commission that such amendment involves NSHC, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This notice includes notices of license amendments containing SUNSI.

III. Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The Commission has made a proposed determination that the following license amendment requests involve NSHC. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendments would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated, or (2) create the possibility of a new or different kind of accident from any accident previously evaluated, or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown as follows.

The Commission is seeking public comments on these proposed NSHC determinations. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the license amendments until the expiration of 60 days after the date of publication of this notice. The Commission may issue any of these license amendments before expiration of the 60-day period provided that its final determination is that the amendments involve no significant hazards consideration. In addition, the Commission may issue any of these amendments prior to the expiration of the 30-day comment period if circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility. If the Commission takes action on any of these amendments prior to the expiration of either the comment period or the notice period, it will publish a notice of issuance in the **Federal Register**. If the Commission makes a final no significant hazards consideration determination for any of these license amendments, any hearing on those amendments will take place after issuance. The Commission expects that the need to take this action will occur very infrequently.

A. Opportunity To Request a Hearing and Petition for Leave To Intervene

Within 60 days after the date of publication of this notice, any person (petitioner) whose interest may be affected by any of these actions may file a request for a hearing and petition for leave to intervene (petition) with respect to that action. Petitions shall be filed in accordance with the Commission's ''Agency Rules of Practice and Procedure'' in 10 CFR part 2. Interested persons should consult 10 CFR 2.309. If a petition is filed, the Commission or a presiding officer will rule on the petition and, if appropriate, a notice of a hearing will be issued.

Petitions must be filed no later than 60 days from the date of publication of this notice in accordance with the filing instructions in the ''Electronic Submissions (E-Filing)'' section of this document. Petitions and motions for leave to file new or amended contentions that are filed after the deadline will not be entertained absent a determination by the presiding officer that the filing demonstrates good cause by satisfying the three factors in 10 CFR 2.309(c)(1)(i) through (iii).

If a hearing is requested, and the Commission has not made a final determination on the issue of no significant hazards consideration, the Commission will make a final determination on the issue of no significant hazards consideration, which will serve to establish when the hearing is held. If the final determination is that the license amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing would take place after issuance of the amendment. If the final determination is that the license amendment request involves a significant hazards consideration, then any hearing held would take place before the issuance of the amendment unless the Commission finds an imminent danger to the health or safety of the public, in which case it will issue an appropriate order or rule under 10 CFR part 2.

A State, local governmental body, Federally recognized Indian Tribe, or designated agency thereof, may submit a petition to the Commission to participate as a party under 10 CFR 2.309(h) no later than 60 days from the date of publication of this notice. Alternatively, a State, local governmental body, Federally recognized Indian Tribe, or designated agency thereof, may participate as a non-party under 10 CFR 2.315(c).

For information about filing a petition and about participation by a person not a party under 10 CFR 2.315, see ADAMS Accession No. ML20340A053 (*https://adamswebsearch2.nrc.gov/webSearch2/main.jsp?AccessionNumber=ML20340A053*) and the NRC's public website (*https://www.nrc.gov/about-nrc/regulatory/adjudicatory/hearing.html#participate*).

B. Electronic Submissions (E-Filing)

All documents filed in NRC adjudicatory proceedings, including documents filed by an interested State, local governmental body, Federally recognized Indian Tribe, or designated agency thereof that requests to participate under 10 CFR 2.315(c), must be filed in accordance with 10 CFR 2.302. The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases, to mail copies on electronic storage media, unless an exemption permitting an alternative filing method, as further discussed, is granted. Detailed guidance on electronic submissions is located in the ''Guidance for Electronic Submissions to the NRC'' (ADAMS Accession No. ML13031A056), and on the NRC's public website (*https://www.nrc.gov/site-help/e-submittals.html*).

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at *Hearing.Docket@nrc.gov,* or by telephone at 301–415–1677, to: (1) request a digital identification (ID) certificate which allows the participant (or their counsel or representative) to digitally sign submissions and access the E-Filing system for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a petition or other adjudicatory document (even in instances in which the participant, or their counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public website (*https://www.nrc.gov/site-help/e-submittals/getting-started.html*). After a digital ID certificate is obtained and a docket is created, the participant must submit adjudicatory documents in the Portable Document Format. Guidance on submissions is available on the NRC's public website (*https://www.nrc.gov/site-help/electronic-sub-ref-mat.html*). A filing is considered complete at the time the document is submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. ET on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email confirming receipt of the document. The E-Filing system also distributes an email that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the document on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before adjudicatory documents are filed in order to obtain access to the documents via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC's Electronic Filing Help Desk through the ''Contact Us'' link located on the NRC's public website (*https://www.nrc.gov/site-help/e-submittals.html*), by email to *MSHD.Resource@nrc.gov,* or by a toll-free call at 1–866–672–7640. The NRC Electronic Filing Help Desk is available between 9 a.m. and 6 p.m., ET, Monday through Friday, except Federal holidays.

Participants who believe that they have good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing stating why there is good cause for not filing electronically and requesting authorization to continue to submit documents in paper format. Such filings must be submitted in accordance with 10 CFR 2.302(b)-(d). Participants filing adjudicatory documents in this manner are responsible for serving their documents on all other participants. Participants granted an exemption under 10 CFR 2.302(g)(2) must still meet the electronic formatting requirement in 10 CFR 2.302(g)(1), unless the participant also seeks and is granted an exemption from 10 CFR 2.302(g)(1).

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket, which is publicly available on the NRC's public website (*https://adams.nrc.gov/ehd*), unless otherwise excluded pursuant to an order of the presiding officer. If you do not have an NRC-issued digital ID certificate as previously described, click ''cancel'' when the link requests certificates and you will be automatically directed to the NRC's electronic hearing docket where you will be able to access any publicly available documents in a particular hearing docket. Participants are requested not to include personal privacy information such as social security numbers, home addresses, or personal phone numbers in their filings unless an NRC regulation or other law requires submission of such information. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants should not include copyrighted materials in their submission.

The following table provides the plant name, docket numbers, date of application, ADAMS accession number, and location in the application of the licensee's proposed NSHC determination. For further details with respect to these license amendment applications, see the applications for amendment, publicly available portions of which is available for public inspection in ADAMS. For additional

direction on accessing information related to this document, see the ''Obtaining Information and Submitting Comments'' section of this document.

Florida Power & Light Company; St. Lucie Plant, Unit No. 1; St. Lucie County, FL	
Docket No	50–335.
Application Date	November 25, 2025, as supplemented by letter dated February 4, 2026.
ADAMS Accession No	ML25329A070, ML26035A212.
Location in Application of NSHC	Pages 12–15 of Enclosure 1.
Brief Description of Amendment	The proposed license amendment would revise the St. Lucie Plant, Unit No. 1, technical specifications by increasing certain surveillance requirement frequencies specified in the Frequency Control Program in support of a proposed transition to 24-month fuel cycles, in accordance with NRC Generic Letter 91–04, ''Changes in Technical Specification Surveillance Intervals to Accommodate a 24-Month Fuel Cycle.''
Proposed Determination	NSHC.
Name of Attorney for Licensee, Mailing Address	James Petro, Managing Attorney—Nuclear, Florida Power and Light Company, 700 Universe Boulevard, MS LAW/JB, Juno Beach, FL 33408–0420.
NRC Project Manager, Telephone Number	M. Elena Herrera Torres, P.E., 301–415–8208.

Pacific Gas and Electric Company; Diablo Canyon Nuclear Power Plant, Units 1 and 2; San Luis Obispo County, CA	
Docket Nos	50–275, 50–323.
Application Date	December 3, 2025.
ADAMS Accession No	ML25344A426 (package).
Location in Application of NSHC	Pages 45–48 of Enclosure 1.
Brief Description of Amendments	The proposed amendments would revise Technical Specification (TS) 2.1.1, ''Reactor Core SLs [Safety Limits]''; TS 4.2.1, ''Fuel Assemblies''; and TS 5.6.5, ''Core Operating Limits Report (COLR),'' for Diablo Canyon Nuclear Power Plant, Units 1 and 2, to allow the use of ADOPT™ fuel pellets and adoption of improved analysis methods.
Proposed Determination	NSHC.
Name of Attorney for Licensee, Mailing Address	Jennifer Post, Esq., Pacific Gas and Electric Co., 77 Beale Street, Room 3065, Mail Code B30A, San Francisco, CA 94105.
NRC Project Manager, Telephone Number	Samson Lee, 301–415–3168.

Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information for Contention Preparation

Florida Power & Light Company; St. Lucie Plant, Unit No. 1; St. Lucie County, FL; Pacific Gas and Electric Company; Diablo Canyon Nuclear Power Plant, Units 1 and 2; San Luis Obispo County, CA

A. This Order contains instructions regarding how potential parties to this proceeding may request access to documents containing Sensitive Unclassified Non-Safeguards Information (SUNSI).

B. Within 10 days after publication of this notice of hearing or opportunity for hearing, any potential party who believes access to SUNSI is necessary to respond to this notice may request access to SUNSI. A ''potential party'' is any person who intends to participate as a party by demonstrating standing and filing an admissible contention under 10 CFR 2.309. Requests for access to SUNSI submitted later than 10 days after publication of this notice will not be considered absent a showing of good cause for the late filing, addressing why the request could not have been filed earlier.

C. The requestor shall submit a letter requesting permission to access SUNSI to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, and provide a copy to the Deputy General Counsel for Licensing, Hearings, and Enforcement, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. The expedited delivery or courier mail address for both offices is: U.S. Nuclear Regulatory Commission, 11555 Rockville Pike, Rockville, Maryland 20852. The email addresses for the Office of the Secretary and the Office of the General Counsel are *Hearing.Docket@nrc.gov* and *RidsOgcMailCenter.Resource@nrc.gov,* respectively.[1] The request must include the following information:

(1) A description of the licensing action with a citation to this **Federal Register** notice;

(2) The name and address of the potential party and a description of the potential party's particularized interest that could be harmed by the action identified in C.(1); and

(3) The identity of the individual or entity requesting access to SUNSI and the requestor's basis for the need for the information in order to meaningfully participate in this adjudicatory proceeding. In particular, the request must explain why publicly available versions of the information requested would not be sufficient to provide the basis and specificity for a proffered contention.

D. Based on an evaluation of the information submitted under paragraph C, the NRC staff will determine within 10 days of receipt of the request whether:

(1) There is a reasonable basis to believe the petitioner is likely to establish standing to participate in this NRC proceeding; and

(2) The requestor has established a legitimate need for access to SUNSI.

E. If the NRC staff determines that the requestor satisfies both D.(1) and D.(2), the NRC staff will notify the requestor in writing that access to SUNSI has been granted. The written notification will contain instructions on how the requestor may obtain copies of the requested documents, and any other conditions that may apply to access to those documents. These conditions may include, but are not limited to, the signing of a Non-Disclosure Agreement

[1] While a request for hearing or petition to intervene in this proceeding must comply with the filing requirements of the NRC's ''E-Filing Rule,'' the initial request to access SUNSI under these procedures should be submitted as described in this paragraph.

or Affidavit, or Protective Order [2] setting forth terms and conditions to prevent the unauthorized or inadvertent disclosure of SUNSI by each individual who will be granted access to SUNSI.

F. Filing of Contentions. Any contentions in these proceedings that are based upon the information received as a result of the request made for SUNSI must be filed by the requestor no later than 25 days after receipt of (or access to) that information. However, if more than 25 days remain between the petitioner's receipt of (or access to) the information and the deadline for filing all other contentions (as established in the notice of hearing or opportunity for hearing), the petitioner may file its SUNSI contentions by that later deadline.

G. Review of Denials of Access.

(1) If the request for access to SUNSI is denied by the NRC staff after a determination on standing and requisite need, the NRC staff shall immediately notify the requestor in writing, briefly stating the reason or reasons for the denial.

(2) The requestor may challenge the NRC staff's adverse determination by filing a challenge within 5 days of receipt of that determination with: (a) the presiding officer designated in this proceeding; (b) if no presiding officer has been appointed, the Chief Administrative Judge, or if this individual is unavailable, another administrative judge, or an Administrative Law Judge with jurisdiction pursuant to 10 CFR 2.318(a); or (c) if another officer has been designated to rule on information access issues, with that officer.

(3) Further appeals of decisions under this paragraph must be made pursuant to 10 CFR 2.311.

H. Review of Grants of Access. A party other than the requestor may challenge an NRC staff determination granting access to SUNSI whose release would harm that party's interest independent of the proceeding. Such a challenge must be filed within 5 days of the notification by the NRC staff of its grant of access and must be filed with: (a) the presiding officer designated in this proceeding; (b) if no presiding officer has been appointed, the Chief Administrative Judge, or if this individual is unavailable, another administrative judge, or an Administrative Law Judge with jurisdiction pursuant to 10 CFR 2.318(a); or (c) if another officer has been designated to rule on information access issues, with that officer.

If challenges to the NRC staff determinations are filed, these procedures give way to the normal process for litigating disputes concerning access to information. The availability of interlocutory review by the Commission of orders ruling on such NRC staff determinations (whether granting or denying access) is governed by 10 CFR 2.311.[3]

I. The Commission expects that the NRC staff and presiding officers (and any other reviewing officers) will consider and resolve requests for access to SUNSI, and motions for protective orders, in a timely fashion in order to minimize any unnecessary delays in identifying those petitioners who have standing and who have propounded contentions meeting the specificity and basis requirements in 10 CFR part 2. The attachment to this Order summarizes the general target schedule for processing and resolving requests under these procedures.

It is so ordered.

Dated: March 20, 2026.

For the Nuclear Regulatory Commission.

Tomas Herrera,

Acting Secretary of the Commission.

ATTACHMENT 1—GENERAL TARGET SCHEDULE FOR PROCESSING AND RESOLVING REQUESTS FOR ACCESS TO SENSITIVE UNCLASSIFIED NON-SAFEGUARDS INFORMATION IN THIS PROCEEDING

Day	Event/activity
0	Publication of **Federal Register** notice of hearing or opportunity for hearing, including order with instructions for access requests.
10	Deadline for submitting requests for access to Sensitive Unclassified Non-Safeguards Information (SUNSI) with information: (i) supporting the standing of a potential party identified by name and address; and (ii) describing the need for the information in order for the potential party to participate meaningfully in an adjudicatory proceeding.
60	Deadline for submitting petition for intervention containing: (i) demonstration of standing; and (ii) all contentions whose formulation does not require access to SUNSI (+25 Answers to petition for intervention; +7 petitioner/requestor reply).
20	U.S. Nuclear Regulatory Commission (NRC) staff informs the requestor of the staff's determination whether the request for access provides a reasonable basis to believe standing can be established and shows need for SUNSI. (NRC staff also informs any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information.) If NRC staff makes the finding of need for SUNSI and likelihood of standing, NRC staff begins document processing (preparation of redactions or review of redacted documents).
25	If NRC staff finds no ''need'' or no likelihood of standing, the deadline for petitioner/requestor to file a motion seeking a ruling to reverse the NRC staff's denial of access; NRC staff files copy of access determination with the presiding officer (or Chief Administrative Judge or other designated officer, as appropriate). If NRC staff finds ''need'' for SUNSI, the deadline for any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information to file a motion seeking a ruling to reverse the NRC staff's grant of access.
30	Deadline for NRC staff reply to motions to reverse NRC staff determination(s).
40	(Receipt +30) If NRC staff finds standing and need for SUNSI, deadline for NRC staff to complete information processing and file motion for Protective Order and proposed Non-Disclosure Agreement or Affidavit. Deadline for applicant/licensee to file proposed Non-Disclosure Agreement or Affidavit for SUNSI.
A	If access is granted: issuance of presiding officer or other designated officer decision on motion for Protective Order for access to SUNSI (including schedule for providing access and submission of contentions) or decision reversing a final adverse determination by the NRC staff.
A + 3	Deadline for filing executed Non-Disclosure Agreements or Affidavits. Access provided to SUNSI consistent with decision issuing the Protective Order.

[2] Any motion for Protective Order or proposed Non-Disclosure Affidavit or Agreement for SUNSI must be filed with the presiding officer or the Chief Administrative Judge if the presiding officer has not yet been designated, within 30 days of the deadline for the receipt of the written access request.

[3] Requestors should note that the filing requirements of the NRC's E-Filing Rule (72 FR 49139; August 28, 2007, as amended at 77 FR 46562; August 3, 2012, 78 FR 34247, June 7, 2013) apply to appeals of NRC staff determinations (because they must be served on a presiding officer or the Commission, as applicable), but not to the initial SUNSI request submitted to the NRC staff under these procedures.

ATTACHMENT 1—GENERAL TARGET SCHEDULE FOR PROCESSING AND RESOLVING REQUESTS FOR ACCESS TO SENSITIVE UNCLASSIFIED NON-SAFEGUARDS INFORMATION IN THIS PROCEEDING—Continued

Day	Event/activity
A + 28	Deadline for submission of contentions whose development depends upon access to SUNSI. However, if more than 25 days remain between the petitioner's receipt of (or access to) the information and the deadline for filing all other contentions (as established in the notice of hearing or notice of opportunity for hearing), the petitioner may file its SUNSI contentions by that later deadline.
A + 53	(Contention receipt +25) Answers to contentions whose development depends upon access to SUNSI.
A + 60	(Answer receipt +7) Petitioner/Intervenor reply to answers.
>A + 60	Decision on contention admission.

[FR Doc. 2026–05685 Filed 3–23–26; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–105052; File No. SR–CboeEDGX–2025–072]

Self-Regulatory Organizations; Cboe EDGX Exchange, Inc.; Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment Nos. 3 and 4, To Modify EDGX Rule 11.21 To Adopt a Retail Price Improvement Program and Modify EDGX Rule 11.6(e)(2) and EDGX Rule 11.10(a)(4)(C)–(D) in Order To Describe the Behavior of Orders Containing a Non-Displayed Instruction; and Order Granting Limited Exemption Pursuant to Rule 612(d) of Regulation NMS

March 19, 2026.

I. Introduction

On September 30, 2025, Cboe EDGX Exchange, Inc. (the ''Exchange'' or ''EDGX'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to modify Rule 11.21 to adopt a Retail Price Improvement program (''Retail Price Improvement Program'' or ''Program''). The Exchange also proposes to modify Rule 11.6(e)(2) and Rule 11.10(a)(4)(C)–(D) in order to describe the behavior of orders containing a ''Non-Displayed'' instruction. The proposed rule change was published for comment in the **Federal Register** on October 3, 2025.[3] On November 3, 2025, pursuant to Section 19(b)(2) of the Act,[4] the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change.[5] On December 19, 2025, the Commission instituted proceedings pursuant to Section 19(b)(2)(B) of the Act,[6] to determine whether to approve or disapprove the proposed rule change.[7] On December 22, 2025, the Exchange filed Amendment No. 1 to the proposed rule change. On January 8, 2026, the Exchange withdrew Amendment No. 1 and filed Amendment No. 2 to the proposed rule change. On January 12, 2026, the Exchange withdrew Amendment No. 2 and filed Amendment No. 3 to the proposed rule change.[8] On January 15, 2026, the Commission published notice of Amendment No. 3.[9] The Commission has not received any comments on the proposed rule change. On January 29, 2026, the Exchange filed Amendment No. 4 to the proposed rule change.[10] In connection with the proposed rule change, the Exchange requests exemptive relief from Rule 612 of Regulation NMS,[11] which establishes the minimum pricing increments for NMS stocks (''Sub-Penny Rule'').[12] This order approves the proposed rule change as modified by Amendment Nos. 3 and 4, and grants the Exchange limited exemptive relief pursuant to Rule 612(d) of Regulation NMS.[13]

II. Description of the Proposal

Currently under EDGX Rule 11.21, an Exchange Member [14] that qualifies as a Retail Member Organization (''RMO'') [15] is eligible to submit certain agency, principal, or riskless principal orders that reflect the trading interest of a natural person with a ''Retail Order'' [16] modifier, and designate that such orders be identified as such on the EDGX Book Feed.[17] The Exchange also offers order

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 104153 (Sept. 30, 2025), 90 FR 48098 (Oct. 3, 2025).

[4] 15 U.S.C. 78s(b)(2).

[5] *See* Securities Exchange Act Release No. 104173 (Nov. 3, 2025), 90 FR 51424 (Nov. 17, 2025). The Commission designated January 1, 2026, as the date by which the Commission shall approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change.

[6] 15 U.S.C. 78s(b)(2)(B).

[7] *See* Securities Exchange Act Release No. 104470 (Dec. 19, 2025), 90 FR 60784 (Dec. 29, 2025). April 1, 2026, is the date by which the Commission shall issue an order approving, disapproving, or extending the period for not more than 60 days. *See* 15 U.S.C. 78s(b)(2)(B)(ii).

[8] The full text of Amendment No. 3 is available on the Commission's website at: *https://www.sec.gov/comments/sr-cboeedgx-2025-072/srcboeedgx2025072-690827-2158314.pdf.*

[9] *See* Securities Exchange Act Release No. 104620 (Jan.15, 2026), 91 FR 2568 (Jan. 21, 2026). (''Notice of Amendment No. 3'').

[10] Amendment No. 4 is a partial amendment that updated the proposal to reflect the Commission's approval of a proposed rule change (SR–CboeEDGX–2025–035) that also amended the Exchange's Rule 11.21. *See* Securities Exchange Act Release No. 104705 (Jan. 28, 2026), 91 FR 4650 (Feb. 2, 2026) (''EDGX Retail Order Definition Approval''). Because Amendment No. 4 is a technical amendment that does not materially alter the substance of the proposal or raise unique or novel regulatory issues, the amendment is not subject to notice or comment. The full text of Amendment No. 4 is available on the Commission's website at srcboeedgx2025072–699747–2194994.pdf (''Amendment No. 4'').

[11] *See* Letter from Courtney Smith, Senior Counsel, Cboe Global Markets—North American Equities to Vanessa Countryman, Secretary, Commission (Mar. 11, 2026) (''Exemption Request'').

[12] 17 CFR 242.612 (''Rule 612''). Among other things, Rule 612 of Regulation NMS prohibits a national securities exchange from accepting or ranking orders priced greater than $1.00 per share in an increment smaller than either $0.01 or $0.005, depending on the Time Weighted Average Quoted Spread the stock. Rule 612(b)(2). ''Time Weighted Average Quoted Spread'' is defined in Rule 612(a)(2).

[13] 17 CFR 242.612(d).

[14] *See* EDGX Rule 1.5(n) (defining ''Member'' to mean any registered broker or dealer that has been admitted to membership in the Exchange).

[15] *See* EDGX Rule 11.21(a)(1) (defining RMO to mean a Member (or a division thereof) that has been approved by the Exchange under EDGX Rule 11.21 to submit Retail Orders).

[16] Pursuant to EDGX Rule 11.21(a)(2), a Retail Order is an agency order, principal order (subject to the requirements of current EDGX Rule 11.21(g)), or riskless principal order that meets the criteria of Financial Industry Regulatory Authority, Inc. (''FINRA'') Rule 5320.03 that originates from a natural person and is submitted to the Exchange by an RMO, provided that no change is made to the terms of the order with respect to price or side of market and the order does not originate from a trading algorithm or any other computerized methodology. A Retail Order entered principally must also satisfy the requirements in current EDGX Rule 11.21(g). *See* EDGX Rule 11.21(a)(2); *see also* Amendment No. 4.

[17] EDGX Rule 11.21; *see also* EDGX Rule 13.8 (describing the ''EDGX Book Feeds''); Notice of Amendment No. 3 at 2569–70 (describing the

allocation priority to Retail Orders that qualify as Retail Priority Orders.[18] The Exchange now proposes to amend EDGX Rule 11.21 to establish a Retail Price Improvement Program that is structured similarly to the programs currently in place at its affiliated exchange, Cboe BYX, Inc. (''BYX''), as well as the retail liquidity programs of other competitor exchanges (collectively, with the BYX program, ''RLPs''),[19] with certain differences that the Exchange states will make its Program a unique offering for retail order flow.[20] Namely, under the proposed Program: (1) Retail Orders may be entered with a time-in-force other than immediate-or-cancel (''IOC''),[21] and may post to the EDGX Book or route to away trading centers pursuant to User instructions; (2) Retail Price Improvement Orders [22] will only be eligible to execute against incoming Retail Orders and will not be eligible to remove resting Retail Orders from the EDGX Book; and (3) Users may enter a Retail Price Improvement Order as a MidPoint Peg Order.[23] The Exchange also proposes to modify Rules 11.6(e)(2) and 11.10(a)(4)(C)–(D) in order to describe the operation of orders entered with a ''Non-Displayed'' instruction.[24]

A. Retail Price Improvement Program

Types of Orders and Identifier

In connection with the Program, the Exchange proposes a new order type, the RPI Order. An RPI Order will be non-displayed interest on the Exchange that is identified as such in a manner prescribed by the Exchange and is only eligible to interact with incoming Retail Orders. An RPI Order may be entered as a limit order in a sub-penny increment with an explicit price, as a MidPoint Peg Order (''RPI MidPoint Peg Order''), or as a Primary Pegged Order (''RPI Primary Pegged Order'').[25] To be executable, an RPI Order must be priced at least $0.001 better than the Protected NBB [26] or Protected NBO.[27] Any User may enter an RPI Order.[28]

While the definition of Retail Order will generally remain the same as the existing Retail Order definition, it will now specify that a Retail Order will operate in accordance with new paragraph (f) of Rule 11.21, which provides that an RMO can designate a Retail Order as Type 1 or Type 2,[29] which will dictate how it will interact with available contra-side RPI Orders and other interest, as well as whether it is eligible for routing. A Type 1-designated Retail Order must be marked IOC and is eligible to interact only with available contra-side RPI Orders and other price-improving liquidity. It will not interact with non-price-improving, contra-side interest or route to other markets. Portions of a Type 1-designated Retail Order that are not executed will be immediately and automatically cancelled. A Type 2-designated Retail Order will be executed, posted to the EDGX Book, or cancelled, according to the User's instructions. A Type 2-designated Retail Order will be ineligible to interact with an RPI Order that is not priced better than the Protected NBB or Protected NBO, and may be submitted as an EDGX only order or as eligible for routing pursuant to EDGX Rule 11.21. As is the case today on EDGX, and consistent with other exchange RLPs,[30] only RMOs may enter Retail Orders.[31]

Similar to BYX's RLP, the Exchange will disseminate an identifier through the proprietary data feeds or as appropriate through the Consolidated Quotation System, when an RPI Order with a ranked price at least $0.001 better than the Protected NBB or Protected NBO for a particular security is available in the System (''Retail Liquidity Identifier'').[32] The Retail Liquidity Identifier would reflect the symbol and the side (buy or sell) of the RPI Order, but it would not include the price or size. Like BYX's RLP,[33] the Retail Liquidity Identifier will only be disseminated when an RPI Order has a ranked price better than the Protected NBB or Protected NBO and will not be disseminated if the price of the Protected NBB or Protected NBO moves such that the ranked price of the RPI Order is no longer priced higher than the Protected NBB or lower than the Protected NBO.

Priority

Proposed EDGX Rule 11.21(g) sets forth the rules governing priority under the Program. Specifically, RPI Orders in the same security shall be ranked according to price then time of entry into the System, pursuant to EDGX Rule 11.9, and executions shall occur in price/time priority, in accordance with EDGX Rule 11.9. Any remaining unexecuted portion of an RPI Order will remain available to interact with other

Exchange's current offerings for Retail Orders, including pricing incentives and rebates).

[18] EDGX Rule 11.9; Notice of Amendment No. 3 at 2569. Pursuant to EDGX Rule 11.9, Interpretation .01, a Retail Priority Order is defined as a Retail Order that is entered on behalf of a person that does not place more than 390 equity orders per day on average during a calendar month for its own beneficial account(s).

[19] EDGX states that its Program is structured similarly to the RLPs of BYX, New York Stock Exchange LLC (''NYSE''), NYSE National, Inc. (''NYSE National''), Nasdaq BX, Inc. (''Nasdaq BX'') and Investors Exchange LLC (''IEX''). *See* Notice of Amendment No. 3 at 2569, 2573.

[20] *See* Notice of Amendment No. 3 at 2569–70.

[21] Pursuant to EDGX Rule 11.6(q)(1) IOC means, an instruction the User may attach to an order stating the order is to be executed in whole or in part as soon as such order is received. The portion not executed immediately on the Exchange or another trading center is treated as cancelled and is not posted to the EDGX Book. An order with an IOC instruction that does not include a Book Only instruction and that cannot be executed in accordance with EDGX Rule 11.10(a)(4) on the System when reaching the Exchange will be eligible for routing away pursuant to EDGX Rule 11.11. ''User'' is defined in EDGX Rule 1.5(e)(e); ''System'' is defined in EDGX Rule 1.5(c)(c).

[22] Proposed EDGX Rule 11.21(a) (defining ''Retail Price Improvement Orders'' or ''RPI Orders''); *infra* Section II.A (describing the proposed order type).

[23] Notice of Amendment No. 3 at 2569. ''MidPoint Peg Order'' is defined in EDGX Rule 11.8(d). Additionally, the BYX RLP offers an ''Enhanced RPI Order'' type; is available in securities priced below $1.00, in addition to securities priced at or above $1.00; does not offer a MidPoint Peg RPI Order (discussed *infra*); requires Retail Orders to be IOC, and permits RPI Orders to execute upon entry. *See* Exemption Request at 2, n.5; Amendment No. 3 at 2570; BYX Rule 11.24. Similar to certain other RLPs (*see, e.g.,* NYSE Rule 7.44; NYSE National Rule 7.44) the Program will be limited to trades occurring at prices equal to or greater than $1.00 per share. Proposed EDGX Rule 11.21(i).

[24] Notice of Amendment No. 3 at 2569; *see also* EDGX Rule 11.6(e)(2) (describing the Exchange's Non-Displayed instruction).

[25] Proposed EDGX Rule 11.21(a)(3); Notice of Amendment No. 3 at 2570. An RPI Primary Pegged Order must be entered with a positive (for buy orders) or negative (for sell orders) offset (''Offset Amount''). The ranked price of an RPI Primary Pegged Order is the price that results after application of the Offset Amount, and the Offset Amount may be entered in pricing increments of $0.001. Neither an RPI MidPoint Peg Order, nor an RPI Primary Pegged Order will execute during a locked market. *Id.*

[26] EDGX Rule 1.5(u) defines Protected NBB as the national best bid that is a Protected Quotation. EDGX Rule 1.5(v) defines Protected Bid and Protected Offer as a bid or offer in a stock that is (i) displayed by an automated trading center; (ii) disseminated pursuant to an effective national market system plan; and (iii) an automated quotation that is the best bid or best offer of a national securities exchange or association; and Protected Quotation as a quotation that is a Protected Bid or Protected Offer.

[27] EDGX Rule 1.5(u) defines Protected NBO as the national best offer that is a Protected Quotation.

[28] Notice of Amendment No. 3 at 2570.

[29] Proposed EDGX Rule 11.21(f)(1) and (2); Notice of Amendment No. 3 at 2572.

[30] *See, e.g.,* BYX Rule 11.24; NYSE Rule 7.44.

[31] *See* EDGX Rule 11.21(a)(2); proposed EDGX Rule 11.21(a)(2). The Exchange is not proposing any changes to its process for RMO application, qualification, disapproval and disqualification, other than to: update a cross reference in EDGX Rule 11.21(b)(6); to change the name of the panel that reviews appeals of Exchange decisions related to RMO status from ''Retail Attribution Panel'' to ''RPI Panel''; and to state that the two officers of the Exchange on the Panel shall be designated by the Chief Operating Officer, rather than the Chief Information Officer. *See* EDGX Rule 11.21(b); proposed EDGX Rule 11.21(b)(6), (d)(2); Notice of Amendment No. 3 at 2571, 2576; Amendment No. 4.

[32] *See* Proposed EDGX Rule 11.21(e); Notice of Amendment No. 3 at 2571–72; *see also* BYX Rule 11.24; NYSE Rule 7.44.

[33] *See* BYX Rule 11.24.

incoming Retail Orders.[34] The System will monitor whether RPI Orders, adjusted by any Offset Amount and subject to the order's limit price, are eligible to interact with incoming Retail Orders.[35]

Comparison to Other Retail Programs

In Notice of Amendment No. 3,[36] the Exchange discusses how its Program compares to, among others, the RLPs of BYX, NYSE, NYSE National, IEX, and Nasdaq BX.[37] The Exchange highlights the substantive differences between several features of its proposed Program and the programs of the other exchanges.[38] Among other things, the Exchange explains that its Program would provide that:

- Retail Orders may be entered with a time-in-force other than IOC, and therefore may post to the EDGX Book or route to away trading centers pursuant to User instructions; [39]
- RPI Orders will only be eligible to execute against incoming Retail Orders and will not be eligible to remove resting Retail Orders from the EDGX Book; [40] and
- Users may enter an RPI Order in pricing increments of $0.001 or as a MidPoint Peg Order.[41]

[34] *See* Notice of Amendment No. 3 at 2570–2574.

[35] See Proposed EDGX Rule 11.21(a)(3).

[36] *See* Notice of Amendment No. 3 at 2569, 2573, 2575.

[37] *See, e.g.,* Securities Exchange Act Release Nos. 68303 (November 27, 2012), 77 FR 71652 (December 3, 2012), (''BYX RLP Pilot Approval Order''); 87154 (September 30, 2019), 84 FR 53183 (October 4, 2019) (''BYX RLP Permanent Approval Order''); 85160 (February 15, 2019), 84 FR 5754 (February 22, 2019) (approving NYSE's RLP on a permanent basis); 96169 (Aug. 18, 2023) 88 FR 57508 (Aug. 23, 2023) (notice of filing and immediate effectiveness of a proposed rule change to establish NYSE National's RLP); 86619 (Aug. 9, 2019), 84 FR 41769 (Aug. 15, 2019) (approving IEX's midpoint RLP); 86194 (June 25, 2019), 84 FR 31385 (July 1, 2019) (approving Nasdaq BX's RLP on a permanent basis).

[38] *See* Notice of Amendment No. 3 at 2569, 2573, 2575.

[39] *See* Notice of Amendment No. 3 at 2570–71, 2572–73, 2576. The Exchange states that allowing Retail Orders to be entered with any time-in-force instruction rather than limiting the time-in-force to IOC will provide for additional execution opportunities for Retail Orders and will create a deeper pool of liquidity on the Exchange, which provides for greater execution opportunities for all Users and provides for overall enhanced price discovery and price improvement opportunities on the Exchange. *Id.* at 2573.

[40] *See* Notice of Amendment No. 3 at 2570–71, 2573. The Exchange states that since Retail Orders under the EDGX RPI Program would be permitted to have a time-in-force that permits them to post to the EDGX Book or route to away markets, the Exchange believes that not allowing RPI Orders to remove liquidity upon arrival, but rather requiring RPI Orders to post to the EDGX Book would deepen the Exchange's pool of available liquidity, which provides greater execution opportunities on the Exchange, particularly for Retail Orders. *Id.* at 2571.

[41] *See* Notice of Amendment No. 3 at 2570, 2573.75. The Exchange states that its proposal to permit an RPI Order to be entered in pricing increments of $0.001 or as an RPI MidPoint Peg Order provides Users the appropriate balance in having the ability to control how much price improvement is offered to contra-side Retail Orders while also having more certainty and control over its order flow. *Id.* at 2575. In Notice of Amendment No. 3, the Exchange also provides examples of how each these proposed features would operate.

B. Orders With a Non-Displayed Instruction

The Exchange currently permits orders to be entered with a Non-Displayed instruction (''Non-Displayed Order'').[42] In addition to proposing to add a Retail Price Improvement Program, the Exchange also proposes amendments to EDGX Rules 11.6 and 11.10 describing the behavior of orders with a Non-Displayed instruction on the Exchange.[43] Specifically, the Exchange states that the proposed rule change more accurately describes the price at which a Non-Displayed Order posts to the EDGX Book, and at what price a Non-Displayed Order may execute in certain situations.[44] Among other things, the proposed rule change specifies the price at which a Non-Displayed Order is posted and ranked on the EDGX Book in the event that it is not immediately executed (because such execution would trade through a Protected Quotation, or otherwise as a result of User instructions), including how orders with Post Only [45] and price slide instructions will be handled. For example, the Exchange describes the circumstances under which a later arriving Non-Displayed Order may gain execution priority over a resting Non-Displayed Order as a result of the resting order's User instructions. The proposed rule change is also designed to better describe the execution of Non-Displayed Orders when the EDGX Book is locked, including the execution price of orders on the EDGX Book under certain related circumstances.

III. Discussion and Commission Findings

After careful consideration, the Commission finds that the proposed rule change, as modified by Amendment Nos. 3 and 4, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[46] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[47] which requires that an exchange have rules designed to, among other things, promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, protect investors and the public interest, and that are not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange currently operates a process by which Members can qualify to become RMOs, thereby permissioning them to submit Retail Orders to the Exchange.[48] Under EDGX's proposed Program, RMOs will continue to be eligible to submit Retail Orders. Any User could submit liquidity-providing RPI Orders, which will be orders that are only eligible to execute against Retail Orders, and only at a price that is at least $0.001 better than the Protected NBB or Protected NBO. Retail Orders would be able to execute against the proposed RPI Orders, as well as certain other orders on the Exchange's order book as specified in proposed EDGX Rule 11.21(f).

The Exchange's proposed Program differs in several respects from the RLPs operated by certain other national securities exchanges and, thus, does not present all of the same issues raised by those programs. EDGX provided a fulsome discussion of the distinctions between its proposed Program and the programs operated by other exchanges.[49] In particular, the Exchange discussed how it will: (1) permit Retail Orders to be entered with any time-in-force and not be limited to a time-in-force of IOC; (2) not permit an RPI Order to execute immediately against resting Retail Orders upon entry; and (3) permit an RPI Order to be entered in pricing increments of $0.001 or as an RPI MidPoint Peg Order.

The Exchange states that, while the proposed Program will function similarly to the RLPs of other exchanges, these differences ''will make [the Program] a unique offering for retail order flow.'' [50] First, the Exchange explains the proposal to permit Retail Orders to be entered with any time-in-

[42] EDGX Rule 11.6.

[43] Proposed EDGX Rules 11.6 and 11.10. The proposed changes to these rules are discussed in more detail, including examples, in Notice of Amendment No. 3. *See* Notice of Amendment No. 3 at 2571, 2573–2574.

[44] *See* Notice of Amendment No. 3 at 2573.

[45] EDGX Rule 11.6(n)(4) describes EDGX's Post Only instruction.

[46] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[47] 15 U.S.C. 78f(b)(5).

[48] *Supra* notes 16–18 and accompany text (discussing the Exchange's current offerings for Retail Orders).

[49] *See supra* notes 36–41 and accompanying text (discussing differences between the EDGX proposal and the RLPs of other exchanges).

[50] Notice of Amendment No. 3 at 2570.

force provides an RMO submitting orders on behalf of retail customers additional control over how its Retail Orders will interact with liquidity resting on the EDGX Book.[51] Further, according to the Exchange, the proposed RPI Order behavior that does not permit an RPI Order to execute immediately against resting Retail Orders upon entry will provide an additional, optional order type that provides liquidity providers greater control over its contra-side execution.[52] Any liquidity provider may utilize the proposed RPI Order as part of its investment strategy.[53] According to the Exchange, liquidity providers who choose this order type may forego immediate executions in exchange for the ''strong likelihood'' of executing against an incoming, contra-side Retail Order.[54] Finally, according to the Exchange, its proposal to permit an RPI Order to be entered in pricing increments of $0.001 or as an RPI MidPoint Peg Order provides a User the ability to control how much price improvement is offered to contra-side Retail Orders while also having more certainty and control over its order flow.[55]

The Exchange states that these distinctions will provide RMOs with the ability to submit Retail Orders to the Exchange with a chance at receiving additional price improvement compared to what is already available on the Exchange.[56] The Exchange further states that the introduction of the program would ''deepen the Exchange's pool of available liquidity, increase marketable retail order flow to the Exchange and provide additional competition for marketable retail order flow, most of which is currently executed off-exchange in the [over-the-counter] markets.''

The Exchange also asserts that while the Program would differentiate among its Members, it believes that such differentiation is not unfairly discriminatory because the Program is designed ''to attract marketable retail order flow to the exchange as it will help to ensure that retail investors benefit from the better price that liquidity providers are willing to provide to retail orders in exchange for minimizing their adverse selection cost.'' [57]

Proposals involving segmentation of order flow on a national securities exchange—even if such order flow is retail or offers price improvement to retail orders—must be carefully evaluated. In this instance, the Program is reasonably designed to attract retail order flow to a registered national securities exchange while offering the opportunity for retail investors to potentially benefit from the ability to obtain price improvement.[58]

The Commission finds that the Program is consistent with the Act because it is reasonably designed to benefit retail investors by providing price improvement to retail order flow.[59] The Commission also finds that the Program is reasonably designed to enhance competition amongst market participants and encourage competition amongst exchange venues. To the extent the Program is successful, the proposal could facilitate and promote competition among exchanges and between exchanges and the over-the-counter (''OTC'') markets and potentially bring more retail order flow to a public exchange. As such, the proposal is designed to remove impediments to and perfect the mechanism of a free and open market and a national market system, and further the investor protection and public interest objectives of 6(b)(5) of the Act.

The Commission also find the Exchange's proposed amendments to EDGX Rule 11.6 and 11.10 to be consistent with the Act. The Exchange states that its proposal to introduce additional rule text describing the entry and execution of Non-Displayed Orders on the Exchange promotes just and equitable principles of trade by providing additional clarity and transparency to market participants on how the System processes Non-Displayed Orders.[60]

For the reasons set forth above, the Commission finds that the proposed rule change, as modified by Amendment Nos. 3 and 4, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of Sections 6(b)(5).[61]

IV. Limited Exemption From the Sub-Penny Rule

Pursuant to its authority under Rule 612(d) of Regulation NMS,[62] the Commission hereby grants the Exchange a limited exemption from the Sub-Penny Rule to operate the RPI Program. For the reasons discussed below, the Commission determines that such action is necessary or appropriate in the public interest, and is consistent with the protection of investors.

When the Commission adopted the Sub-Penny Rule, the Commission identified a variety of problems caused by sub-penny quoting that the Sub-Penny Rule was designed to address:

[51] *See* Notice of Amendment No. 3 at 2576. The Exchange states that it views the ability to enter Retail Orders with any time-in-force an important feature that benefits retail investors by increasing both the likelihood and speed with which their non-marketable Retail Orders are executed. *See id.*

[52] *See* Notice of Amendment No. 3 at 2575.

[53] *See id.* The Exchange states that while the proposed RPI Order is limited to executing only with incoming contra-side Retail Orders, and not resting Retail Orders on the EDGX Book, the Exchange believes that liquidity providers are in the best position to determine whether the proposed RPI Order is appropriate for the liquidity provider's current investment strategy. According to the Exchange, if a liquidity provider wishes to prioritize speed of execution or wishes to have the ability to execute immediately upon entry without regard to the contra-side order type, it may choose another order type on the Exchange. *See id.*

[54] *See* Notice of Amendment No. 3 at 2575.

[55] *See* Notice of Amendment No. 3 at 2575–76. The Exchange states that a User who elects to enter an RPI MidPoint Peg Order knows that any execution will occur at the NBBO midpoint and that its order will remain executable, as it will always be priced at least $0.001 better than the Protected NBB or Protected NBO as it is a pegged order with a limit price that updates as the NBBO updates. *See id.*

[56] *See* Notice of Amendment No. 3 at 2573.

[57] Notice of Amendment No. 3 at 2575.

[58] The Commission has previously recognized that market participants and some exchanges distinguish between individual and retail investors, whose orders are considered desirable by liquidity providers because such retail investors are presumed on average to be less informed about short-term price movements. The Commission has also recognized that, because of this distinction, some liquidity providers may be more inclined to offer price improvement. *See* Securities Exchange Act Release No. 73702 (November 28, 2014), 79 FR 72049 (December 4, 2014) (approving Nasdaq BX's RLP on a pilot basis).

[59] The Commission has previously approved similar RLPs for other national securities exchanges. *See* supra note 36 and accompanying text. Among other things, the Commission has previously found the dissemination of information regarding liquidity-providing orders available to execute against Retail Orders, similar to the proposed Retail Liquidity Identifier, to be consistent with the Act; and that such programs are sufficiently tailored to provide the benefits of potential price improvement only to bona fide retail order flow originating from natural persons, highlighting the qualification and oversight of RMOs and the limitations on the definition of Retail Order. *See* BYX RLP Pilot Approval Order at 71656; Securities Exchange Act Release No. 67347 (July 3, 2012) 77 FR 40673 (July 10, 2012) (order approving NYSE's RLP on a pilot basis) at 40680; *see also* EDGX Retail Order Definition Approval at 4650 (finding that EDGX's proposal to expand the definition of Retail Order to include orders entered on a principal basis, subject to the specified compliance requirements and monitoring, is reasonably designed to ensure that RMOs submit only bona fide retail order flow as Retail Orders and thereby should promote just and equitable principals of trade and protect investors and the public interest).

[60] *See* Notice of Amendment No. 3 at 2576. The Exchange states that by introducing the proposed rule text, Users will have a better understanding of how a Non-Displayed Order is posted and ranked during certain scenarios involving locked and crossed markets, which benefits all Users and the marketplace as a whole.

[61] 15 U.S.C. 78f(b)(5).

[62] 17 CFR 242.612(d).

• If investors' limit orders lose execution priority for a nominal amount, investors may, over time, decline to use them, thus depriving the markets of liquidity.

• When market participants can gain execution priority for a nominal amount, important customer protection rules such as exchange priority rules and the Manning Rule [63] could be undermined.

• Flickering quotations that can result from widespread sub-penny pricing could make it more difficult for broker-dealers to satisfy their best execution obligations and other regulatory responsibilities.

• Widespread sub-penny quoting could decrease market depth and lead to higher transaction costs.

• Decreasing depth at the inside could cause institutions to rely more on execution alternatives away from the exchanges, potentially increasing fragmentation in the securities markets.[64]

In connection with approvals of RLPs of other national securities exchanges, the Commission has granted a limited exemption from Rule 612(a).[65] The Commission recognized that the vast majority of marketable retail orders are internalized by OTC market makers, and to the extent that OTC market makers offer price improvement over the NBBO, it is typically offered in sub-penny amounts. The Commission stated that OTC market makers typically select a sub-penny price for a trade without quoting at that exact amount or accepting orders from retail customers seeking that exact price. The Commission further recognized that exchanges, and exchange member firms, cannot compete for marketable retail order flow on the same basis because it would be impractical for exchange electronic systems to generate sub-penny executions without exchange liquidity providers or retail brokerage firms having first submitted sub-penny orders or quotations, which the Sub-Penny Rule expressly prohibits.[66]

Similarly, EDGX's proposed Program does not raise any new concerns regarding the problems the Sub-Penny Rule was designed to address, and the limited exemption granted in this order should continue to promote competition between exchanges and OTC market makers in a manner that is reasonably designed to minimize the problems that the Commission identified when adopting the Sub-Penny Rule. Under the Program, sub-penny prices will not be disseminated through the consolidated quotation data stream,[67] which should avoid quote flickering and reduced depth at the inside quotation.[68]

Furthermore, granting this limited exemption would not reduce incentives for market participants to display limit orders. Enabling the Exchange to compete for retail order flow through the proposed Program should not materially detract from the current incentives to display limit orders, while potentially resulting in greater order interaction and price improvement for marketable retail orders on a public national securities exchange. To the extent that the Program may raise Manning Rule and best execution issues for broker-dealers, these issues are already presented by the existing practices of OTC market makers.[69]

This exemption from the Sub-Penny Rule is limited solely to the operation of the RPI Program by the Exchange. This exemption does *not* extend beyond the scope of EDGX Rule 11.21. In addition, this exemption is conditioned on the Exchange continuing to conduct the Program, in accordance with Exchange Rule 11.21 and substantially as described in the Exchange's request for exemptive relief and the proposed rule change.[70] Any further changes in Exchange Rule 11.21 may cause the Commission to reconsider this exemption.

VII. Conclusion

For the reasons set forth above, the Commission finds that the proposed rule change, as modified by Amendment Nos. 3 and 4, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of Sections 6(b)(5).[71]

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[72] that the proposed rule change (SR–CboeEDGX–2025–072), as modified by Amendment Nos. 3 and 4, be, and hereby is, approved.

It is further ordered, pursuant to Rule 612(d) under Regulation NMS, that the Exchange is granted a limited exemption from Rule 612 of Regulation NMS with respect to the operation of the Program as set forth in Exchange Rule 11.21 to allow the Exchange to accept and rank RPI Interest priced equal to or greater than $1.00 per share in increments of $0.001.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[73]

Vanessa A. Countryman,

Secretary.

[FR Doc. 2026–05660 Filed 3–23–26; 8:45 am]

BILLING CODE 8011–01–P

[63] *See* FINRA Rule 5320 (Prohibition Against Trading Ahead of Customer Orders).

[64] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496 (June 29, 2005) (Adopting Release for Regulation NMS). *See also* BYX RLP Permanent Approval Order at 53186; BYX RLP Pilot Approval Order at 71657.

[65] *See, e.g.,* RPI Approval Order at 53186; RPI Pilot Approval Order at 71657–58; Securities Exchange Act Release No. 104625 (January 16, 2026), 91 FR 2813 Jan. 22, 2026 (''ERPI Exemption Order'').

[66] *See, e.g.,* RPI Pilot Approval Order at 71658; *see also* RPI Approval Order at 53186; ERPI Exemption Order at 2814.

[67] *See supra* Section II.A (discussing dissemination of the Retail Liquidity Identifier).

[68] *See* BYX RLP Pilot Approval Order at 71658; ERPI Exemption Order at 2815.

[69] *Id.*

[70] *See supra* note 11.

[71] 15 U.S.C. 78f(b)(5).

[72] 15 U.S.C. 78s(b)(2).

[73] 17 CFR 200.30–3(a)(12) and 17 CFR 200.30–3(a)(83).

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 36027; 812–15912]

Advisors Series Trust and Scharf Investments, LLC

March 19, 2026.

AGENCY: Securities and Exchange Commission (''Commission'' or ''SEC'').

ACTION: Notice.

Notice of an application under section 6(c) of the Investment Company Act of 1940 (''Act'') for an exemption from section 15(a) of the Act, as well as from certain disclosure requirements in rule 20a–1 under the Act, Item 19(a)(3) of Form N–1A, Items 22(c)(1)(ii), 22(c)(1)(iii), 22(c)(8) and 22(c)(9) of Schedule 14A under the Securities Exchange Act of 1934, and sections 6–07(2)(a), (b), and (c) of Regulation S–X (''Disclosure Requirements'').

Summary of Application: The requested exemption would permit Applicants to enter into and materially amend subadvisory agreements with subadvisers without shareholder approval and would grant relief from the Disclosure Requirements as they relate to fees paid to the subadvisers.

Applicants: Advisors Series Trust and Scharf Investments, LLC.

Filing Dates: The application was filed on October 3, 2025, and amended on February 27, 2026.

Hearing or Notification of Hearing: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing on any application by emailing the SEC's Secretary at *Secretarys-Office@sec.gov* and serving

the Applicants with a copy of the request by email, if an email address is listed for the relevant Applicant below, or personally or by mail, if a physical address is listed for the relevant Applicant below. The email should include the file number referenced above. Hearing requests should be received by the Commission by 5:30 p.m., Eastern time on April 13, 2026, and should be accompanied by proof of service on the Applicants, in the form of an affidavit, or, for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by emailing the Commission's Secretary.

ADDRESSES: The Commission: *Secretarys-Office@sec.gov.* Applicants: Rachael L. Schwartz, Esq., Sullivan & Worcester, LLP, *rschwartz@sullivanlaw.com,* with a copy to: Elaine E. Richards, Vice President and Secretary, Advisors Series Trust, *elaine.richards@usbank.com.*

FOR FURTHER INFORMATION CONTACT: Rachel Loko, Senior Special Counsel, at (202) 551–6825 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: For Applicants' representations, legal analysis, and conditions, please refer to Applicants' application, dated February 27, 2026, which may be obtained via the Commission's website by searching for the file number at the top of this document, or for an Applicant using the Company name search field on the SEC's EDGAR system. The SEC's EDGAR system may be searched at *https://www.sec.gov/search-filings.* You may also call the SEC's Office of Investor Education and Advocacy at (202) 551–8090.

For the Commission, by the Division of Investment Management, under delegated authority.

Vanessa A. Countryman,

Secretary.

[FR Doc. 2026–05667 Filed 3–23–26; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–105049; File No. SR–CBOE–2025–090]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Order Approving a Proposed Rule Change To Permit Orders for the Accounts of Market-Makers With an Appointment in the Applicable Class To Be Solicited as the Contra-Side Order Submitted Into Certain Exchange Auctions

March 19, 2026.

I. Introduction

On December 9, 2025, Cboe Exchange, Inc. (the ''Exchange'' or ''Cboe'') filed with the Securities and Exchange Commission (the ''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to permit orders for the accounts of Market-Makers with an appointment in the applicable class on the Exchange to be solicited as the contra-side order submitted for execution against an agency order into certain Exchange auctions. The proposed rule change was published for comment in the **Federal Register** on December 22, 2025.[3] On February 5, 2026, pursuant to Section 19(b)(2) of the Act,[4] the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change.[5] The Commission did not receive any comments on the proposed rule change. This order approves the proposed rule change.

II. Description of the Proposed Rule Change

The Automated Improvement Mechanism (''AIM'') is an electronic auction intended to provide an order that a Trading Permit Holder [6] represents as agent (''Agency Order'') with the opportunity to receive price improvement over the National Best Bid or Offer (''NBBO'').[7] The Solicitation Auction Mechanism (''SAM'') is an electronic auction intended to provide a larger-sized Agency Order with the opportunity to receive price improvement over the NBBO.[8] AIM and SAM auctions are also available for flexible exchange options (''FLEX Options'') (''FLEX AIM'' and ''FLEX SAM,'' respectively).[9] Upon submitting an Agency Order into one of these auctions, the initiating Trading Permit Holder (''Initiating TPH'') must also submit a contra-side second order (the ''Initiating Order'') for the same size as the Agency Order. The Initiating Order guarantees that the Agency Order will receive an execution at no worse than the auction start price. Upon commencement of an auction, market participants submit responses to trade against the Agency Order. At the conclusion of an AIM Auction, depending on the contra-side interest (including auction responses) available, the Initiating Order may be allocated a certain percentage of the Agency Order.[10] At the conclusion of a SAM Auction, depending on the contra-side interest (including auction responses) available, the Initiating Order may be allocated the entire Agency Order or none of the Agency Order.[11]

Currently, the introductory paragraphs of Rules 5.37 and 5.73 prohibit orders for the accounts of Market-Makers with an appointment in the applicable class on the Exchange in all classes except S&P 500 Index options (''SPX'') to be solicited to execute against the Agency Order in a simple AIM or FLEX AIM Auction. The introductory paragraphs of Rules 5.39 and 5.73 prohibit orders for the accounts of Market-Makers with an appointment in the applicable class on the Exchange to be solicited to execute against the Agency Order in a simple SAM or FLEX SAM Auction. The Exchange proposes to amend Rules 5.37, 5.39, 5.73, and 5.74 to permit orders for the accounts of Market-Makers with an appointment in the applicable class on the Exchange, in all classes, to be

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 104437 (December 17, 2025), 90 FR 59906 (December 22, 2025) (''Notice'').

[4] 15 U.S.C. 78s(b)(2).

[5] *See* Securities Exchange Act Release No. 104768, 91 FR 5972 (February 10, 2026). The Commission designated March 22, 2026, as the date by which the Commission shall approve, disapprove, or institute proceedings to determine whether to disapprove the proposed rule change.

[6] ''Trading Permit Holder'' has the meaning set forth in the Cboe Bylaws. *See* Cboe Rule 1.1.

[7] *See* Cboe Rule 5.38 (AIM).

[8] *See* Cboe Rule 5.39 (SAM).

[9] *See* Cboe Rules 5.73 (FLEX AIM) and 5.74 (FLEX SAM).

[10] *See* Cboe Rule 5.37. Specifically, under Cboe Rule 5.37(e), the AIM Initiating Order will receive an allocation of 50% of the Agency Order if there is one other User at the same price or 40% of the Agency Order if there are two or more other Users at the same price. *See also* Cboe Rule 5.73(e) for rules concerning the execution of an Agency Order in the FLEX AIM.

[11] *See* Cboe Rule 5.39(e). *See also* Cboe Rule 5.74(e) for rules concerning the execution of an Agency Order in the FLEX SAM.

solicited for the Initiating Order [12] submitted for execution against an Agency Order into a simple AIM Auction, a simple SAM Auction, a FLEX AIM Auction, or a FLEX SAM Auction.

III. Discussion and Commission Findings

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[13] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[14] which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. The Commission also finds that the proposed rule change is consistent with Section 6(b)(8) of the Act,[15] which requires that the rules of a national securities exchange do not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

Permitting brokers to solicit liquidity providers in a class for electronic auctions could expand available liquidity for these auctions, thus potentially allowing more auctions to take place, which may create additional execution and price improvement opportunities for customers to the ultimate benefit of investors if orders execute at prices better than the NBBO or large-size block orders are executed more efficiently.[16] Furthermore, the Exchange believes increasing the number of market participants available to be solicited for commencing an auction may increase competition to provide Initiating Orders, which may lead to an AIM Auction being initiated at a better price.[17] In the Notice, the Exchange provided data for the time period from January to June 2025 indicating that a significant portion of smaller customer orders (20 contracts or fewer) executed against Market-Makers.[18] Allowing this pool of liquidity to be available to be solicited to be contra orders could increase the number of AIM and SAM auctions initiated on the Exchange. It also could promote competition among executing brokers by enabling more members who are not able to commit the capital to provide the Initiating Order that is necessary to commence an auction to instead solicit Market-Makers for that necessary liquidity.

The Exchange's rules do not restrict the group of participants that may provide responses to AIM auctions, thus helping to assure that the number of TPHs who can respond to AIM auctions remains competitive.[19] While allowing a Market-Maker with an appointment in the class to be solicited to be the contra order could reduce the number of responders that currently respond to auctions, the commencement of more competitive auctions, particularly AIM auctions, could attract more competitive responders, including non-Market Makers, over time to the potential benefit of investors though greater access to price improvement opportunities. In addition, the Commission understands that the Exchange already allows the same Market-Maker firm to act as both contra (via an away Market-Maker affiliate) and auction responder (via the appointed Market-Maker).[20] Accordingly, the proposal could remove impediments and increase efficient operations by allowing direct participation from those firms without the need to involve affiliates.

In approving the proposed rule change, the Commission believes that it is critical that the TPHs comply with, and the Exchange surveils for violations of, Cboe Rule 8.10, which prohibits TPHs from misusing material, nonpublic information (for example, advanced knowledge of auctioned orders).[21]

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[22] that the proposed rule change (SR–CBOE–2025–090) be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[23]

Vanessa A. Countryman,

Secretary.

[FR Doc. 2026–05659 Filed 3–23–26; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–105054; File No. SR–CBOE–2026–025]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fees Schedule To Amend Its Floor Booth Fees

March 19, 2026.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 10, 2026, Cboe Exchange, Inc. (the ''Exchange'' or ''Cboe Options'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Cboe Exchange, Inc. (the ''Exchange'' or ''Cboe Options'') proposes to amend its Fees Schedule to amend its Floor Booth Fees. The text of the proposed rule change is provided in Exhibit 5.

The text of the proposed rule change is also available on the Commission's website (*https://www.sec.gov/rules/sro.shtml*), the Exchange's website (*https://www.cboe.com/us/options/regulation/rule_filings/bzx/*), and at the principal office of the Exchange.

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[12] The ''Initiating Order'' is the order comprised of principal interest or a solicited order(s) submitted to trade against the order the submitting Trading Permit Holder (the ''Initiating TPH'' or ''Initiating FLEX Trader,'' as applicable) represents as agent (the ''Agency Order'').

[13] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[14] 15 U.S.C. 78f(b)(5).

[15] 15 U.S.C. 78f(b)(8).

[16] *See, e.g.,* Notice, *supra* note 3, at 59908.

[17] *See id.*

[18] The Commission has also approved a proposal from Cboe to permit the solicitation of Market-Makers for the SPX Initiating Order in AIM and FLEX AIM. *See* Securities Exchange Act Release No. 91116 (February 11, 2021), 86 FR 10154 (February 18, 2021).

[19] According to the Exchange, currently, there are 24 distinct TPHs with appointments across multi-list classes and 18 TPHs with VIX appointments, which represent a significant pool of liquidity that would be available to participate in AIM Auctions through both contra orders and auction responses. *See* Notice, *supra* note 3, at 59908.

[20] *See* Notice, *supra* note 3, at 59007.

[21] *See* Cboe Rule 8.10 (Prevention of the Misuse of Material Nonpublic Information). In the Notice, the Exchange stated that the protections in Cboe Rule 8.10 will remain in place under the proposed rule change to address any potential information leakage concerns. *See* Notice, *supra* note 3, at 59007.

[22] 15 U.S.C. 78s(b)(2).

[23] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its Fees Schedule.[3]

Under the current Fees Schedule, the Exchange assesses monthly fees for ''Booths—Perimeter'', which refers to a portion of designated space on the perimeter of the trading floor of the Exchange, which may be rented by a Trading Permit Holder (''TPH''), clerks, runners, or other support staff for operational and other business-related activities.

Currently, the Exchange has a tiered pricing schedule for Booths based on the number of Booths rented by a TPH. Specifically, the Exchange assesses the following fees for Booths that are set off from a trading crowd:

Quantity of booths	Monthly fee
1–2	$400
3–6	300
7–10	200
11 or more	100

The tiered pricing provides discounted pricing for additional Booths. For example, if a TPH rented 4 Booths, the TPH would be assessed $1,400 a month (2 Booths at $400 and 2 Booths at $300). The Exchange also assesses a monthly fee of $750 per Booth for any Booth located in a trading crowd.

The Exchange proposes to modify and simplify its fees assessed for Booth rentals located on the perimeter of the trading floor. Specifically, the Exchange proposes to eliminate the tiered pricing and adopt a monthly fee of $250 per Booth for any Booth located on the perimeter of the trading floor. The Exchange notes that use of Booths, whether or located away from or in a trading crowd, are optional and not necessary in order to conduct open outcry trading on the trading floor.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[4] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [5] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [6] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The Exchange also believes the proposed rule change is consistent with Section 6(b)(4) of the Act,[7] which requires that Exchange rules provide for the equitable allocation of reasonable dues, fees, and other charges among its TPHs and other persons using its facilities.

The Exchange believes the proposed Booth fee changes are reasonable as such changes result in a streamlined and simplified trading floor and facility fee structure. The proposed fees are also in line with similar fees charged currently and historically at other exchanges with a physical trading floor.[8] The Exchange believes that the proposed Booth fee is equitable and not unfairly discriminatory because it applies uniformly to trading floor participants who choose to rent Booths on the perimeter of the trading floor (and all booths are uniform and nearly identical in size). Moreover, the use of Booths, whether located away from or in a trading crowd, are optional and not necessary in order to conduct open outcry trading on the trading floor.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that the proposed rule changes related to Floor Booth fees will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because the proposed changes would be applied in the same manner to all similarly situated participants and as such, would not impose a disparate burden on competition among the same classes of market participants. As described in further detail above, the proposed Booth fees are applicable only to firms that choose to rent Booths (which are optional and not required for open-outcry trading). The Exchange also does not believe that the proposed rule changes will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because the proposed rule changes apply only to fees relating to the Exchange's floor facility. Further, as described in detail above, the Exchange believes its proposed facilities fees are in line with facility fees assessed at other exchanges that maintain physical trading floors.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [9] and paragraph (f) of Rule 19b–4 [10] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if

[3] The Exchange initially filed the proposed fee changes on March 2, 2026 (SR–CBOE–2026–023). On March 10, 2026, the Exchange withdrew that filing and submitted this proposal.

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(5).

[6] *Id.*

[7] 15 U.S.C. 78f(b)(4).

[8] *See* BOX Fee Schedule, Section I(D) (assessing a desk fee of $350 per month for all registered on-floor persons employed by or associated with a floor broker); NYSE Arca Options Fee and Charges Schedule, Floor and Equipment section (assessing a fee of $80 per month, per linear foot for floor booths); MIAX Sapphire Options Exchange Fee Schedule, Section 9(c) (assessing a desk fee of $350 per month registered on-Floor persons (*i.e.,* Clerks) employed by or associated with a Floor Market Maker or Floor Broker).

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f).

it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include file number SR–CBOE–2026–025 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to file number SR–CBOE–2026–025. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*https://www.sec.gov/rules/sro.shtml*). Copies of the filing will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–CBOE–2026–025 and should be submitted on or before April 14, 2026.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Vanessa A. Countryman,

Secretary.

[FR Doc. 2026–05662 Filed 3–23–26; 8:45 am]

BILLING CODE 8011–01–P

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[OMB Control No. 3235–0336]

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Extension: Form N–14

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549–2736

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''SEC'' or ''Commission'') is submitting to the Office of Management and Budget (OMB) this request for extension of the proposed collection of information discussed below.

Form N–14 (17 CFR 239.23) is the form for registration under the Securities Act of 1933 (15 U.S.C. 77a *et seq.*) (''Securities Act'') of securities issued by management investment companies registered under the Investment Company Act of 1940 (15 U.S.C. 80a–1 *et seq.*) (''Investment Company Act'') and business development companies as defined by Section 2(a)(48) of the Investment Company Act in: (1) a transaction of the type specified in rule 145(a) under the Securities Act (17 CFR 230.145(a)); (2) a merger in which a vote or consent of the security holders of the company being acquired is not required pursuant to applicable state law; (3) an exchange offer for securities of the issuer or another person; (4) a public reoffering or resale of any securities acquired in an offering registered on Form N–14; or (5) two or more of the transactions listed in (1) through (4) registered on one registration statement. The principal purpose of Form N–14 is to make material information regarding securities to be issued in connection with business combination transactions available to investors. The information required to be filed with the Commission permits verification of compliance with securities law requirements and assures the public availability and dissemination of such information. Without the registration statement requirement, material information may not necessarily be available to investors.

The following estimates of average burden hours and costs are made solely for purposes of the Paperwork Reduction Act of 1995 and are not derived from a comprehensive or even representative survey or study of the cost of Commission rules and forms. Compliance with Form N–14 is mandatory. Responses to the collection of information will not be kept confidential.

We estimate that approximately 141 new registration statements and 92 amendments to a registration statement are filed on Form N–14 annually, for a total of 233 registration statements. Based on conversations with fund representatives and the Commission's experience with the filing and amending of Form N–14 and with disclosure documents generally, we estimate that the reporting burden of compliance with Form N–14 is approximately 590 hours per respondent for a new Form N–14 registration statement, and 300 hours per respondent for amending the Form N–14 registration statement. This time is spent, for example, preparing and reviewing the registration statements. Accordingly, we calculate the total estimated annual internal burden of responding to Form N–14 to be approximately 103,685 hours. In addition to the burden hours, we estimate that the total cost burden of compliance with the information collection requirements of Form N–14 is approximately $3,401,800for the cost of goods and services purchased to prepare and update registration statements on Form N–14, such as for the services of outside counsel.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB Control Number.

The public may view and comment on this information collection request at: *https://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=202601-3235-004* or email comment to *MBX.OMB.OIRA.SEC_desk_officer@omb.eop.gov* within 30 days of the day after publication of this notice by April 24, 2026.

Dated: March 19, 2026.

Vanessa A. Countryman,

Secretary.

[FR Doc. 2026–05664 Filed 3–23–26; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–105053; File No. SR–PEARL–2025–50]

Self-Regulatory Organizations; MIAX PEARL, LLC; Order Granting Approval of a Proposed Rule Change To Allow Post Only Orders in Sub-Dollar Securities

March 19, 2026.

I. Introduction

On December 10, 2025, MIAX PEARL, LLC (''MIAX Pearl'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] a proposed rule change to allow a Post Only order instruction to be applied to displayed and non-displayed orders in securities priced below $1.00 per share (''sub-dollar security(ies)''). The proposed rule change was published for comment in the **Federal Register** on December 29, 2025.[3] On January 28, 2026, pursuant to Section 19(b)(2) of the Act,[4] the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change.[5] This order approves the proposed rule change.

II. Description of the Proposed Rule Change [6]

An order designated as Post Only on the Exchange is a non-routable order that is designed to post to the Exchange's Equities Book (''Equities Book'') and not remove liquidity except when the value of an execution when removing liquidity would equal or exceed the value of an execution if the order instead posted to the Equities Book and subsequently provided liquidity.[7] Pursuant to Rule 2614(c)(2)(i), it is only for Post Only orders in securities priced at or above $1.00 per share that the Exchange performs this economic analysis to determine whether to allow the removal of liquidity. Under Rule 2614(c)(2)(i)(A), an order designated as Post Only in a sub-dollar security may remove liquidity without regard to what the value of an execution would be if the order instead posted to the Equities Book and subsequently provided liquidity.

The Exchange proposed to amend Rule 2614(c)(2)(i) such that, as is currently the case for a Post Only order in a security priced at or above $1.00, a Post Only order in a sub-dollar security would remove liquidity from the Equities Book only if the value of such execution would equal or exceed the value of an execution if the order instead posted to the Equities Book and subsequently provided liquidity.[8] Broadly speaking then, as a result of this proposed rule amendment, the Exchange would apply Post Only functionality to any order so designated by an Equity Member,[9] whether displayed or non-displayed, in any security traded on the Exchange.[10] The Exchange states that other national securities exchanges already offer Post Only functionality for sub-dollar securities.[11]

The Exchange proposed additional amendments to Rule 2614(c)(2)(i), as well as Rule 2617(a)(4), in connection with the proposed expansion of Post Only functionality to orders in sub-dollar securities. These additional amendments are designed to facilitate the use of displayed and non-displayed Post Only orders in sub-dollar securities by addressing the potential for such orders to cause internally locked or crossed markets on the Exchange.[12] The Exchange states that there are differences between the market structure for securities priced at or above $1.00 and the market structure for sub-dollar securities, and these differences impact how the Post Only instruction may function.[13] Specifically, the Exchange states that, due to the different fee levels and minimum price increments for securities priced at or above $1.00 per share compared to sub-dollar securities, a Post Only order in a sub-dollar security could cause an internally locked or crossed market on the Equities Book, whereas a Post Only order in a security priced at or above $1.00 per share could cause an internally locked market but not an internally crossed market.[14] The Exchange further states that these proposed rule amendments expand existing Exchange functionality.[15]

Proposed Rule 2614(c)(2)(i)(A), which would assume the rule provision numbering vacated by the elimination of current Rule 2614(c)(2)(i)(A),[16] is designed to address the potential for internally crossed markets that could occur on the Exchange due to the usage of Post Only orders in sub-dollar securities and the above-noted, sub-dollar security market structure features that are different from the at/above dollar security context. Under this proposed rule, (1) if a non-displayed order designated as Post Only to buy (sell) does not remove liquidity, and that order, if posted at its limit price, would cross a resting displayed order to sell (buy) on the Equities Book, the non-displayed Post Only order to buy (sell) will post to the Equities Book with a working price equal to the price of the displayed order to sell (buy), and (2) if a displayed order designated as Post Only to buy (sell) does not remove liquidity and the limit price of that order would cross a non-displayed order to sell (buy) resting on the Equities Book, the non-displayed order to sell (buy) will re-price to a working price equal to the limit price of the displayed

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 104462 (Dec. 19, 2025), 90 FR 60807 (''Notice''). The Commission has received no comment letters on the proposed rule change.

[4] 15 U.S.C. 78s(b)(2).

[5] *See* Securities Exchange Act Release No. 104731, 91 FR 4652 (February 2, 2026). The Commission designated March 29, 2026, as the date by which the Commission shall approve, disapprove, or institute proceedings to determine whether to disapprove the proposed rule change.

[6] The Exchange sets forth additional detail and justification regarding the proposal in the Notice. *See supra* note 3.

[7] *See* Exchange Rule (''Rule'') 2614(c)(2). To determine at the time of a potential execution whether the value of such execution when removing liquidity would equal or exceed the value of such execution if the order instead posted to the Equities Book and subsequently provided liquidity, the Exchange uses the highest possible fee charged and highest possible rebate paid for such executions on the Exchange. *See* Rule 2614(c)(2)(i)(B). Post Only orders for securities priced at or above $1.00 per share may be displayed or non-displayed on the Exchange. *See* Rule 2614(c)(3)–(4).

[8] *See* proposed Rule 2614(c)(2)(i). As is the case currently for Post Only orders in securities priced at or above $1.00 per share, this economic analysis for sub-dollar securities would be based on the highest possible rebate that would be paid for providing liquidity and the highest possible fee that would be charged for removing liquidity. *See* proposed Rule 2614(c)(2)(i). In addition, as a technical matter, this particular rule amendment would be accomplished by the elimination of current Rule 2614(c)(2)(i)(A).

[9] The term ''Equity Member'' means a member of the Exchange authorized to transact business on MIAX Pearl Equities. *See* Rule 1901.

[10] *See* Notice, 90 FR at 60808, 60810, 60815.

[11] *Id.* at 60810.

[12] *Id.* at 60810–15.

[13] *Id.* at 60808, 60810; *see also id.* at 60809 n. 15 and 19 (setting forth the Exchange's different maker-taker fee structures for securities priced at or above $1.00 versus sub-dollar securities, respectively); *id.* at 60812 n. 36 (citing Rule 2612(a), which provides that the minimum pricing increment is $.01 for securities priced at or above $1.00 per share, and $.0001 for sub-dollar securities).

[14] *Id.* at 60808. An internally locked or crossed market could occur on the Exchange based on the working price of non-displayed interest on one or both sides of the market. The Exchange will not display a locked or crossed market. *See* Rule 2617(a)(4)(iii).

[15] *See* Notice, 90 FR at 60811.

[16] In connection with this rule numbering change, current Rule 2614(c)(2)(i)(B) would be incorporated into Rule 2614(c)(2)(i) under the proposal.

Post Only order to buy (sell).[17] The Exchange states that this re-pricing functionality for a non-displayed order is consistent with how: (1) the Exchange currently re-prices orders with a Minimum Execution Quantity (''MEQ'') instruction in the same circumstances,[18] (2) the Exchange currently re-prices a non-displayed order that crosses the Protected Quotation of an external market,[19] and (3) other national securities exchanges re-price non-displayed orders in certain circumstances.[20]

Rule 2617(a)(4)(iv) currently applies only to orders in securities priced at or above $1.00 per share, and sets forth functionality that dictates when the Exchange would allow an Aggressing Order [21] or incoming order to execute against locked or crossed interest resting on the Equities Book. In connection with expanding Post Only functionality to orders in sub-dollar securities, the Exchange proposes to amend Rule 2617(a)(4)(iv) such that the functionality set forth in the rule would apply to orders in securities of any price, including Post Only orders in sub-dollar securities. The Exchange states that the execution mechanism set forth in Rule 2617(a)(4)(iv) is designed to maintain intra-market price priority by governing the price at which a non-displayed order is executable when there is a contra-side displayed order at a price that results in an internally locked or crossed book.[22] Under the amended rule, for a security of any price, when a non-displayed order to sell (buy) is posted on the Equities Book at a price that locks or crosses a displayed order to buy (sell), an Aggressing Order or an incoming order to buy (sell) that is priced more aggressively than the order to buy (sell) displayed on the Equities Book will execute against the non-displayed order to sell (buy) resting on the Equities Book at one-half minimum price variation higher (lower) than the price of the resting displayed order to buy (sell).[23]

III. Discussion and Commission Findings

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[24] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[25] which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest; and not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In general, according to the Exchange, the Post Only order instruction provides Equity Members with an increased likelihood that the order will add liquidity to the order book and not remove liquidity unless certain price improvement requirements are satisfied.[26] The Exchange states that Post Only orders are an important tool because they allow market participants to post aggressively-priced liquidity while achieving cost control with regard to the fee or rebate associated with the potential execution of their orders.[27] The Exchange further states that, by incentivizing aggressively-priced liquidity, Post Only functionality contributes to improved liquidity, market depth, and if the orders are displayed, price transparency.[28]

The Exchange states that this proposal is not intended to encourage an increase in the overall volume or order flow in sub-dollar securities.[29] According to the Exchange, average daily sub-dollar trading volume comprised approximately 9% of overall daily volume in September 2025, and the majority of sub-dollar trading volume occurs off-exchange.[30] In addition, the Exchange states that other exchanges already allow Post Only functionality for orders in sub-dollar securities.[31] Therefore, according to the Exchange, this proposal is designed to allow the Exchange to better compete with other exchanges and off-exchange venues for sub-dollar security order flow, as well as encourage market participants to send such order flow to an exchange-level pool of liquidity.[32]

The Commission agrees that an exchange providing Post Only functionality for orders in sub-dollar securities is not novel, as the Commission understands, consistent with what the Exchange has stated, that other exchanges already provide Post Only functionality for sub-dollar securities.[33] To the extent the Exchange's proposed Post Only functionality for orders in sub-dollar securities differs from how other exchanges handle Post Only orders in sub-dollar securities, these differences may manifest in the order interaction scenarios that the Exchange has contemplated and addressed in the proposal, in the Commission's view. Specifically, the proposal addresses the potential for the Exchange to experience an internally crossed order book in a sub-dollar security as a result of the interaction of non-displayed Post Only orders with contra-side displayed orders, or the interaction of displayed Post Only orders with contra-side non-displayed orders, by re-pricing the non-displayed order to the locking price in those scenarios.[34] Likewise, the proposal expands to sub-dollar securities order handling functionality that already exists for securities priced

[17] *See* proposed Rule 2614(c)(2)(i)(A). The Exchange has provided examples of how the proposed re-pricing functionality would work. *See* Notice, 90 FR at 60811–12. Proposed Rule 2614(c)(2)(i)(A) would apply when the potential cross would involve non-displayed interest on one side of the market and displayed interest on the other side of the market, and would not apply when the potential cross would involve non-displayed interest on both sides of the market. Pursuant to Rule 2617(a)(4)(iii), a non-displayed Post Only order that does not remove liquidity may post and rest on the Equities Book at a price that crosses (or locks) contra-side non-displayed interest.

[18] *See* Notice, 90 FR at 60811; *see also* Rule 2614(c)(7)(ii)(B).

[19] *See* Notice, 90 FR at 60811; *see also* Rule 2614(g).

[20] *See* Notice, 90 FR at 60811.

[21] The term ''Aggressing Order'' means an order to buy (sell) that is or becomes marketable against sell (buy) interest on the MIAX Pearl Equities Book. A resting order may become an Aggressing Order if its working price changes, if the PBBO or NBBO is updated, because of changes to other orders on the MIAX Pearl Equities Book, or when processing inbound messages. *See* Rule 1901.

[22] *See* Notice, 90 FR at 60812.

[23] *See* proposed Rule 2617(a)(4)(iv). The Exchange has provided examples of the operation of this order handling functionality for securities priced at, above or below $1.00 per share, for scenarios involving an incoming Post Only order as well as an Aggressing Order executing against contra-side interest when there is a re-evaluation of the Equities Book. *See* Notice, 90 FR at 60813–14. Since proposed Rule 2617(a)(4)(iv) would apply when there is non-displayed interest on one side of the market and displayed interest on the other side of the market, and since proposed Rule 2614(c)(2)(i)(A) would not permit an internal cross involving a Post Only order in that scenario, the application of proposed Rule 2617(a)(4)(iv) to Post Only orders is with regard to the potential occurrence of an internally locked market.

[24] 15 U.S.C. 78f(b). In approving this proposed rule change, the Commission has considered the proposed rule change's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[25] 15 U.S.C. 78f(b)(5).

[26] *See* Notice, 90 FR at 60809.

[27] *Id.* at 60815.

[28] *Id.* at 60810, 60815.

[29] *Id.* at 60808, 60816.

[30] *Id.*

[31] *See supra* note 11 and accompanying text.

[32] *See* Notice, 90 FR at 60807–08, 60815.

[33] *See supra* note 11 and accompanying text.

[34] *See* proposed Rule 2614(c)(2)(i). The Exchange states that internally locked or crossed markets on the Exchange are rare events and should continue to be rare under this proposal. *See* Notice, 90 FR at 60808.

at or above $1.00 and is designed to alleviate, insofar as Post Only orders are concerned, any internal locks on the Equities Book involving contra side displayed and non-displayed interest.[35]

VI. Conclusion

For the reasons set forth above, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of Section 6(b)(5) of the Act.[36]

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[37] that the proposed rule change (SR–PEARL–2025–50) be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[38]

Vanessa A. Countryman,

Secretary.

[FR Doc. 2026–05661 Filed 3–23–26; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–104567; File No. SR–CBOE–2026–001]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fee Schedule To Reflect Adjustments to Certain FINRA Fees

January 9, 2026.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 2, 2026, Cboe Exchange, Inc. (the ''Exchange'' or ''Cboe Options'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The text of the proposed rule change is also available on the Commission's website (*https://www.sec.gov/rules/sro.shtml*), the Exchange's website (*https://www.cboe.com/us/options/regulation/rule_filings/bzx/*), and at the principal office of the Exchange.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its Fee Schedule regarding Regulatory Fees to reflect updates to the FINRA Annual System Processing Fee Assessed only during Renewals (''FINRA Annual System Processing Fee'') and Continuing Education Fee.[3] By way of background, FINRA proposed, and the Commission approved, a proposed rule change to increase fees related to FINRA's core regulatory functions and use of its programs and services.[4] The proposed rule change will occur through phased implementation over several years between 2025 and 2029.[5] Beginning in 2026, FINRA will assess amended fees for Annual System Processing and Continuing Education.[6] The Exchange proposes to amend its Fee Schedule to mirror the amended FINRA fees. The applicable fees are collected and retained by FINRA via Web CRD[7] for the registration of associated persons of the Exchange Trading Permit Holder[8] (''TPH'') and TPH organizations that are not also FINRA members (''Non-FINRA members''). The Exchange merely lists these fees on its Fee Schedule and does not collect or retain the fees.

Specifically, the Exchange proposes to amend the current $70 FINRA Annual System Processing Fee to create a tiered fee structure based on the total number of securities regulators with which each registered person of a TPH is registered, excluding registration as an investment advisor representative. Under the current fee structure, as of January 2, 2024, a flat $70 fee applies to each registered person of a TPH that is not also a FINRA member.[9] FINRA's costs and resources allocated to processing information for TPHs' registered persons depends, in part, on the number of securities regulators with which each registered person is registered.[10] To account for the variability in costs incurred, FINRA will replace the current flat fee structure with the tiered rate structure described above beginning in 2026.[11] This change to the Exchange's Fee Schedule is proposed in accordance with the FINRA rule change adjusting its Annual System Processing Fee.[12]

The proposed fee structure is as follows: a $70 fee for registered persons of a TPH with 1–5 securities regulators, a $95 fee for registered persons of a TPH with 6–20 securities regulators; a $110 fee for associated [sic] persons of a TPH with 21–40 securities regulators; and a $125 fee for associated [sic] persons of a TPH with 41 or more securities regulators. Thus, the Annual System Processing Fee for Non-FINRA members will be calculated based on the total number of securities regulators with which each registered person of a TPH is registered.

Additionally, the Exchange proposes to amend the Continuing Education Fee for all registration from the current $18 to $25. FINRA, in conjunction with other Self-Regulatory Organizations and the Securities Industry/Regulatory

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[35] *See* proposed Rule 2617(a)(4)(iv). The Exchange states that, based on its observations and experience with MEQ orders, an internally locked or crossed book is typically alleviated almost immediately or within an extremely short period of time after the initial occurrence. *See* Notice, 90 FR at 60808.

[36] 15 U.S.C. 78f(b)(5).

[37] 15 U.S.C. 78s(b)(2).

[38] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 34–101696 (November 8, 2024), 85 FR 66592 (November 27, 2024) (SR–FINRA–2024–019) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Adjust FINRA Fees to Provide Sustainable Funding for FINRA's Regulatory Mission).

[4] *See id.*

[5] *See id.*

[6] *See id.*

[7] FINRA operates Web CRD, the central licensing and registration system for the U.S. securities industry. FINRA uses Web CRD to maintain the qualification, employment, and disciplinary histories of registered associated persons of broker-dealers.

[8] *See* Bylaws of Cboe Exchange, Inc. Section 1.1 Definitions. ''The term ''Trading Permit Holder'' means any individual, corporation, partnership, limited liability company or other entity authorized by the Rules that holds a Trading Permit. . . . A Trading Permit Holder is a ''member'' solely for purposes of the Act; however, one's status as a Trading Permit Holder does not confer on that Person any ownership interest in the Exchange.''

[9] As part of the proposed change, the Exchange also proposes to remove reference to the $45 fee that was in effect through December 21, 2023.

[10] *Supra* note 3.

[11] *Supra* note 3.

[12] *Supra* note 3.

Council on Continuing Education, administers the continuing education program for the securities industry.[13] The Regulatory Element of the continuing education program provides training on significant rule changes and other regulatory developments relevant to each registration category. FINRA will begin assessing an increased fee of $25 beginning in 2026 for the Regulatory Element of the continuing education program.[14] Thus, the Exchange proposes to amend its Fee Schedule to change the Continuing Education Fee to $25 beginning in 2026.

The FINRA Web CRD Fees are user-based, and there is no distinction in the cost incurred by FINRA if the user is a FINRA member itself, associated with a FINRA member organization, or a Non-FINRA member. Accordingly, the proposed fees mirror those fees FINRA will begin assessing in 2026.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[15] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [16] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with Section 6(b)(4) of the Act,[17] which requires that Exchange rules provide for the equitable allocation of reasonable dues, fees, and other charges among its TPHs and other persons using its facilities. All similarly situated FINRA member organizations are subject to the same fees structure, and all must use the CRD system for registration and disclosure.

The Exchange believes the proposed changes to the FINRA Annual System Processing Fee is reasonable because the proposed fee structure is identical to tiered fee structure adopted by FINRA for use of the Web CRD system.[18] FINRA bears the costs of processing information for TPHs' registered persons through Web CRD. The cost borne depends, in part, on the number of securities regulators with which each registered person is registered.[19] Additionally, the Exchange believes the proposed changes to the FINRA Continuing Education Fee is reasonable because the amended fee will also become identical to the fee adopted by FINRA beginning in 2026 for the provision of continuing education.[20] Thus, the Exchange's Fee Schedule will reflect the current rates that will be assessed by FINRA as of 2026 for use of Web CRD by any TPHs' registered person that is not also a FINRA member. The Exchange believes the proposed fee changes are equitable and not unfairly discriminatory, because the Exchange will not be collecting or retaining these fees, and therefore, the Exchange will not be in a position to apply them in an inequitable or unfairly discriminatory manner.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on intramarket or intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that the proposed rule change will impose any burden on intramarket competition because as the proposed change applies uniformly to all market participants. The proposal will reflect the fees that will be assessed by FINRA to all market participants (FINRA and Non-FINRA members) for uses of Web CRD. Additionally, the Exchange believes that its proposal will not impose an undue burden on competition because the Exchange will not be collecting or retaining these fees, therefore, the Exchange will not be in a position to apply them in an inequitable or unfairly discriminatory manner.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

[13] *Supra* note 3.

[14] *Supra* note 3.

[15] 15 U.S.C. 78f(b).

[16] 15 U.S.C. 78f(b)(5).

[17] 15 U.S.C. 78f(b)(4).

[18] *Supra* note 3.

[19] *Supra* note 3.

[20] *Supra* note 3.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [21] and paragraph (f) of Rule 19b–4 [22] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*https://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include file number SR–CBOE–2026–001 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to file number SR–CBOE–2026–001. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*https://www.sec.gov/rules/sro.shtml*). Copies of the filing will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or subject to copyright protection. All submissions should refer to file number SR–CBOE–2026–001 and should be submitted on or before April 14, 2026.

[21] 15 U.S.C. 78s(b)(3)(A).

[22] 17 CFR 240.19b–4(f).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[23]

J. Matthew DeLesDernier,

Deputy Secretary.

[FR Doc. 2026–05677 Filed 3–23–26; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 36026; File No. 812–15985]

FP Strategies LLC, et al.

March 19, 2026.

AGENCY: Securities and Exchange Commission (''Commission'' or ''SEC'').

ACTION: Notice.

Notice of application for an order under sections 17(d) and 57(i) of the Investment Company Act of 1940 (the ''Act'') and rule 17d–1 under the Act to permit certain joint transactions otherwise prohibited by sections 17(d) and 57(a)(4) of the Act and rule 17d–1 under the Act.

Summary of Application: Applicants request an order to permit certain business development companies (''BDCs'') and closed-end management investment companies to co-invest in portfolio companies with each other and with certain affiliated investment entities.

Applicants: FP Strategies LLC, RoboStrategy, Inc., and Satya Robo Holdings LLC.

Filing Dates: The application was filed on February 6, 2026.

Hearing or Notification of Hearing: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing on any application by emailing the SEC's Secretary at *Secretarys-Office@sec.gov* and serving the Applicants with a copy of the request by email, if an email address is listed for the relevant Applicant below, or personally or by mail, if a physical address is listed for the relevant Applicant below. The email should include the file number referenced above. Hearing requests should be received by the Commission by 5:30 p.m., Eastern time, on April 13, 2026, and should be accompanied by proof of service on the Applicants, in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by emailing the Commission's Secretary at *Secretarys-Office@sec.gov.*

ADDRESSES: The Commission: *Secretarys-Office@sec.gov.* Applicants: Marc Weinstein, FP Strategies LLC, *marc@fpstrategies.io,* 151 Calle de San Francisco, Suite 200, San Juan, Puerto Rico 00901, with copies to Owen J. Pinkerton, Esq., Anne G. Oberndorf, Esq., Krisztina Nadasdy, Esq., Eversheds Sutherland (US) LLP, *anneoberndorf@eversheds-sutherland.com,* 700 Sixth Street NW, Suite 700, Washington, DC 20001.

FOR FURTHER INFORMATION CONTACT: Trace W. Rakestraw, Senior Special Counsel, or Adam Large, Senior Special Counsel at (202) 551–6825 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: For Applicants' representations, legal analysis, and conditions, please refer to Applicants' application, filed February 6, 2026, which may be obtained via the Commission's website by searching for the file number at the top of this document, or for an Applicant using the Company name search field, on the SEC's EDGAR system. The SEC's EDGAR system may be searched at *https://www.sec.gov/search-filings.* You may also call the SEC's Office of Investor Education and Advocacy at (202) 551–8090.

For the Commission, by the Division of Investment Management, under delegated authority.

Vanessa A. Countryman,

Secretary.

[FR Doc. 2026–05666 Filed 3–23–26; 8:45 am]

BILLING CODE 8011–01–P

[23] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #21454 and #21455; LOUISIANA Disaster Number LA–20013]

Presidential Declaration Amendment of a Major Disaster for Public Assistance Only for the State of Louisiana

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 1.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for Public Assistance Only for the State of Louisiana (FEMA–4900–DR), dated March 4, 2026.

Incident: Louisiana Severe Winter Storm.

DATES: Issued on March 16, 2026.

Incident Period: January 23, 2026 through January 27, 2026.

Physical Loan Application Deadline Date: May 4, 2026.

Economic Injury (EIDL) Loan Application Deadline Date: December 4, 2026.

ADDRESSES: *Visit the MySBA Loan Portal at https://lending.sba.gov* to apply for a disaster assistance loan.

FOR FURTHER INFORMATION CONTACT: Sharon Henderson, Office of Disaster Recovery and Resilience, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: The notice of the President's major disaster declaration for Private Non-Profit organizations in the State of Louisiana, dated March 4, 2026, is hereby amended to include the following areas as adversely affected by the disaster.

Primary Parishes:

Catahoula, Lincoln, Madison, Union, Webster.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Number 59008)

(Authority: 13 CFR 123.3(b).)

James Stallings,

Associate Administrator, Office of Disaster Recovery & Resilience.

[FR Doc. 2026–05668 Filed 3–23–26; 8:45 am]

BILLING CODE 8026–09–P

STATE JUSTICE INSTITUTE

State Justice Institute (SJI) Board of Directors Meeting, Notice

AGENCY: State Justice Institute.

ACTION: Notice of meeting.

SUMMARY: The purpose of this meeting is to consider grant applications for the 2nd quarter of FY 2026, and other business.

DATES: The SJI Board of Directors will be meeting on Monday, April 20, 2026 at 1:00 p.m. ET.

ADDRESSES: Supreme Court of Delaware, Renaissance Center, 405 North King Street, Suite 500, Wilmington, DE.

FOR FURTHER INFORMATION CONTACT: Jonathan Mattiello, Executive Director, State Justice Institute, 12700 Fair Lakes Circle, Suite 340, Fairfax, VA 22033, 703–660–4979, *contact@sji.gov.*

(Authority: 42 U.S.C. 10702(f))

Jonathan D. Mattiello,

Executive Director.

[FR Doc. 2026–05713 Filed 3–23–26; 8:45 am]

BILLING CODE 6820–SC–P

SURFACE TRANSPORTATION BOARD

[Docket No. EP 290 (Sub-No. 5) (2026–2)]

Quarterly Rail Cost Adjustment Factor

AGENCY: Surface Transportation Board.

ACTION: Approval of rail cost adjustment factor.

SUMMARY: The Surface Transportation Board has adopted the second quarter 2026 Rail Cost Adjustment Factor and cost index filed by the Association of American Railroads.

DATES: *Applicability Date:* April 1, 2026.

FOR FURTHER INFORMATION CONTACT: Laura Schneider, (202) 915–1029. If you require an accommodation under the Americans with Disabilities Act, please call (202) 245–0245.

SUPPLEMENTARY INFORMATION: The rail cost adjustment factor (RCAF) is an index formulated to represent changes in railroad costs incurred by the nation's largest railroads over a specified period of time. The Surface Transportation Board (Board) is required by law to publish the RCAF on at least a quarterly basis. Each quarter, the Association of American Railroads computes three types of RCAF figures and submits those figures to the Board for approval. The Board has reviewed the submission and adopts the RCAF figures for the second quarter of 2026. The second quarter 2026 RCAF (Unadjusted) is 1.016. The second quarter 2026 RCAF (Adjusted) is 0.388. The second quarter 2026 RCAF–5 is 0.368. Additional information is contained in the Board's decision, which is available at *www.stb.gov.*

Decided: March 19, 2026.

By the Board, Board Members Fuchs, Hedlund, and Schultz.

Kenyatta Clay,

Clearance Clerk.

[FR Doc. 2026–05691 Filed 3–23–26; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA–2026–2722]

Notice of Intent To Designate as Abandoned Aero Enhancements, Inc. Supplemental Type Certificate No. SA01158WI

AGENCY: Federal Aviation Administration (FAA) DOT

ACTION: Notice of intent to designate as abandoned; request for comments.

SUMMARY: This notice announces the FAA's intent to designate Aero Enhancements, Inc. Supplemental Type Certificate (STC) No. SA01158WI as abandoned and make the related engineering data available upon request. The FAA has received a request to provide engineering data concerning this STC. The FAA has been unsuccessful in contacting Aero Enhancements, Inc. concerning this STC. This action is intended to enhance aviation safety.

DATES: The FAA must receive all comments by September 21, 2026.

ADDRESSES: You may send comments on this notice by any of the following methods:

- *Federal eRulemaking Portal:* Go to *regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Michelle Angbo, AIR–761, FAA, Central Certification Branch, 1801 Airport Road, Room 100, Wichita, KS 67209.
- *Email: 9-AVS-CCB-Correspondence@faa.gov* Include ''Docket No. FAA–2026–2722'' in the subject line of the message.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Michelle Angbo, Aviation Safety Specialist, Central Certification Branch, FAA; telephone: (316) 946–4113; email: *9-AVS-CCB-Correspondence@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites interested parties to provide comments, written data, views, or arguments relating to this notice. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2026–2722'' at the beginning of your comments. The FAA will consider all comments received on or before the closing date. All comments received will be available in the docket for examination by interested persons.

Background

The FAA is posting this notice to inform the public that the FAA intends to designate as abandoned Aero Enhancements, Inc. STC No. SA01158WI and subsequently release the related engineering data. Aero Enhancements, Inc. STC No. SA01158WI is for Installation of the Aero Enhancements UV250–1 Supplemental Instrument Panel Lightning System.

The FAA has received a third-party request for the release of the aforementioned engineering data under the provisions of the Freedom of Information Act (FOIA), 5 U.S.C. 552. The FAA cannot release commercial or financial information under FOIA without the permission of the data owner. However, in accordance with title 49 U.S.C. 44704(a)(5), the FAA can provide STC ''engineering data'' it possesses for STC maintenance or improvement, upon request, if the following conditions are met:

1. The FAA determines the STC has been inactive for three years or more;

2. Using due diligence, the FAA is unable to locate the owner of record or the owner of record's heir; and

3. The availability of such data will enhance aviation safety.

There has been no activity on this STC for more than three years.

On February 13, 2026, the FAA sent a certified letter to Aero Enhancements, Inc., at their last known address, 1746 Chase Drive, Fenton, MO 63026. The letter was returned, unable to be forwarded. The letter informed Aero Enhancements, Inc. that the FAA had received a request for engineering data related to STC No. SA01158WI and was conducting a due diligence search to determine whether the STC was inactive and may be considered abandoned. The letter further requested Aero Enhancements, Inc. to respond in writing within 60 days and state whether it is the holder of the STC.

Information Requested

If you are the owner or heir or a transferee of STC No. SA01158WI or have any knowledge regarding who may now hold STC No. SA01158WI, please contact Michelle Angbo as described in this notice under **FOR FURTHER INFORMATION CONTACT** or using a method described under **ADDRESSES**. If you are the heir of the owner, or the owner by transfer, of STC No. SA01158WI, you must provide a notarized copy of your government-issued identification with a letter and background establishing your ownership of the STC and, if applicable, your relationship as the heir to the deceased holder of the STC.

Conclusion

If the FAA does not receive any response by September 21, 2026, the FAA will consider STC No. SA01158WI abandoned, and the FAA will proceed with the release of the requested data. This action is for the purpose of maintaining the airworthiness of an aircraft and enhancing aviation safety.

Authority: 49 U.S.C. 44704(a)(5).

Issued on March 19, 2026.

Steven W. Thompson,

Acting Deputy Director, Compliance & Airworthiness Division, Aircraft Certification Service.

[FR Doc. 2026–05680 Filed 3–23–26; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2025–0721]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Request for Comment; Fatality Analysis Reporting System (FARS) and Non-Traffic Surveillance (NTS)

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Notice and request for comments on a request for reinstatement without change of a previously approved information collection.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (PRA), this notice announces that the Information Collection Request (ICR) summarized below will be submitted to the Office of Management and Budget (OMB) for review and approval. The ICR describes the nature of the information collection and its expected burden. This document describes a currently approved collection of information for which NHTSA intends to seek approval from OMB for extension with modification on NHTSA's Fatality Analysis Reporting System (FARS) and Non-Traffic Surveillance (NTS). A **Federal Register** Notice with a 60-day comment period soliciting comments on the following information collection was published on November 18, 2025. Twenty-four comments were received.

DATES: Comments must be submitted on or before April 23, 2026.

ADDRESSES: Written comments and recommendations for the proposed information collection, including suggestions for reducing burden, should be submitted to the Office of Management and Budget at *www.reginfo.gov/public/do/PRAMain.* To find this particular information collection, select ''Currently under Review—Open for Public Comment'' or use the search function.

FOR FURTHER INFORMATION CONTACT: For additional information or access to background documents, contact Barbara Rhea, State Data Reporting Systems Division (NSA–120), (202) 560–6724, National Highway Traffic Safety Administration, Room W43–313, U.S. Department of Transportation, 1200 New Jersey Avenue SE, Washington DC 20590. Please identify the relevant collection of information by referring to its OMB Control Number (2127–0006).

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501 *et seq.*), a Federal agency must receive approval from the Office of Management and Budget (OMB) before it collects certain information from the public and a person is not required to respond to a collection of information by a Federal agency unless the collection displays a valid OMB control number. In compliance with these requirements, this notice announces that the following information collection request will be submitted OMB.

Title: Fatality Analysis Reporting System (FARS) and Non-Traffic Surveillance (NTS).

OMB Control Number: 2127–0006.

Form Number: NHTSA Form 2100.

Type of Request: Request for extension of a currently approved collection of information.

Type of Review Requested: Regular.

Length of Approval Requested: Three years from date of approval.

Summary of the Collection of Information: NHTSA is authorized by 49 U.S.C. 30182 and 23 U.S.C. 402, 403 & 405, the Cameron Gulbransen Kids Transportation Safety Act of 2007 (K.T. Safety Act) (Pub. L 110–189) to collect data on motor vehicle traffic crashes to aid in the identification of issues and the development, implementation, and evaluation of motor vehicle and highway safety countermeasures to reduce fatalities and the property damage associated with motor vehicle crashes. Using this authority, NHTSA established the Fatal Analysis Reporting System (FARS) and the Non-Traffic Surveillance (NTS), which collect data on fatal motor vehicle traffic crashes. Among other things, the information aids in the establishment and enforcement of motor vehicle regulations and highway safety programs.

The FARS data collection started in 1975 and is a census of all defined crashes involving fatalities in the country. The FARS collects annual data from all 50 States, the District of Columbia, and Puerto Rico under cooperative agreements. State employees collect and process information from existing State documents including police crash reports as well as driver license, vehicle registration, highway roadway classification, death certificates, toxicology reports and Emergency Medical Service reports. NHTSA uses FARS data for research and analysis in support of motor vehicle regulations and highway safety programs. This supports NHTSA's mission by providing the agency vital information about fatal crashes. The FARS data comprises a national database that tracks trends in fatalities and quantifying problems in highway safety.

The Non-Traffic Surveillance (NTS) is an automated data collection effort for collecting information about non-traffic crashes and non-crash incidents. The NTS data provide counts and details regarding fatalities and injuries that occur in non-traffic crashes and in non-crash incidents. The NTS non-traffic crash data are obtained through NHTSA's data collection efforts for the Crash Report Sampling System (CRSS), the Crash Investigation Sampling System (CISS), and FARS. NTS also includes data outside of NHTSA's own data collections. NTS' non-crash injury data are based upon emergency department records from a special study conducted by the Consumer Product Safety Commission's National Electronic Injury Surveillance System (NEISS) All Injury Program. NTS non-crash fatality data are derived from death certificate information from the Centers for Disease Control's National Vital Statistics System. This ICR only seeks approval for the collection of NTS data for NTS that comes from the FARS data collection effort.

Description of the Need for the Information and Proposed Use of the Information: NHTSA's mission is to save lives, prevent injuries, and reduce economic losses resulting from motor vehicle crashes. In order to accomplish this mission, NHTSA needs high-quality data on motor vehicle crashes. The FARS supports this mission by providing the agency with vital information about all crashes involving fatalities that occur on our nation's roadways. The FARS does this by collection national fatality information directly from existing State files and documents and aggregate them for research and analysis.

FARS data is used extensively by NHTSA program and research offices, other DOT modes, States, and local jurisdictions. The highway research community uses the FARS data for trend analysis, problem identification, and program evaluation. Congress uses the FARS data for making decisions concerning safety programs. The FARS data are also available upon request to anyone interested in highway safety.

60-Day Notice

A **Federal Register** notice with a 60-day comment period soliciting public comments on the following information collection was published on November 18, 2025 (90 FR 51812).

During the comment period, NHTSA received a total of twenty-four comments from various stakeholders, which are listed below in the order they were received:

1. Insurance Institute for Highway Safety (IIHS),
2. Families for Safe Streets (FSS),
3. DRIVE SMART Virginia,
4. American Association of Motor Vehicle Administrators (AAMVA),
5. WhoPoo App: two identical comments were submitted,
6. Institute of Transportation Engineers (ITE),
7. The League of American Bicyclists,
8. Traffic Injury Research Foundation USA, Inc. (TIRF USA),
9. American Trucking Associations (ATA),
10. American Property Casualty Insurance Association (APCIA),
11. Virginia Polytechnic Institute and State University—Virginia Tech Transportation Institute (VTTI),
12. Truck Safety Coalition (TSC), Citizens for Reliable and Safe Highways (CRASH), and Parents Against Tired Truckers (P.A.T.T.): three organizations are represented together,
13. National Association of City Transportation Officials (NACTO),
14. Motorcycle Riders Foundation,
15. AARP,
16. Connecticut Department of Transportation (CTDOT),
17. Smart Growth America (SGA),
18. National Safety Council (NSC),
19. Association of Transportation Safety Information Professionals (ATSIP),
20. Foundation for Advancing Alcohol Responsibility (*Responsibility.org*) and National Alliance to Stop Impaired Driving (NASID),
21. Advocates for Highway and Auto Safety, which includes American Automobile Association (AAA), Governors Highway Safety Association, Mothers Against Drunk Driving (MADD), NSC, Safe Kids Worldwide,
22. Alliance for Automotive Innovation,
23. Colorado Department of Transportation (CDOT).

The majority of the comments were strongly supportive of the proposed FARS and NTS information collection. The comments deemed the data collection is a critical tool for understanding and improving road safety. FARS provides a comprehensive census of fatal motor vehicle crashes in the United States and it's essential for research, policy development and evaluation of safety countermeasures, and necessary for the proper performance of the functions of the Department.

WhoPoo App submitted two identical comments that are not relevant to the proposed FARS and NTS data collection. Therefore, they were not taken under advisement.

Fourteen of the comments (IIHS, FSS, ITE, The League of American Bicyclists, Traffic Injury Research Foundation USA, Inc., VTTI, NACTO, Motorcycle Riders Foundation, AARP, CTDOT, SGA, ATSIP, Foundation for Advancing Alcohol Responsibility (*Responsibility.org*) and NASID and CDOT) noted delays in public release of FARS annual datasets. NHTSA is committed to working with States, the District of Columbia, and Puerto Rico to investigate innovative collection methods, aiming to enhance efficiencies within data collection systems.

Six of the comments (IIHS, ITE, The League of American Bicyclists, NACTO, Motorcycle Riders Foundation and AARP) requested to be involved through public comments on substantial proposed changes to the data collection system. NHTSA thanks the commenters for their interest. The current proposed changes process is a culmination of feedback from stakeholders including public comments throughout the year. NHTSA continues to review the effectiveness of current data elements and will explore future solicitation to improve the utility and accuracy of the data collection systems.

Three of the comments (CTDOT, ATSIP, and Alliance for Automotive Innovation) were in response to the NHTSA's estimate of the burden of the proposed information collection. CTDOT stated the burden was underestimated given revised documents and updated case information. ATSIP stated it is a burden for agencies to report with limited resources and more complex data elements. Alliance for Automative Innovation responded the proposed burden estimates appear reasonable given the long-standing nature of both FARS and NTS. After reviewing these comments, NHTSA decided to change the burden hours for EDT manual case entry from two hours per case to three hours per case. Upon further review, additional consideration was taken for overall burden hours for FARS Manual Protocol Case Entry Process given the complexities of supporting case materials, increasing quality control analyses and additional data requirements the burden hours were changed from 4.25 hours per case to five hours per case.

ATSIP mentioned ''data deserts'' that are important for commerce. These are US and state-owned roadways with shared jurisdiction and may run through tribal areas that have limited law enforcement presence or are managed by multiple agencies and where data is not shared efficiently. The FARS data collection is limited to what is available and shared within State data owners to the designated State FARS unit. This collaboration is critical for the collection, analysis and completeness of supporting FARS case material.

The League of American Bicyclists requested NHTSA have the ability to capture emerging vehicles such as electrically-assisted bicycles and autonomous vehicles. NHTSA continues to review the effectiveness of current data elements and will explore future solicitation to improve the utility and accuracy of the data collection systems.

The Foundation for Advancing Alcohol Responsibility (*Responsibility.org*), NASID, VTTI, and ITE submitted comments that extend beyond the scope of this ICR. These comments addressed potential enhancements to FARS, including improved drug toxicology data, a more comprehensive approach to data collection for crash causation, and stronger linkages with other safety datasets. While these suggestions fall outside the immediate scope of this collection request, NHTSA will continue to explore opportunities to enhance the quality, breadth, and integration of the information collected in FARS.

Affected Public: States, the District of Columbia, and Puerto Rico.

Estimated Number of Respondents: 52.

Frequency: On Occasion.

NHTSA has established cooperative agreements with the 50 States, the District of Columbia, and Puerto Rico to report a standard set of data on each fatal crash in their jurisdictions. State respondents report based on the occurrence of crashes involving fatalities. When a fatal crash occurs, State employees extract and transcribe information from existing files and input the information into FARS, with the frequency of reporting determined by the frequency of fatal crashes occurring in the respondent's jurisdiction.

Estimated Number of Responses: 38,581.

Estimated Total Annual Burden Hours: 152,211.

For both FARS and NTS, there are 52 respondents (50 States, the District of Columbia (DC), and Puerto Rico (PR)) reporting on approximately 38,536 fatal crash cases per year. Of these cases, 37,981 are reported to FARS and approximately 600 are identified and reported as non-traffic fatal crashes (NTS).

The annual burden has increased from when NHTSA last sought approval for this collection from 107,209 to 152,211 hours (an increase of 45,002 hours). The adjustment in burden hours is due to the increase in the complexity of coding the FARS cases and an increase in the number of fatal crashes across most States. The increase also accounts for the time to process the non-traffic fatalities for NTS. Furthermore, while time for manually inputting data has decreased with States implementing systems to electronically transfer police report data that prepopulate NHTSA's data systems, including FARS,[1] the overall burden increased because, over the past three years, there has been an increase in staff turnover at the State level, adding an increase in administrative hours, training, and coding assistance to continue operations.

The State employee (or employees depending on the number of fatal crashes per year occurring in the jurisdiction) acquires and codes the required information, as fatal crashes occur, in the FARS records-based system. For FARS, although there is only one information collection, NHTSA calculates the total burden using four burden categories: (1) FARS Manual Protocol Case Entry, (2) overhead burden for FARS in States without EDT, (3) FARS coding in States with EDT, and (4) FARS EDT mapping maintenance.

FARS Manual Protocol Case Entry

NHTSA estimates that there are currently 30 States providing crash reports (including case materials) via manual protocol. For these respondents after considering the comments for the 60-day **Federal Register** notice, NHTSA estimates that it takes analysts approximately 5 hours (an increase of 0.75 hour) to collect fatal crash information and code a FARS case entry in the FARS data entry system. This estimate is based on historical knowledge of the average number of analysts, full- and part-time, back-up analysts, FARS supervisors, and coding assistance respondents needed to complete an annual FARS file. NHTSA estimates that, on average, 18,007 cases are collected and coded annually using this access method. Therefore, NHTSA estimates the total annual burden associated with FARS Manual Protocol case entry to be approximately 90,035 hours annually (18,007 cases × 5 hours = 90,035 hours).

FARS Manual Protocol In-Kind Process Support

In addition to the time for each crash entry, some respondents using the FARS Manual Protocol are also expected to incur overhead burden time. NHTSA estimates that 8 States provide overhead support and that the total annual burden for this support is 2,000 hours, or an average of 250 hours per respondent. This burden includes hours spent by supervisors and State managers responding to and supporting FARS operations that are not accounted for in the coding hours every year, including supporting data acquisition and other associated tasks.

FARS EDT Mapping Maintenance

NHTSA estimates that there are approximately 22 States already participating in Electronic Data Transfer (EDT). For these respondents, PCR data are automatically transferred from the State's centralized crash database to NHTSA's CDAN system. The crash data are then prepopulated in NHTSA's crash data systems, including FARS.

NHTSA estimates the burden to maintain the protocol is estimated at two hours per State (respondent) or a total of 44 hours per year (22 States × 2 hours). This represents time to monitor case quality and timeliness, conduct quality control processes, and maintain communications with NHTSA and its contractors to ensure accurate data transfer. The specific task associated with this maintenance of effort is referred to as ''mapping''. Upon becoming an EDT State, the respondent participates in an initial mapping process. The process requires an alignment between the State Specific Coding Instructions and the FARS Coding and Validation guidance.[2] During quality control processes, which are conducted year-round, data anomalies may be detected, at which time action must be taken to review and ultimately correct the shifts in the data. This process, while managed by the Office of Data Acquisition, requires concurrence from the respondent, which is what the burden represents.

FARS EDT Manual Case Entry for Supporting Case Materials

Participation in EDT reduces but does not eliminate the manual entry of data into FARS. Although information from PCRs is pre-populated into the system, EDT State respondents must still collect and enter supporting case materials, such as driver records, toxicology reports, death certificate information, and coroner's/medical examiners reports to complete a FARS case. After considering the comments for the 60-day **Federal Register** notice, NHTSA estimates that completing each case entry in an EDT States takes 3 hours (an increase of 1 hour), which is approximately half the time the process is estimated to take for non-EDT States. On average, NHTSA estimates that 19,944 FARS cases for the 22 EDT States will have pre-populated data. Accordingly, NHTSA estimates the total burden associated with completing the FARS case entries for these cases to be 59,832 hours (19,944 cases × 3 hours = 59,832 hours).

Total Burden for FARS

The collective and cumulative efforts of all 52 respondents results in an estimated annual burden of 151,911 hours (90,035 hours + 2,000 hours + 44 hours + 59,832 hours). Table 1 provides a summary of the burden associated with FARS.

TABLE 1—BURDEN CATEGORY ESTIMATES AND TOTAL BURDEN FOR FARS

Burden category	Number of responses	Number of respondents	Burden hours per response	Total annual burden hours per burden category
FARS EDT (mapping maintenance)	22	22	2	44
FARS EDT Manual Case Entry (supporting case materials)	19,944	22	3	59,832

[1] The EDT information collection is assigned OMB Control No. 2127–0753.

[2] The burden associated with this task is accounted for under NHTSA ICR that covers EDT (OMB Control Number 2127–0753).

TABLE 1—BURDEN CATEGORY ESTIMATES AND TOTAL BURDEN FOR FARS—Continued

Burden category	Number of responses	Number of respondents	Burden hours per response	Total annual burden hours per burden category
FARS Manual Protocol Case Entry Process (including supporting case materials)	18,007	30	5	90,035
FARS Manual Protocol In-kind Process Support	8	8	250	2,000
Total	37,981	[3] 52	4.0	151,911

NTS Data Collection

Non-traffic fatal crashes are collected by approximately 25 States as part of the FARS data collection process. NHTSA estimates that it takes twelve hours per respondent annually to account for NTS cases. Therefore, NHTSA estimates that the total burden for NTS case identification and coding is 300 hours annually (25 respondents × 12 hours).

Burden for FARS and NTS

NHTSA estimates the total annual burden for the two information collections, FARS and NTS, is 152,211 hours per year (151,911 hours + 300 hours). Table 2 provides a summary of the burdens for the two information collections.

TABLE 2—SUMMARY OF BURDENS FOR FARS AND NTS

Information collection	Responses	Respondents	Burden per response (hours)	Hours per respondent	Total burden hours
FARS	37,981	52	4.0	2,921.37	151,911
NTS	600	25	0.5	12	300
Total	38,581	.....	.....	.....	152,211

To estimate the labor costs associated with the two information collections, NHTSA looked primarily at the annualized reimbursements NHTSA provides to States under the FARS Cooperative Agreements and the amount of ''in-kind'' kind funding provided by the States. Annually, NHTSA provides approximately $7.1 million to States to go toward the labor costs associated with this information collection. Additionally, because collecting fatal information is mutually beneficial to the Federal Government and the respondents, eight State respondents have provided ''in-kind funding'' to cover State overhead costs associated with managing FARS operations. While ''in-kind funding'' varies from respondent to respondent, the average annualized labor costs are estimated at $50,000 per in-kind respondent, for a total of $400,000 in annual in-kind contributions (8 States × $50,000). Therefore, NHTSA estimates the total cost associated with labor hours to be approximately $7.5 million per year ($7.1 million + $400K), or $49.27 per hour ($7.5 million ÷ 152,211 hours).

Estimated Total Annual Burden Cost: $0.

Public Comments Invited: You are asked to comment on any aspects of this information collection, including (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; 49 CFR 1.49; and DOT Order 1351.29A.

Chou-Lin Chen,

Associate Administrator for the National Center for Statistics and Analysis.

[FR Doc. 2026–05687 Filed 3–23–26; 8:45 am]

BILLING CODE 4910–59–P

[3] This includes the 50 State, the District of Columbia, and Puerto Rico.

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Beautifying Transportation Infrastructure Council; Public Meeting

AGENCY: Office of the Secretary (OST), Department of Transportation (DOT).

ACTION: Notice of public meeting.

SUMMARY: The Office of the Secretary of Transportation (OST) announces the second public meeting of the Beautifying Transportation Infrastructure Council (Council) on March 31, 2026. This notice announces the date, time, and location of the virtual meeting, which will be open to the public. The purpose of the Council is to advise the Secretary of Transportation on enhancing the aesthetic value of our Nation's transportation systems.

DATES: This meeting will be held on March 31, 2026, beginning at 9:00 a.m. (EST) and ending at 12:00 p.m. (EST). The exact start and end times are subject to change; please monitor *https://www.transportation.gov/beautifytransportation/meetings* for the most up-to-date information.

ADDRESSES: The Council will meet virtually. The public may join the

meeting virtually, with information available on *https://www.transportation.gov/beautifytransportation/meetings.*

FOR FURTHER INFORMATION CONTACT: The Council's Designated Federal Officer, Julianne Schwarzer, Office of the Assistant Secretary for Transportation Policy, Office of the Secretary, *BeautifyTransportation@dot.gov* or 617–999–9667.

SUPPLEMENTARY INFORMATION:

I. Background

The U.S. Secretary of Transportation (Secretary) established the Council as a Federal Advisory Committee in accordance with the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C. Ch. 10) to advise the Secretary of Transportation on enhancing the aesthetic value of our Nation's transportation systems. The Council provides recommendations on policies, designs, and funding priorities that beautify transportation infrastructure, including highways, bridges, and transit hubs, while maintaining safety and efficiency.

II. Agenda

At the meeting, the proposed agenda will cover the Call to Order, Official Statement of the Designated Federal Officer, Meeting Logistics, Opening Remarks, Committee Business, and Review of Next Steps. The agenda is subject to change.

III. Public Participation

The meeting will be open to the public through a virtual meeting. Registration for the meeting can be found here: *https://www.transportation.gov/beautifytransportation/meetings*.

Members of the public may submit comments to the Committee in advance, as well as any requests for an electronic meeting accommodation consistent with the relevant sections of the Rehabilitation Act, as amended, 29 U.S.C. 794, by contacting the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice no later than March 25, 2026.

All advance submissions will be reviewed by the Designated Federal Officer. If approved, advance submissions shall be circulated to the Council members for review prior to the meeting. All advance submissions will become part of the official record of the meeting.

Authority: The Council is a discretionary advisory committee under the authority of the U.S. Department of Transportation and was established in accordance with the provisions of the Federal Advisory Committee Act, as amended, 5 U.S.C. Ch. 10.

Loren A. Smith, Jr.,

Deputy Assistant Secretary for Transportation Policy.

[FR Doc. 2026–05722 Filed 3–23–26; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0926]

Agency Information Collection Activity: Native American Direct Loan (NADL) Processing Requirements

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: Veterans Benefits Administration, Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before May 26, 2026.

ADDRESSES: Comments must be submitted through *www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT:

Program-Specific information: Kendra McCleave, 202–461–9760, *Kendra.McCleave@va.gov.*

VA PRA information: Dorothy Glasgow, 202–461–1084, *VAPRA@va.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA of 1995, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Native American Direct Loan (NADL) Processing Requirements.

OMB Control Number: 2900–0926. *https://www.reginfo.gov/public/do/PRASearch.*

(Once at this link, you can enter the OMB Control Number to find the historical versions of this Information Collection).

Type of Review: Extension Without Change of a Currently Approved Collection.

Abstract: The information collected in this package assists Native American Veterans in obtaining the VA home loan benefit to purchase, construct, or improve dwellings on trust lands, or to refinance their existing NADL to a lower interest rate. The information requested by VA is vital to the NADL program's process and allows VA to determine program eligibility by gathering evidence of Native American Veteran borrowers' tribal membership status and ownership interest in the land on which the dwelling, or proposed dwelling, is or will be situated.

Affected Public: Individuals and households.

Estimated Annual Burden: 1,721 hours.

Estimated Average Burden per Respondent: 28.04 minutes.

Frequency of Response: One-Time.

Estimated Number of Respondents: 737 per annual.

(Authority: 44 U.S.C. 3501 *et seq.*)

Shunda Willis,

Alternate, VA PRA Clearance Officer, Office of Information Technology/Data Governance Analytics, Department of Veterans Affairs.

[FR Doc. 2026–05697 Filed 3–23–26; 8:45 am]

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Part II

Department of the Interior

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for 22 Species in the Commonwealth of the Northern Mariana Islands and the Territory of Guam; Proposed Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R1–ES–2024–0194; FXES1111090FEDR–267–FF09E21000]

RIN 1018–BI17

Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for 22 Species in the Commonwealth of the Northern Mariana Islands and the Territory of Guam

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), propose to designate critical habitat for 9 animal species and 13 plant species from the Mariana Islands (the U.S. Territory of Guam and the Commonwealth of Northern Mariana Islands) under the Endangered Species Act (Act). In total across both the Territory and Commonwealth, approximately 59,886 acres (24,235 hectares) on the islands of Aguiguan, Alamagan, Asunción, Guam (including the island of Cocos), Pagan, Rota, Saipan, Sarigan, and Tinian fall within the boundaries of the proposed critical habitat designation. We also announce the availability of an economic analysis of the proposed designation of critical habitat for these species.

DATES: We will accept comments received or postmarked on or before June 22, 2026. Comments submitted electronically using the Federal eRulemaking Portal (see **ADDRESSES**, below) must be received by 11:59 p.m. eastern time on the closing date.

We must receive requests for a public hearing, in writing, at the address shown in **FOR FURTHER INFORMATION CONTACT** by May 8, 2026.

ADDRESSES:

Comment Submission: You may submit comments by one of the following methods:

(1) *Electronically:* Go to the Federal eRulemaking Portal: *https://www.regulations.gov.* In the Search box, enter FWS–R1–ES–2024–0194, which is the docket number for this rulemaking. Then, click on the Search button. On the resulting page, in the panel on the left side of the screen, under the Document Type heading, check the Proposed Rule box to locate this document. You may submit a comment by clicking on ''Comment.''

(2) *By hard copy:* Submit by U.S. mail to: Public Comments Processing, Attn: FWS–R1–ES–2024–0194, U.S. Fish and Wildlife Service, MS: PRB/3W, 5275 Leesburg Pike, Falls Church, VA 22041–3803.

We request that you send comments only by the methods described above. We will post all comments on *https://www.regulations.gov.* This generally means that we will post any personal information you provide us (see Information Requested, below, for more information).

Availability of supporting materials: Supporting materials, such as the economic analysis, are available on the Service's website at *https://www.fws.gov/project/critical-habitat-mariana-islands,* at *https://www.regulations.gov* at Docket No. FWS–R1–ES–2024–0194, or both. If we finalize the critical habitat designation, we will make the coordinates or plot points or both from which the maps are generated available at *https://www.regulations.gov* at Docket No. FWS–R1–ES–2024–0194 and on the Service's website at *https://www.fws.gov/project/critical-habitat-mariana-islands.*

FOR FURTHER INFORMATION CONTACT: Earl W. Campbell, Project Leader, U.S. Fish and Wildlife Service, Pacific Islands Fish and Wildlife Office, 300 Ala Moana Boulevard, Room 3–122, Honolulu, HI 96850; by telephone 808–792–9400. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States. Please see Docket No. FWS–R1–ES–2024–0194 on *https://www.regulations.gov* for a document that summarizes this proposed rule.

SUPPLEMENTARY INFORMATION:

Executive Summary

Why we need to publish a rule. Under the Act (16 U.S.C. 1531 *et seq.*), when we determine that any species is an endangered or threatened species, we are required to designate critical habitat, to the maximum extent prudent and determinable. Designations and revisions of critical habitat can be completed only by issuing a rule through the Administrative Procedure Act rulemaking process (5 U.S.C. 551 *et seq.*). We are proposing a designation of critical habitat for 22 Mariana Islands species, totaling 59,886 acres (ac) (24,235 hectares (ha)). We have also identified lands that meet the definition of critical habitat for another Mariana Island species, an endangered plant species, *Solanum guamense* (birenghenas hålom tåno', biringhenas halumtånu', birengenas hålomtåno'), but that does not have a proposed critical habitat designation in this proposed rule because the identified lands are exempt from being designated as critical habitat in accordance with section 4(a)(3)(B)(i) of the Act.

For the sake of brevity, throughout this document we collectively refer to these species as the ''Mariana Islands species, also including/noting reference to *Solanum guamense,* when applicable.'' Sixteen of the Mariana Islands species were previously listed as endangered species (80 FR 59424; October 1, 2015): seven plants—*Eugenia bryanii* (no common name), *Hedyotis megalantha* (pao de'do', påode'du', pao doodu), *Heritiera longipetiolata* (ufa hålumtåno', ufa halumtånu', ufa hålomtåno'), *Phyllanthus saffordii* (maigo' lålo'), *Psychotria malaspinae* (åplohkåteng palao'an, åpplok hatting palao'an, aplokkating palåo'an), *Solanum guamense,* and *Tinospora homosepala* (no common name); and nine animals—the Pacific sheath-tailed bat (Mariana subspecies, *Emballonura semicaudata rotensis;* paye'ye', payesyes, fanihen gånas, paye'yi', payesyis, fanihin gånas, paischeey), Slevin's skink (*Emoia slevini;* Marianas Emoia, Mariana skink, guåli'ek hålomtåno', gholuuf, guali'ik halumtånu'), Mariana eight-spot butterfly (*Hypolimnas octocula marianensis;* ababang, ababbang, libweibwogh), Mariana wandering butterfly (*Vagrans egistina;* ababang, ababbang, libweibwogh), Rota blue damselfly (*Ischnura luta;* dulalas Luta), fragile tree snail (*Samoana fragilis;* dengdeng, dengding, akaleha', denden), Guam tree snail (*Partula radiolata;* dengdeng, dengding, akaleha', denden), humped tree snail (*Partula gibba;* dengdeng, dengding, akaleha', denden), and Langford's tree snail (*Partula langfordi;* dengdeng, dengding, akaleha', denden). Seven of the 23 Mariana Islands species, all plants, were previously listed as threatened species (80 FR 59424; October 1, 2015): *Bulbophyllum guamense* (wild onion, siboyas hålomtåno', siboyas halumtånu', siboyan hålomtåno'), *Dendrobium guamense* (no common name), *Cycas micronesica* (fadang, faadang), *Maesa walkeri* (no common name), *Nervilia jacksoniae* (no common name), *Tabernaemontana rotensis* (no common name), and *Tuberolabium guamense* (no common name).

Additionally, we note that a 5-year status review for *Tuberolabium*

guamense was completed on August 4, 2025, recommending we remove the species from the Federal List of Endangered and Threatened Plants. Recommendations in 5-year reviews are not final agency decisions and we have not initiated work on a proposed delisting rule as of publication of this proposed critical habitat designation; however, if we finalize a delisting rule for *Tuberolabium guamense,* the conservation measures provided by the Act (*e.g.,* through sections 7 and 9) would no longer apply to *Tuberolabium guamense,* and we would also remove critical habitat for the species.

What this document does. We propose the designation of critical habitat for 22 wildlife and plant species that occur on islands within the Territory of Guam and the Commonwealth of the Northern Mariana Islands.

The basis for our action.

Under section 4(a)(3) of the Act, if we determine that a species is an endangered or threatened species we must, to the maximum extent prudent and determinable, designate critical habitat.

Section 3(5)(A) of the Act defines critical habitat as (i) the specific areas within the geographical area occupied by the species, at the time it is listed, on which are found those physical or biological features (I) essential to the conservation of the species and (II) which may require special management considerations or protections; and (ii) specific areas outside the geographical area occupied by the species at the time it is listed, upon a determination by the Secretary that such areas are essential for the conservation of the species. Section 4(b)(2) of the Act states that the Secretary must make the designation on the basis of the best scientific and commercial data available and after taking into consideration the economic impact, the impact on national security, and any other relevant impacts of specifying any particular area as critical habitat.

Acronyms and Abbreviations Used in This Proposed Rule

For the convenience of the reader, listed below are some of the acronyms and abbreviations used in this proposed rule:

Act = Endangered Species Act
AFB = Air Force Base
CBA = Conservation Benefit Agreement
CFR = Code of Federal Regulations
CNMI = Commonwealth of the Northern Mariana Islands
CNMI BECQ = CNMI Bureau of Environmental and Coastal Quality
CNMI BTS Program = CNMI Division of Fish and Wildlife Brown Tree Snake Interdiction Program
CNMI DEQ = CNMI Division of Environmental Quality
CNMI DFW = CNMI Division of Fish and Wildlife
CNMI DPL = CNMI Department of Public Lands
CNMI FDoA = CNMI Forestry Division of Agriculture—Department of Lands and Natural Resources
CNMI OPD = CNMI Office of the Governor, Office of Planning and Development
CNMI SWARS = CNMI's Statewide Assessment and Resource Strategy Council
DHS = Department of Homeland Security
DoD = Department of Defense
DoN = U.S. Department of Navy
GDAWR = Guam Division of Aquatic and Wildlife Resources
GDPR = Guam Department of Parks and Recreation
GPEPP = Guam Plant Extinction Prevention Program
IEM = Incremental Effects Memorandum
INRMP = Integrated Natural Resources Management Plan
JRM = Joint Region Marianas
MOA = Memorandum of Agreement
MCB = Marine Corps Base
NHP = National Historical Park
NMFS = National Marine Fisheries Service
NPS = U.S. National Park Service
NWR = National Wildlife Refuge
PBF = Physical or Biological Feature
RFA = Regulatory Flexibility Act
Service = U.S. Fish and Wildlife Service
SSP = Socio-Economic Pathway
USDA WS = U.S. Department of Agriculture Wildlife Services
USGS = U.S. Geological Survey
UOG = University of Guam

Information Requested

We intend that any final action resulting from this proposed rule will be based on the best scientific and commercial data available and be as accurate and as effective as possible. Therefore, we request comments or information from other governmental agencies, the indigenous community, the scientific community, industry, or any other interested parties concerning this proposed rule. We particularly seek comments concerning:

(1) Specific information on:

(a) The amount and distribution of habitat for the Mariana Islands species;

(b) Any additional areas occurring within the range of the Mariana Islands species that should be included in the designation because they (i) are occupied at the time of listing and contain the physical or biological features that are essential to the conservation of the species and that may require special management considerations or protection, or (ii) are unoccupied at the time of listing and are essential for the conservation of the species;

(c) Modifications that may be necessary for different types of projects to ensure protection of physical or biological features for a given species;

(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; and

(e) For the Pacific sheath-tailed bat, whether areas not occupied at the time of listing qualify as habitat for the species and are essential for the conservation of the species.

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

(3) Information on any specific areas that we have identified as ''uncategorized'' land ownership.

(4) Any probable economic, national security, or other relevant impacts of designating any area that may be included in the final designation, and the related benefits of including or excluding specific areas.

(5) Information on the extent to which the description of probable economic impacts in the economic analysis is a reasonable estimate of the likely economic impacts and any additional information regarding probable economic impacts that we should consider, particularly the impact on land values of private lands included in the critical habitat designation.

(6) Information on how project modifications may impact affected areas—especially considering the remoteness of some islands and the role of Federal funding in local economies.

(7) 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, in particular for those that we are considering for exclusion, including the Memorandum of Agreement (MOA) for the Mariana Crow (åga or *Corvus kubaryi*) Conservation Area (includes a 684–ac (277–ha) portion of the I'Chenchon Bird Sanctuary), Rota Local Law No. 9–1 for the Sabana Protected Area (Commonwealth of Northern Mariana Islands (CNMI) 1994, entire), and the Talakhaya Integrated Watershed Management Plan (CNMI DEQ 2012, entire). If you think we should exclude any additional areas, such as the areas under consideration within the draft Guam Habitat Conservation Plan that is in an early stage of development, or the Anao, Bolanos, and Cotal Conservation

Areas, please provide information supporting a benefit of exclusion.

(8) 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.

Please include sufficient information with your submission (such as scientific journal articles or other publications) to allow us to verify any scientific or commercial information you include.

Please note that submissions merely stating support for, or opposition to, the action under consideration without providing supporting information, although noted, do not provide substantial information necessary to support a determination. Section 4(b)(2) of the Act directs that the Secretary shall designate critical habitat on the basis of the best scientific data available.

You may submit your comments and materials concerning this proposed rule by one of the methods listed in **ADDRESSES**. We request that you send comments only by the methods described in **ADDRESSES**.

If you submit information via *https://www.regulations.gov,* your entire submission—including any personal identifying information—will be posted on the website. If your submission is made via a hardcopy 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. We will post all hardcopy submissions on *https://www.regulations.gov.*

Comments and materials we receive, as well as supporting documentation we used in preparing this proposed rule, will be available for public inspection on *https://www.regulations.gov.*

Our final designation may differ from this proposal because we will consider all comments we receive during the comment period as well as any information that may become available after this proposal. Based on the new information we receive (and, if relevant, any comments on that new information), our final designation may not include all areas proposed, may include additional areas that meet the definition of critical habitat, or may exclude areas if we find the benefits of exclusion outweigh the benefits of inclusion and exclusion will not result in the extinction of the species. In our final rule, we will clearly explain our rationale and the basis for our final decision, including why we made changes, if any, that differ from this proposal.

Public Hearings

Section 4(b)(5) of the Act provides for a public hearing on this proposal, if requested. Requests must be received by the date specified in **DATES**. Such requests must be sent to the address shown in **FOR FURTHER INFORMATION CONTACT**. We will schedule a public hearing on this proposal, if requested, and announce the date, time, and place of the hearing, as well as how to obtain reasonable accommodations, in the **Federal Register** and local newspapers at least 15 days before the hearing. We may hold the public hearing in person or virtually via webinar. We will announce any public hearing on our website, in addition to the **Federal Register**. The use of virtual public hearings is consistent with our regulations at 50 CFR 424.16(c)(3).

Previous Federal Actions

It is our intent to discuss in this document only those topics directly relevant to the proposed designation of critical habitat for the 22 Mariana Islands species. For more information on the taxonomy, biology, and ecology of the Mariana Islands species addressed in this proposed rule, refer to the final listing rule that published in the **Federal Register** on October 1, 2015 (80 FR 59424), available online at *https://www.regulations.gov* (at Docket No. FWS–R1–ES–2014–0038).

On July 20, 2021, the Center for Biological Diversity (Plaintiff) filed a complaint (Case No. 21–CV–00017) alleging that the Service violated the Act by failing to comply with the statutory deadline for designating critical habitat for 23 Mariana Islands species listed on October 1, 2015 (80 FR 59424). On April 18, 2022, the parties entered into a stipulated settlement agreement, which was subsequently approved by the Court, whereby the Service agreed to submit to the **Federal Register** proposed critical habitat designations for the species in the complaint on or before June 26, 2025. In compliance with the settlement agreement, this document constitutes the proposed critical habitat designation for 22 of the species where the Service has jurisdiction to designate critical habitat. For one of the species (*i.e., Solanum guamense*), the areas that meet the definition of critical habitat are exempt under section 4(a)(3)(B)(i) of the Act (see Exemptions, below). Therefore, there is no critical habitat designation proposed for *Solanum guamense.*

Peer Review

In accordance with our joint policy on peer review published in the **Federal Register** on July 1, 1994 (59 FR 34270), and our August 22, 2016, memorandum updating and clarifying the role of peer review in listing and recovery actions under the Act, we are soliciting independent scientific review of this proposed critical habitat designation to ensure that this proposal is based on scientifically sound data and analysis. We have invited peer reviewers to comment on our specific assumptions, methodology, and science used in this proposed rule, and we will consider any comments received, as appropriate, before a final agency determination.

The Mariana Islands

The Mariana Islands are a longitudinally arranged archipelago consisting of 15 main islands and various smaller islets located in western Micronesia between latitudes 21° and 13° N and longitudes 144° and 146° E. The primarily volcanic northern islands include Farallon de Medinilla, Anatahan, Sarigan, Guguan, Alamagan, Pagan, Agrihan, Asuncion, Maug, and Uracas, while the limestone and volcanic southern islands include Guam, Rota, Aguiguan, Tinian, and Saipan. The northern islands of Anatahan, Guguan, Alamagan, Asuncion, Pagan, and Uracas are still volcanically active. Only the southern islands of Guam (including Cocos Island), Rota, Tinian, and Saipan are regularly inhabited by humans; all the other Mariana Islands are considered uninhabited, although some (*e.g.,* Aguiguan, Pagan) may be visited on occasion. Please see the proposed listing rule (79 FR 59364 at 59367–59377, October 1, 2014) for more background information on the Mariana Islands' geography, vegetation, hydrology, climate, biogeography, historical and current human impacts, political division, island-specific descriptions, and details regarding the ecosystems upon which the species addressed in this proposed rulemaking action depend.

Common Name Changes

Following publication of the final listing rule (80 FR 59424; October 1, 2015), we have identified new common names for some of the Mariana Islands species. Table 1 is a list of the species' Latin names, and updated common names, including corrected versions (the column ''Common name(s) updated'' includes all currently known common names). Common names are not regulatory and may be updated without a rulemaking action; these names are included here for transparency. Diacritical marks are included in table 1 but not in the proposed regulations.

TABLE 1—23 MARIANA ISLANDS SPECIES: LATIN NAMES AND NEW COMMON NAMES

[ChG = Chamorro name in Guam's spelling, ChCNMI = Chamorro name in CNMI's spelling, Ca = Carolinian name, NCN = no common name]

Latin name	Common name(s) updated
Emballonura semicaudata rotensis	Pacific sheath-tailed bat, paye'ye' ChG, payesyes ChG, fanihen gånas ChG, paye'yi' ChCNMI, payesyis ChCNMI, fanihin gånas ChCNMI, paischeey Ca.
Emoia slevini	Slevin's skink, Marianas Emoia, Mariana skink, guåli'ek hålomtåno' ChG, gholuuf Ca, guali'ik halumtånu' ChCNMI.
Samoana fragilis	fragile tree snail, dengdeng ChG, dengding ChCNMI, akaleha' ChG,&ChCNMI, denden Ca.
Partula radiolata	Guam tree snail, dengdeng ChG, dengding ChCNMI, akaleha' ChG,&ChCNMI, denden Ca.
Partula gibba	humped tree snail, dengdeng ChG, dengding ChCNMI, akaleha' ChG,&ChCNMI, denden Ca.
Partula langfordi	Langford's tree snail, dengdeng ChG, dengding ChCNMI, akaleha' ChG & ChCNMI, denden Ca.
Hypolimnas octocula marianensis	Mariana eight-spot butterfly, ababang ChG, ababbang ChCNMI, libweibwogh Ca.
Vagrans egistina	Mariana wandering butterfly, ababang ChG, ababbang ChCNMI, libweibwogh Ca.
Ischnura luta	Rota blue damselfly, dulalas Luta ChG, ChCNMI, and Ca.
Bulbophyllum guamense	wild onion, siboyas hålomtåno' ChG, siboyas halumtånu' ChCNMI, siboyan hålomtåno' Ca.
Cycas micronesica	fadang ChG & ChCNMI, faadang Ca.
Dendrobium guamense	NCN.
Eugenia bryanii	NCN.
Hedyotis megalantha	pao de'do' ChG, påode'du' ChCNMI, pao doodu Ca.
Heritiera longipetiolata	ufa hålomtåno' ChG, ufa halumtånu' ChCNMI, ufa hålomtåno' Ca.
Maesa walkeri	NCN.
Nervilia jacksoniae	NCN.
Phyllanthus saffordii	maigo' lålo' ChG.
Psychotria malaspinae	aplohkåteng palao'an ChG, åpplok hatting palao'an ChG aplokkating palåo'an ChCNMI.
Solanum guamense	birenghenas hålomtåno' ChG, biringhenas halumtånu' ChCNMI, birengenas hålomtåno' Ca.
Tabernaemontana rotensis	NCN.
Tinospora homosepala	NCN.
Tuberolabium guamense	NCN.

Background

Regulatory Framework

Section 4(a)(3) of the Act requires that, to the maximum extent prudent and determinable, we designate a species' critical habitat concurrently with listing the species. Critical habitat is defined in section 3(5)(A) of the Act as:

(1) The specific areas within the geographical area occupied by the species, at the time it is listed in accordance with the Act, on which are found those physical or biological features

(a) Essential to the conservation of the species, and

(b) Which may require special management considerations or protection; and

(2) Specific areas outside the geographical area occupied by the species at the time it is listed, upon a determination that such areas are essential for the conservation of the species.

Our regulations at 50 CFR 424.02 define the geographical area occupied by the species as an area that may generally be delineated around species' occurrences, as determined by the Secretary (*i.e.,* range). Such areas may include those areas used throughout all or part of the species' life cycle, even if not used on a regular basis (*e.g.,* migratory corridors, seasonal habitats, and habitats used periodically, but not solely by vagrant individuals).

Conservation, as defined under section 3(3) of the Act, means to use and the use of all methods and procedures that are necessary to bring an endangered or threatened species to the point at which the measures provided pursuant to the Act are no longer necessary. Such methods and procedures include, but are not limited to, all activities associated with scientific resources management such as research, census, law enforcement, habitat acquisition and maintenance, propagation, live trapping, and transplantation, and, in the extraordinary case where population pressures within a given ecosystem cannot be otherwise relieved, may include regulated taking.

Critical habitat receives protection under section 7 of the Act through the requirement that each Federal action agency ensure, in consultation with the Service, that any action they authorize, fund, or carry out is not likely to result in the destruction or adverse modification of designated critical habitat. The designation of critical habitat does not affect land ownership or establish a refuge, wilderness, reserve, preserve, or other conservation area. Such designation also does not allow the government or public to access private lands. Such designation does not require implementation of restoration, recovery, or enhancement measures by non-Federal landowners. Rather, designation requires that, where a landowner requests Federal agency funding or authorization for an action that may affect an area designated as critical habitat, the Federal agency consult with the Service under section 7(a)(2) of the Act. If the action may affect the listed species itself (such as for occupied critical habitat), the Federal agency would have already been required to consult with the Service

even absent the designation because of the requirement to ensure that the action is not likely to jeopardize the continued existence of the species. Even if the Service were to conclude after consultation that the proposed activity is likely to result in destruction or adverse modification of the critical habitat, the Federal action agency and the landowner are not required to abandon the proposed activity, or to restore or recover the species; instead, they must implement ''reasonable and prudent alternatives'' to avoid destruction or adverse modification of critical habitat.

Under the first prong of the Act's definition of critical habitat, areas within the geographical area occupied by the species at the time it was listed are included in a critical habitat designation if they contain physical or biological features (1) which are essential to the conservation of the species and (2) which may require special management considerations or protection. For these areas, critical habitat designations identify, to the extent known using the best scientific data available, those physical or biological features that are essential to the conservation of the species (such as space, food, cover, and protected habitat).

Under the second prong of the Act's definition of critical habitat, we can designate critical habitat in areas outside the geographical area occupied by the species at the time it is listed, upon a determination that such areas are essential for the conservation of the species.

Section 4(b)(2) of the Act requires that we designate critical habitat on the basis of the best scientific data available. Further, our Policy on Information Standards Under the Endangered Species Act (published in the **Federal Register** on July 1, 1994 (59 FR 34271)), the Information Quality Act (section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001 (Pub. L. 106–554; H.R. 5658)), and our associated Information Quality Guidelines provide criteria, establish procedures, and provide guidance to ensure that our decisions are based on the best scientific data available. They require our biologists, to the extent consistent with the Act and with the use of the best scientific data available, to use primary and original sources of information as the basis for recommendations to designate critical habitat.

When we are determining which areas should be designated as critical habitat, our primary source of information is generally the information compiled in the Species Status Assessment report and information developed during the listing process for the species. A Species Status Assessment was not available for this proposed rule; however, additional information sources are used that may include any generalized conservation strategy, criteria, or outline that may have been developed for the species; the recovery plan for the species; articles in peer-reviewed journals; conservation plans developed by States and counties; scientific status surveys and studies; biological assessments; other unpublished materials; or experts' opinions or personal knowledge.

Habitat is dynamic, and species may move from one area to another over time. We recognize that critical habitat designated at a particular point in time may not include all of the habitat areas that we may later determine are necessary for the recovery of the species. For these reasons, a critical habitat designation does not signal that habitat outside the designated area is unimportant or may not be needed for recovery of the species. Areas that are important to the conservation of the species, both inside and outside the critical habitat designation, will continue to be subject to: (1) Conservation actions implemented under section 7(a)(1) of the Act; (2) regulatory protections afforded by the requirement in section 7(a)(2) of the Act for Federal agencies to ensure their actions are not likely to jeopardize the continued existence of any endangered or threatened species; and (3) the prohibitions found in section 9 of the Act *for the endangered species* and the 4(d) rule *for the threatened species.* Federally funded or permitted projects affecting listed species outside their designated critical habitat areas may still result in jeopardy findings in some cases. These protections and conservation tools will continue to contribute to recovery of the species. Similarly, critical habitat designations made on the basis of the best scientific data available at the time of designation will not control the direction and substance of future recovery plans, habitat conservation plans (HCPs), or other species conservation planning efforts if new information available at the time of those planning efforts calls for a different outcome.

Physical or Biological Features Essential to the Conservation of the Species

In accordance with section 3(5)(A)(i) of the Act and regulations at 50 CFR 424.12(b), in determining which areas we will designate as critical habitat from within the geographical area occupied by the species at the time of listing, we consider the physical or biological features that are essential to the conservation of the species, and which may require special management considerations or protection. The regulations at 50 CFR 424.02 define ''physical or biological features essential to the conservation of the species'' as the features that occur in specific areas and that are essential to support the life-history needs of the species, including, but not limited to, water characteristics, soil type, geological features, sites, prey, vegetation, symbiotic species, or other features. A feature may be a single habitat characteristic or a more complex combination of habitat characteristics. Features may include habitat characteristics that support ephemeral or dynamic habitat conditions. Features may also be expressed in terms relating to principles of conservation biology, such as patch size, distribution distances, and connectivity. For example, physical features essential to the conservation of the species might include gravel of a particular size required for spawning, alkaline soil for seed germination, protective cover for migration, or susceptibility to flooding or fire that maintains necessary early-successional habitat characteristics. Biological features might include prey species, forage grasses, specific kinds or ages of trees for roosting or nesting, symbiotic fungi, or absence of a particular level of nonnative species consistent with conservation needs of the listed species. The features may also be combinations of habitat characteristics and may encompass the relationship between characteristics or the necessary amount of a characteristic essential to support the life history of the species.

In considering whether features are essential to the conservation of the species, we may consider an appropriate quality, quantity, and spatial and temporal arrangement of habitat characteristics in the context of the life-history needs, condition, and status of the species. These characteristics include, but are not limited to, space for individual and population growth and for normal behavior; food, water, air, light, minerals, or other nutritional or physiological requirements; cover or shelter; sites for breeding, reproduction, or rearing (or development) of offspring; and habitats that are protected from disturbance.

Rationales and Summary Lists of Physical or Biological Features for Each Species or Grouping of Species

We derive the following specific physical or biological features (PBFs)

essential to the conservation of the Mariana Islands species from studies of the species' habitat, ecology, and life history as described below. Additional information can be found in the 5-year reviews (Service 2020a–2020s, entire; Service 2021, entire; Service 2024a–b, entire), species reports (Service 2020t–2020ao, entire; 2023b–x, entire), and the recovery plan (Service 2023a, entire); other sources of information as cited, available on *https://www.regulations.gov* under Docket No. FWS–R1–ES–2024–0194). We have determined that the following PBFs are essential to the conservation of the Mariana Islands species:

Mammals

(1) Pacific Sheath-Tailed Bat (Subspecies, *Emballonura semicaudata rotensis*) PBFs

a. *Pacific sheath-tailed bat PBF 1:* Limestone caves, lava tubes, overhanging cliffs, and crevasses for roosting.

b. *Pacific sheath-tailed bat PBF 2:* Intact, contiguous forests near and surrounding suitable roosting sites.

c. *Pacific sheath-tailed bat PBF 3:* Prey insects such as ants, bees, wasps (Hymenoptera), moths (Lepidoptera), and beetles (Coleoptera) and vegetation to support them.

The last known surviving population of Pacific sheath-tailed bat, subspecies *rotensis* (hereafter referred to as ''Pacific sheath-tailed bat'' unless referring to another subspecies), roosts in a few caves on Aguiguan (Lemke 1986, entire; Service 2020b, p. 5; Service 2023h, pp. 3, 29), although the species formerly occupied Guam, Rota, and Tinian (Wiles et al. 2011, pp. 299–300). The species spends more than half its life in roost caves, which are near forests with well-developed tree canopy close to cave entrances; the forests maintain relatively stable cave microclimates, provide food, and allow flight passage (Esselstyn et al. 2004, p. 307; Gorresen et al. 2009, pp. 337–339; O'Shea and Valdez 2009, pp. 77–78; Service 2020u, p. 13; Service 2023h, p. 12). Pacific sheath-tailed bats depend on caves because they roost as lone adults next to lone young on ceilings or upper walls in caves, overhangs, lava tubes, or crevasses where limestone karst is present (Wiles et al. 2011, p. 303; Service 2020b, pp. 4, 6–8; Service 2020u, p. 5; Service 2023h, pp. 11–12). On Aguiguan, the bats are primarily detected in native forests, occasionally in nonnative forest, and are not detected in non-forested habitats (Esselstyn et al. 2004, pp. 306–307), showing a clear association of the bat with forests on Aguiguan; non-forest habitats are largely avoided by the species (Esselstyn et al. 2004, p. 307).

Although the species appears to prefer relatively large caves (Wiles et al. 2011, pp. 299, 302), on Aguiguan, the species is observed in multiple cave shapes and structures, including the following: small (less than 49 ft (15 m) long and 538 square feet (ft^2) (50 square meters (m^2)) in floor area), with low rock overhangs, narrow vertical crevices, various cavities at the base of cliffs or under large boulders; medium (538 ft^2 to 1,076 ft^2 (50 to 100 m^2) in floor area), with wider rooms; and large (over 1,076 ft^2 (100 m^2) in floor area), with ceiling heights reaching 16 to 98 ft (5 to 30 m) (Wiles and Brooke 2009, pp. 432–433; Wiles et al. 2011, p. 301; Service 2023h, p. 14). It is possible that the species may use even smaller caves. For example, on Palau where the closely related Pacific sheath-tailed bat, subspecies *palauensis* (also insectivorous) is known to occur, approximately 150 individuals of this subspecies were flushed from a cave-like formation on a forested hill that was even smaller, at 16 to 32 ft (5 to 10 m) long with a 6.5 ft (2 m) diameter opening (possibly a World War II tunnel) (Wiles et al. 1997, p. 221), while another colony, with several hundred bats and a few Mariana swiftlets (yåyaguak; *Aerodramus bartschi*), was found in a cave 32 ft (10 m) wide and 26 ft (8 m) tall (Wiles et al. 1997, p. 221). Thermal characteristics of Aguiguan cave interiors vary little; temperature highs range 79 to 86 °F (26 to 30 °C), relative humidity ranges 74 to 96 percent, and there is little air movement (O'Shea and Valdez 2009, pp. 77–78; Service 2020u, p. 9; Service 2023h, p. 13); however, thermal characteristics of caves on Aguiguan do not limit use by this species, and it seems unlikely that humidity variations among caves is a limiting factor (Wiles et al. 2011, p. 305).

Forests are the most important foraging habitat for the Pacific sheath-tailed bat (Esselstyn et al. 2004, p. 307). The species is insectivorous, foraging on small insects such as ants, bees, wasps, moths, and beetles supported by forested habitat (O'Shea and Valdez 2009, pp. 63–65; Valdez et al. 2011, pp. 301–307; Service 2023h, p. 10). On Aguiguan, the bats were regularly seen in the forest understory to within 3 ft (1 m) of the ground, with some activity at tree-top level (Esselstyn et al. 2004, p. 306). Canopy heights on Aguiguan are 23–49 ft (7–15 m) tall, which are shorter than forested areas outside the Mariana Islands partially from frequent intense tropical cyclones (Wiles et al. 2011, pp. 300, 306; Service 2023h, p. 12). Tropical cyclones damage and remove trees, leading to a lower canopy level from defoliation, branch breakage, and tree uprooting from high winds and heavy rain. Average canopy heights were less than 4.25 ft (1.3 m) in 2016 surveys, indicating canopy cover was absent at most survey points (CNMI DFW 2016, p. 42). Suitable caves need to be in or near mature, well-structured, native or nonnative forests to provide attainable food sources because this species forages almost exclusively in native and nonnative forests near their roosts, but especially native forests, and avoids non-forested habitats (Esselstyn et al. 2004, p. 307; Palmeirim et al. 2005, pp. 7–8; Gorresen et al. 2009, pp. 336–339; O'Shea and Valdez 2009, p. 44; Wiles et al. 2009, p. 10; Wiles et al. 2011, p. 307; Service 2020u, pp. 6, 11).

On the islands (archipelago) of Palau, which is approximately 113,280 ac (45,843 ha) in size and where the closely related *palauensis* subspecies of Pacific sheath-tailed bat exists, at least one of these individuals has been documented to fly at least 3.1 mi (5 km) from known roosts (Wiles et al. 1997, p. 221). For comparison, on the small Aguiguan Island (1,750 ac (4,324 ha) or 2.74 mi^2 in size), we anticipate the bats on Aguiguan rely heavily on the forests adjacent to roosting habitat, depending on prey availability. Suitable foraging habitat is mature, well-structured forests with a high and dense canopy near suitable roosting sites. This is necessary to maintain a stable or growing bat population (Kalko 1995, pp. 262–265; Esselstyn et al. 2004, p. 307; Palmeirim et al. 2005, pp. 3–5, 7–8; Gorresen et al. 2009, pp. 336–339; Valdez et al. 2011, pp. 306–307; Marques et al. 2016, pp. 481–484; Service 2023a, p. 25).

Previous disturbance by human occupation and warfare during World War II and ongoing disturbance of roosting caves by human and feral goats contribute to the decline of this species (Wiles et al. 2011, p. 306; Service 2020u, p. 10) by affecting mating, rearing young, social interactions, protection from inclement weather, and causing elevated energetic costs, physiological stress, and increased risk of depredation (Palmeirim et al. 2005, p. 7; Kunz and Lumsden 2003, pp. 4, 43, 66; Service 2020u, p. 10). Historical warfare and ongoing disturbances have contributed to roost abandonment for the Pacific sheath-tailed bat. The degree and frequency of disturbance resulting in cave abandonment by the species is not well understood; however, inhabitation of roosting caves near and/or within suitable foraging habitat may occur again after physical disturbances have been alleviated. Feral goats take shelter in caves, disrupt colonies of the

federally endangered Mariana swiftlet, and likely disturb the Pacific sheath-tailed bat (Wiles and Worthington 2002, p. 17; Cruz et al. 2008, p. 243; Scanlon 2015, in litt., entire; Service 2023h, pp. 14–15). Suitable caves are found unoccupied by this species and were occupied by goats (GDAWR 1995, p. 95).

Reptiles

(2) Slevin's skink (*Emoia slevini*) PBFs

a. *Slevin's skink PBF 1:* Forests such as native limestone forests, volcanic forests, mixed-nonnative forests, *Casuarina equisetifolia* (gågu, gågo, weighu, beach sheoak, or common ironwood) and *Cocos nucifera* (niyok, coconut) dominant forests.

b. *Slevin's skink PBF 2:* Forest understory and leaf litter and debris.

c. *Slevin's skink PBF 3:* Invertebrate prey and vegetation to support them.

Slevin's skink is the only lizard endemic to the Mariana Islands and has had a 99 percent decline in its distribution. It is known to occur only on Alamagan, Asuncion, Cocos Island (which is part of Guam), and Sarigan, and possibly Pagan, but it is thought to be extinct or undetected on Guam, Rota, Tinian, and Aguiguan (Service 2023j, p. 3). Threats to this species include loss and degradation of habitat due to impacts from feral ungulates, nonnative plants, and development; predation by invasive species (*e.g.,* rats, brown tree snake); and competition from nonnative lizards (Service 2023j, pp. 3, 16–38).

The skinks are often seen on forest floors containing leaf litter and tree debris, and observed on trees, within low hollows of tree trunks, under logs, within palm fronds, and near abandoned buildings, but rarely observed in open or sunlit areas (Brown and Falanruw 1972, p. 110; Rodda et al. 1991, p. 205; CNMI DFW 2000, in litt., pp. 21–26; GDAWR 2006, p. 107; Vogt 2007, pp. 5–1 to 5–2; Lardner 2013, in litt., p. 4). Recorded forest types inhabited by Slevin's skink include ravine, native, mixed-native, mixed secondary, and forests of *Casuarina equisetifolia* and *Cocos nucifera* (Brown and Falanruw 1972, p. 110; McCoid et al. 1995, p. 72; CNMI DFW 2005, p. 175; Vogt 2007, in litt., pp. 5–1 to 5–2). The species also likely uses forests with habitat complexity, typical of the Mariana Islands, comprised of limestone or volcanic substrates and native tree canopy species, such as *Elaeocarpus joga, Pisonia grandis, Hernandia labyrinthica, Hernandia sonora, Ficus prolixa, Macaranga thompsonii, Pandanus* spp., and *Intsia bijuga* for limestone forests; and *Pisonia grandis, Hernandia sonora, Barringtonia asiatica, Pandanus tectorius,* and *Terminalia catappa* for volcanic forests (Service 2023j, p. 15).

Females carry eggs internally, birth live young and require understory of leaf litter and tree debris to hide from predators and to stalk prey (insectivorous) (Harrington et al. 2020, p. 14). Like all insectivorous skinks, individuals require a sufficient abundance of insects and small invertebrates to complete their development and life cycle, including mating and breeding (Harrington et al. 2020, p. 15; Service 2023j, p. 15). Males of many other skink species are aggressively territorial, and we expect the Slevin's skink to also be territorial (Service 2023j, p. 15). The territory area necessary for Slevin's skink is unknown; however, wherever suitable habitat remains within their historic range, we expect they may be present, just undetected, because they were undetected on Guam's Cocos Island for almost two decades (Cocos is approximately 95 ac, or 38 ha) (Service 2020c, p. 4; Service 2023j, p. 16).

Snails

(3) Tree Snails: Fragile tree snail (*Samoana fragilis*), Guam tree snail (*Partula radiolata*), humped tree snail (*Partula gibba*), and Langford's tree snail (*Partula langfordi*) PBFs

a. *Tree snail PBF 1:* Contiguous closed-canopy limestone, volcanic, riverine, riparian, ravine, or secondary/mixed forests, or backstrand beach vegetation, providing relatively stable climatic conditions such as shade, moisture, high humidity, and low air movement.

b. *Tree snail PBF 2:* Dense mid-canopy vegetation such as large leaves, branches, vines, or other structures.

c. *Tree snail PBF 3:* Understory such as ground cover composed of short herbs, shrubs, ferns, and small trees.

d. *Tree snail PBF 4:* Food sources such as dead and decaying plant material, leaf litter, and tree debris.

The tree snails require sufficiently dense forests that are cool, shaded, and have high humidity and stable environmental factors including temperature, relative humidity, and light to prevent excessive moisture loss to their bodies, and to provide conditions conducive to growth of fungi and microalgae (Crampton 1925, p. 14; Cowie 1992, p. 175; Service 2020w, p. 6; Service 2023b, p. 12; Service 2023c, p. 3; Service 2023d, pp. 3, 6; Service 2023e, p. 10). Excessive light and unstable temperatures and humidity have detrimental impacts on juvenile survival (Gouveia 2011, pp. 68, 76–78; Service 2023d, p. 12; Service 2023e, p. 10; Service 2023c, p. 10; Service 2023b, p. 12). The tree snails require forest understory containing live and decaying leaves and branches, suggesting a diet of fungus or microalgae (Service 2023d, p. 12; Service 2023e, pp. 10–11; Service 2023c, p. 10; Service 2023b, p. 12). Threats to tree snails include loss and degradation of habitat due to impacts from development, wildfire, invasive plants, typhoons, and climate change (*e.g.,* increasing temperatures, changes in precipitation patterns); and predation from invasive animals (Service 2023a, pp. 17–24).

The tree snails are most likely found on broad-leafed plants in places with canopy and ground cover (Fiedler 2019, pp. 10–11). The species are commonly observed in forests with a mid-canopy of less than or equal to 13 ft (4 m), ground cover of short herbaceous plants and small shrubs (Fiedler 2019, p. 10), and contiguous suitable habitat (Service 2020t, p. 9; Service 2020w, p. 7; Service 2020v, p. 14). Partulid snails can be found high in trees, depending on the tree and location. Tree snails were observed on leaves higher than 26 ft (8 m) from the ground (Fiedler 2019, p. 13). The snails are not known to have specific host plant requirements, except a preference for large leaves (to take refuge under), and they are found on the underside of leaves of a variety of native and nonnative vegetation. However, based on limited observational studies, population densities are lower on nonnative vegetation than those on native vegetation for the fragile tree snail on Guam and the humped tree snail on Sarigan, CNMI (CNMI DFW 2008, p. 8–4; Fiedler 2019, p. 7; Service 2020v, pp. 6, 12).

Observations of the tree snails on native vegetation most commonly occur on (but are not limited to) *Piper guahamense, Mammea odorata* (chopak, chopag), and *Merrilliodendron megacarpum* (no common name) (observed for humped tree snail); *Aglaia* spp. (observed for Langford's tree snail); *Alocasia macrorrhizos* (giant taro), *Artocarpus* spp., *Cocos nucifera, Epipremnum aureum, Merrilliodendron megacarpum* (observed for Guam tree snail); and *Arterocarpus* spp. and *Merrilliodendron megacarpum* (observed for fragile tree snail) (Service 2023b, pp. 16–17; Service 2023c, p. 14; Service 2023d, pp. 11–12; Service 2023e, pp. 10, 15). The tree snails are also observed in backstrand beach vegetation—plant communities near or directly adjacent to the ocean, where the salinity is higher and the vegetation is more salt-tolerant and that may contain volcanic or limestone substrates (CNMI

DFW 2015a, pp. 4–6; Service 2023d, pp. 16–18).

The snails have both male and female reproductive organs and birth live young, but juvenile mortality rates are very high (Pearce-Kelly et al. 1995, p. 660; Service 2023d, p. 13; Service 2023e, pp. 11–12; Service 2023c, p. 11; Service 2023b, p. 13). Another primary threat to the snails is depredation by the nonnative New Guinea flatworm, a ground-dwelling flatworm that climbs wet trees and locates snails via scent (Sugiura and Yamaura 2009, pp. 739–741; Service 2020x, p. 3; Service 2023d, pp. 3, 14; Service 2023e, pp. 3, 12; Service 2023c, p. 3; Service 2023b, p. 14). Other predators include the nonnative rosy wolf snail (Hopper and Smith 1992, p. 82; Service 2023c, p. 12) and the nonnative, invasive yellow crazy ant (Service 2023d, p. 14; Service 2023e, p. 12; Service 2023b, p. 14). Habitat loss and degradation have contributed substantially to population declines of the tree snails (Service 2023d, p. 14; Service 2023e, p. 13; Service 2023c, p. 12; Service 2023b, p. 14).

Insects

(4) Mariana eight-spot butterfly *(Hypolimnas octocula marianensis)* PBFs

a. *Mariana eight-spot butterfly PBF 1:* Interconnected native, closed-canopy limestone forests.

b. *Mariana eight-spot butterfly PBF 2:* Larval host plants such as *Procris pedunculata* (no common name) or *Elatostema calcareum* (tapun ayuyu).

c. *Mariana eight-spot butterfly PBF 3:* Food resources from day-flowering plants or decaying organic matter (*e.g.,* rotten fruits or animals).

The Mariana eight-spot butterfly (Nymphalidae family) once occurred across a much larger range of habitat than its current distribution on Guam, likely formerly occupying Rota and Tinian (which lie between currently occupied Guam and formerly occupied Saipan), and host plants are present on all islands (Schreiner and Nafus 1996, p. 2; Moore 2013, p. 2; Rubinoff and Holland 2018, p. 221; Service 2023f, pp. 3, 26, 27). The butterfly historically occupied Guam and Saipan, and on Saipan it had a range of approximately 21,600 ac (8,741 ha) (70 percent of the island); however, 99 percent of the native forest ecosystem habitat on Saipan is gone (Service 2023m, p. 28) and the species not been detected during anecdotal surveys performed for purposes other than detecting this species (Schreiner and Nafus 1996, p. 10; Moore 2013, p. 2; Rubinoff and Holland 2018, pp. 218–220, 222; Service 2023f, p. 27). Additionally, it is important to note for this and other species that pollinators and birds are almost entirely absent from Guam due to depredation by the invasive brown tree snake; the lack of pollinators and seed dispersers inhibits the reproduction of plant communities that support these listed species (Egerer et al. 2018, p. 655; Service 2020ak, pp. 2, 14).

Mariana eight-spot butterflies occupy habitat in limestone forest over karst spires, boulders, and small cliffs where the host plants are protected from ungulate grazing (Schreiner and Nafus 1996, p. 1; Rubinoff and Holland 2018, p. 222). Known larval host plants include *Procris pedunculata* and *Elatostema calcareum* (vine-like forest herbs growing on rocky and karst substrate in native limestone forests) (Schreiner and Nafus 1996, p. 1; Service 2023f, pp. 12, 14). Adults rely on ephemeral food sources including rotting fruit and nectar from day-blooming flowers in limestone forests, and dead animals, mostly available after the wet season, when plants bloom and fruiting occurs (Service 2020z, p. 12; Service 2021, p. 5; Service 2023f, pp. 3, 12). Larvae need safety during pupation and abundant food resources to grow; caterpillars eat the native host plants (Schreiner and Nafus 1996, p. 1; Service 2023f, pp. 12, 14). Like all butterflies, Mariana eight-spot butterflies require sufficient host plant material to eat as caterpillars, a safe place to pupate, and abundant food resources as adults (Service 2023g, p. 14). The adults require close proximity to larval host plants; moreover, tropical butterflies, including nymphalid species (*i.e.,* brush-footed butterflies in the Nymphalidae family), are less likely to fly through open areas, so forest habitat connectivity between the specific Mariana eight-spot butterfly larval stage host plant sites is required (Rubinoff and Kawahara 2011, in litt., entire; Rubinoff 2013, in litt., p. 1; Rubinoff and Holland 2018, pp. 223, 224; Scriven et al. 2015, p. 420; Scriven et al. 2017, pp. 206, 212; Service 2023f, p. 15). Threats to this species include loss and degradation of habitat due to impacts from feral ungulates, nonnative plants, and herbivory by slugs; and predation from native and nonnative insects including ants and parasitic wasps (Service 2023f, pp. 3, 16–24).

(5) Mariana wandering butterfly *(Vagrans egistina)* PBFs

a. *Mariana wandering butterfly PBF 1:* Interconnected native limestone forest.

b. *Mariana wandering butterfly PBF 2:* Native limestone forest understory vegetation.

c. *Mariana wandering butterfly PBF 3:* Larval host plants, such as *Maytenus thompsonii* (luluhut).

d. *Mariana wandering butterfly PBF 4:* Food resources from day-flowering plants or decaying organic matter (*e.g.,* rotten fruits or animals).

The Mariana wandering butterfly is endemic to Guam and Rota and likely occurred across a much larger range of habitat than its current habitat distribution on Guam and Rota (Swezey 1942 p. 35; Schreiner and Nafus 1997, p. 36; Rubinoff and Holland 2018, p. 218; Service 2020f, pp. 5–6; Service 2023g, p. 3). The butterfly is in the Nymphalidae family and is one of seven nymphalid species found in the Mariana Islands, including the Mariana eight-spot butterfly, from which we infer much because so little is known of the Mariana wandering butterfly (Service 2023g, p. 3). The Mariana wandering butterfly likely relies on camouflage for protection, as the cryptic coloring of the bottom of the wings, visible when folded up, appear much duller and leaf-like in color and mimic the surrounding vegetation (Service 2023g, p. 10). The species is likely very difficult to detect and there have been no consistent survey efforts (Rubinoff 2024, pers. comm.). Threats to the species include habitat loss and degradation due to impacts from feral ungulates and nonnative plants, and predation from native and nonnative insects (*e.g.,* ants, parasitic wasps) (Service 2023g., pp. 3, 17–22).

Like most nymphalid butterflies, the adults use a long proboscis to feed on a variety of ephemeral food sources including nectar of day-blooming flowers, rotting fruit, and occasionally dead animals (Service 2023g, p. 12). The Mariana wandering butterfly is known to rear successfully on the native plant *Maytenus thompsonii,* a small shrub-like tree endemic to the Mariana Islands and found primarily in the understory of native limestone forests (Swezey 1942, p. 35; Service 2023g, pp. 11–12). *Maytenus thompsonii* can grow to heights over 13 ft (4 m), and thickets of the trees can grow impenetrably dense (Rubinoff and Holland 2018, pp. 222–223), potentially offering protection of eggs and larvae. Although the species typically occurs within limestone forests, it is not restricted to rugged karst terrain like the host plants of the related Mariana eight-spot butterfly (Rubinoff and Holland 2018, p. 221). Like all butterflies, Mariana wandering butterflies require sufficient host plant material to eat as caterpillars, a safe

place to pupate, and abundant food resources as adults (Service 2023g, p. 14). Like the Mariana eight-spot, the Mariana wandering butterfly likely requires high-density host plant distribution within interconnected native limestone forest (Service 2020ah, pp. 15, 17; Service 2020z, pp. 14–15; Service 2023g, p. 14); all remaining suitable limestone forest may be a species need (Service 2020ah, p. 17).

(6) Rota blue damselfly (*Ischnura luta*) PBFs

a. *Rota blue damselfly PBF 1:* Contiguous closed-canopy forest habitats surrounding streams and their tributaries with adequate cool, clean, clear, moving water.

b. *Rota blue damselfly PBF 2:* Riparian vegetation adjacent to streams and their tributaries.

c. *Rota blue damselfly PBF 3:* Small prey such as water fleas, larvae, or other small invertebrate or aquatic organisms.

The Rota blue damselfly is endemic to Rota where it inhabits a single confirmed stream system, the Okgok Stream, in the Talakhaya watershed (Polhemus et al. 2000, p. 8; Service 2020g, p. 3; Service 2023i, p. 3). Adult damselflies require large areas of high-quality forest habitat connected to streams because breeding pairs are territorial, they fly long ranges seeking prey before maturing and returning to their selected breeding sites, and they have strong breeding site fidelity and remain relatively close to the aquatic environment where they lived as naiads (larvae) (Finke 1992, p. 449; Polhemus and Asquith 1996, p. 7; Service 2020aa, p. 16; Service 2023i, p. 15). The forest habitat must have sufficient density and distribution to maintain shaded forest understory conditions along streams to keep stream temperatures cool and provide refuge, shelter, adequate area for breeding individuals to expand into, and habitat for prey (Service 2020aa, pp. 3, 19). Threats to this species include loss and degradation of habitat due to impacts from feral ungulates, wildfire, typhoons, nonnative plants, development, and extraction of water from the steam systems; and predation (*i.e.,* nonnative fish and amphibians) (Service 2020aa, pp. 4, 32–46).

The species requires streams and tributaries for breeding and sufficient stream flow for larvae (naiad) development (Service 2020aa, pp. 3, 19; Service 2023i, p. 14). A primary direct stressor to the damselfly is water withdrawal from the island's streams necessary for damselfly use (Service 2023i, p. 4). Female damselflies lay eggs by inserting them into small slits in aquatic vegetation below the water surface and by laying eggs on rocks, algal mats, moss, or vegetation either below or above the water line (Williams 1936, pp. 302–309; Guillermo-Ferreira and Del-Claro 2011, pp. 275, 278–279). The larval stage is aquatic and requires clean, oxygenated water with low silt concentrations because the larvae breathe underwater and eat small aquatic insects and invertebrates (Polhemus and Asquith 1996, p. 4; Service 2023i, p. 3). The species is generally intolerant of high temperatures, pollutants, hypoxic conditions, and silted water, factors long identified as indicators of poor water quality (Moore 1997, p. 10; Solimini et al. 1997, pp. 21, 30–31). Rota blue damselfly larvae eat small aquatic insects and other invertebrates, such as water fleas, mosquito larvae, and other small aquatic organisms (Polhemus and Asquith 1996, p. 4; Service 2020aa, p. 17). Adults eat small flying insects, such as midges and small flies (Polhemus and Asquith 1996, p. 7; Service 2020aa, p. 15).

Epiphytic Orchids

(7) Epiphytic orchids: *Bulbophyllum guamense, Dendrobium guamense,* and *Tuberolabium guamense* PBFs

a. *Epiphytic orchids PBF 1:* Native limestone or volcanic forests with native host vegetation such as trees and tall shrubs, including forests along clifflines, forest edges, mountainous slopes and secondary/mixed and native volcanic ravine forests providing suitable host vegetation.

b. *Epiphytic orchids PBF 2:* Pollinators such as flies, wasps, and bees, and native vegetation to support them.

Host trees for the orchids are not species specific, but *Bulbophyllum guamense* primarily grows on native vegetation and most individuals (greater than 76 percent) of *Dendrobium guamense* and *Tuberolabium guamense* are found on native vegetation associated with primary limestone and volcanic, and secondary/mixed forests (Service 2023k, p. 9; Service 2023m, pp. 12, 17; Service 2023x, p. 14). The orchids are also found on trees and tall shrubs in secondary limestone and volcanic substrate forests, high in the canopy, in ravine secondary forests, under the canopy along forest edges and clifflines, and on the slopes within intact native volcanic forest ecosystems or habitats (Stone 1970, pp. 27, 38, 155; Falanruw et al. 1989, pp. 6–9; Raulerson and Rinehart 1991, pp. 61, 73, 96; Mueller-Dombois and Fosberg 1998, pp. 218, 268; CNMI DFW 2015b, pp. 4–7; Service 2020ab, pp. 17–18, 29; Service 2020ad, pp. 4, 6–8; Service 2020an, pp. 9, 12; Service 2023m, pp. 11–13). Most of the native forest ecosystem for these species has been lost due to natural and anthropogenic disturbance, including invasive species, development, volcanic eruptions, typhoons, and fire (Willsey et al. 2019, pp. 2, 13–18, 28); Guam lost 83 percent, Rota lost 53 percent, Saipan lost 99 percent, Tinian lost 96 percent, Aguiguan lost 45 percent, and Agrihan lost 32 percent (Service 2023m, pp. 28–29).

These three epiphytic orchid species reproduce vegetatively and sexually, and require diverse populations with all age classes present (seeds, seedlings, juveniles, and adults), and must be distributed across sufficient quality forest habitat with high levels of habitat connectivity between populations (Service 2023k, p. 19; Service 2023m, p. 11 Service 2023x, p. 13). Reproduction requires moss or other debris on tree trunks or branches that the three orchid species can root into or cling to (Service 2023k, p. 16; Service 2023m, p. 9; Service 2023x, p. 10). Mother plants disperse seeds onto a host plant surface where they require microbial partners, such as mycorrhizal fungi, to germinate and grow to adults (Alghamdi 2019, p. 502; Service 2020h, p. 7; Service 2020l, p. 8; Service 2020ab, pp. 10, 17). Flies are the most likely pollinator for *Bulbophyllum guamense,* but the three orchid species may also be pollinated by wasps and bees (Borba et al. 1999, p. 205; Humeau et al. 2011, p. 591; Service 2023k, p. 18; Stpiczynska et al. 2018, p. 565). Seed dispersal likely occurs with wind and rain (Service 2023k, p. 17).

Invasive species are the primary driver of island extinctions and are a primary factor underlying the alteration and degradation of native plant communities and habitats in the Mariana Islands (Service 2023a, p. 12; Spatz et al. 2017, p. 1). Steady ongoing habitat degradation and loss occurs from the following sources: ungulates eat native vegetation, prevent native vegetation growth, spread invasive species, and cause severe erosion; rodents eat seeds and plants and affect regeneration; reptiles eat seed-dispersing birds; and invertebrates kill the plants or change the ecosystem that supports them (Service 2023a, pp. 21–22; Willsey et al. 2019, pp. 15–16). Small population abundance and distribution of these epiphytic orchid species increases their vulnerability to threats (Service 2023a, p. 17).

Bulbophyllum guamense is endemic to Guam and Rota, growing on trunks and branches of tall trees and shrubs in native, secondary/mixed forests, and native volcanic ravine forests containing

exact amounts of moisture, light, and wind (the species derives moisture from the atmosphere and moisture and nutrients from host vegetation) (Service 2023k, pp. 3, 16). Historically, this species was likely widely distributed in the native forest habitat along the clifflines and mountainous slopes of the southern Mariana Islands of Guam and Rota (Service 2023k pp. 27, 32). Common host vegetation for the orchids includes *Hernandia labyrinthica, Elaeocarpus joga, Pisonia umbellifera* (birdlime tree or bird-catcher tree), *Artocarpus* spp., *Persea americana* (avocado), and *Areca catechu* (betel nut) (Stone 1970, p. 158; CNMI DFW 2015b, pp. 2, 4–7; Service 2023k, p. 16). *Bulbophyllum guamense* are found along slopes at relatively high elevations in native limestone and secondary forest habitats, which appears to protect them from stochastic events (*e.g.,* hurricanes) (Service 2020ab, pp. 3, 6–7, 9, 29).

Dendrobium guamense is endemic to Guam, Rota, Saipan, Tinian, Aguiguan, and Agrihan, growing predominately on native (93 percent) tree trunks and branches of trees in the top of the tree canopy (Service 2023m, pp. 3, 5, 12), but also terrestrially under the canopy where it is found along forest edges and clifflines (CNMI DFW 2015b, pp. 3–5). *Dendrobium guamense* are mostly (76 percent) found on native trees, such as (but not limited to) *Elaeocarpus joga, Glochidion marianum* (chosgô), and *Pandanus tectorius* (Service 2023m, p. 12).

Tuberolabium guamense is endemic to forest ecosystems of Guam and Rota with limestone and volcanic substrata, growing in low sunlight, low in the tree canopy, on tree trunks or shrubs of primarily native species (Service 2023x, p. 3; Stone 1970, pp. 14, 18–24). Known host vegetation includes (but is not limited to) *Aglaia mariannensis* (mapunyao, mapuñao, fischil liyoos), *Eugenia reinwardtiana* (cedar bay cherry), and *Merrilliodendron megacarpum* (see Service 2023x, pp. 14, 16 for full list). *Tuberolabium guamense* has little apparent specificity for precipitation within the current ranges recorded on Guam and Rota; it occupies sites across gradients in space spanning large differences in rainfall, temperature, and elevation (Service 2023x, p. 17).

Forest Plants

Historically, forest plant communities in the Mariana Islands were described as a diverse ecosystem where 10 or more species grew side by side in approximately equal abundance; these communities were represented by a diverse group of families and species, and none were dominated by any single species or by small groups of species (Glassman 1948, p. 177). The forests were not matted with undergrowth except where trees were few, and the ground cover species were usually confined to the forests (Glassman 1948, p. 179). Less than 17 percent of native forests remain on Guam, less than 47 percent remain on Rota (Willsey et al. 2019, p. 4), and less than 2 percent of native coastal habitats remain on any island in the Mariana Islands (Service 2023a, p. 21). Invasive species are the primary driver of island extinctions and are a primary factor underlying the alteration and degradation of native plant communities and habitats in the Mariana Islands (Service 2023a, p. 12; Spatz et al. 2017, p. 1) and for all of the forest plants. And as stated above, it is important to note that pollinators and birds are almost entirely absent from Guam due to depredation by the invasive brown tree snake, which can severely inhibit a plant's ability to reproduce (pollinators) and distribute (seed dispersers) (Egerer et al. 2018, p. 655; Service 2020ak, pp. 2, 14). Overall, we know very little about these rare forest plants as surveys and reports are few; therefore, we relied on the best available scientific information to identify their essential PBFs.

Forests in the Mariana Islands are characterized by a closed canopy of broadleaf trees with an understory of younger trees, vines, epiphytic ferns, and orchids (Willsey et al. 2019, p. 3). Present day limestone forests are largely (but not limited to) *Hibiscus tiliaceus, Morinda citrifolia* (lada', noni, Indian mulberry), *Psychotria mariana* (åpplok hating, aplohkateng, aplu kati, gathemach, aploghating, åplokhating), *Aidia cochinchinensis* (sumak), *Aglaia mariannensis, Ficus prolixa, Melanolepis multiglandulosa* (ålom), *Pandanus tectorius,* and *Pipturus* spp. The undergrowth is sparse, except for young trees of the above species and vines such as (but not limited to) *Abrus* spp., *Freycinetia* spp., and *Operculina* spp.*;* very common are *Asplenium nidus* (gålak, fedda', bird's nest fern) and *Phymatosorus scolopendria* (monarch fern, kåhlao) (Mueller-Dombois and Fosberg 1998, pp. 216–217; Harrington et al. 2012, entire).

Coastal strand forests comprise the following components: They contain sandy soils, coastal strand vegetation, mangroves, and bare sand, rock, and karst; are contained within near-shore areas that are bounded by the ocean on one side and have a less distinct inland border; are found only in older and larger southern islands (*i.e.,* Guam and Rota); and support a narrow plant community along the shore from loose sand just above the high tide line extending to increasingly less saline volcanic or limestone soil conditions inland (Fosberg 1960, pp. 15–17; Plentovich et al. 2020, p. 186; Service 2020ac, p. 9; Service 2023l, pp. 11–12). Present-day coastal strand vegetation in the Marianas includes (but is not limited to) *Barringtonia asiatica, Bikkia tetrandra, Cassytha filiformis, Casuarina equisetifolia, Cordia subcordata, Heliotropium foertherianum, Hernandia nymphaeifolia, Hibiscus tiliaceus, Ipomoea pes-caprae* (halaihai, goats foot morning glory, bayhops, beach morning glory, railroad vine), *Lepturus repens, Mammea odorata, Ochrosia mariannensis, Pandanus tectorius, Pemphis acidula, Scaevola taccada* (nanåsu, beach naupaka, beach cabbage), Sesuvium *portulacastrum, Sporobolus virginicus, Thespesia populnea, Thuarea involuta,* and *Vigna marina* (akankang manulasa, akangkang malolusa, nanea, beach pea) (Plentovich et al. 2020, p. 187).

(8) Cycas micronesica PBFs

a. *Cycas micronesica PBF 1:* Closed-canopy native limestone or volcanic forests with native vegetation such as (but not limited to) *Hibiscus tiliaceus, Morinda citrifolia, Psychotria mariana, Aidia* spp., *Aglaia* spp., *Ficus* spp., *Melanolepis multiglandulosa, Pandanus* spp., and *Pipturus* spp.

b. *Cycas micronesica PBF 2:* Closed-canopy native coastal strand forest with sandy soils and native vegetation such as *Barringtonia asiatica, Bikkia tetrandra* (torchwood, gausåli), *Casuarina equisetifolia, Cocos nucifera, Hernandia nymphaeifolia* (doko, Hernandia, Jack-in-the-box, lantern tree, nonak), *Hibiscus tiliaceus, Ipomoea pes-caprae, Mammea odorata, Pemphis acidula* (bantigue, nigas), *Scaevola taccada, Sesuvium portulacastrum* (sea purselane), *Sporobolus virginicus* (banalo, binalo, Pacific rosewood, Portia tree), *Thespesia populnea* (banalo, binalo, Pacific rosewood, Portia tree), *Thuarea involuta* (kuroiwa grass, tropical beachgrass, bird's beak grass), and *Vigna marina.*

c. *Cycas micronesica PBF 3:* Native pollinators such as moths and beetles, and native vegetation to support them.

d. *Cycas micronesica PBF 4:* Native seed dispersers such as birds and fruit bats.

Cycas micronesica is a rare gymnosperm (usually an unbranched tree with a thick trunk) native to Guam, Rota, and possibly Pagan, where it is found in the limestone and volcanic forests and coastal (strand) habitats

(Service 2020ac, p. 9; Service 2023l, pp. 3, 11–12). Populations were continuous across Guam as recently as 2002, but fragmented after the cycad aulacaspis scale (*Aulacaspis yasumatsui*) was first detected in 2003. Once established, infestations spread rapidly and are extremely difficult to control, and there is no chemical or biological control method effective at a landscape scale. This invasive armored scale insect infests leaves, stems, and roots of *Cycas micronesica,* causing extensive tissue damage, defoliation, and eventually death. Since its introduction, *Aulacaspis yasumatsui* has caused declines in *Cycas micronesica* populations throughout its range, with mortality rates of up to 93 percent across all life stages, from seedlings to mature plants (Marler 2013, pers. comm). The continued presence of the cycad scale as a primary threat to *Cycas micronesica* increases its risk of extinction throughout its range.

Cycas micronesica is unique among Mariana Islands species as the only native gymnosperm (seed producer), has nitrogen-fixing root symbionts (organisms living in symbiosis with another), lives up to 40 years (Bösenberg 2022, p. 8), and hosts the specialist native beetle *Dihammus marianarum* that feeds on stem tissue and a specialist native moth pollinator (*Anatrachyntis* sp.) that feeds on dispensable male cone tissue (Marler and Dongol 2016, p. 4; Service 2020i, p. 7; Service 2023l, p. 10). *Cycas micronesica* is food for the Mariana fruit bat and was historically used by humans as food after much processing. Threats to this species include loss and degradation of habitat due to impacts from invasive animal and plant species, development, wildfire, and climate change (*e.g.,* changes in precipitation patterns); herbivory from nonnative invertebrates and ungulates; and catastrophic events such as typhoons (Service 2023l, pp. 3, 17–19).

Cycas micronesica reproduces vegetatively and sexually and requires pollinators (Service 2023l, p. 12) such as moths and beetles (*Carpophilus* spp. beetles, Nitidulidae family), it hosts native insect pollinator species, and pollen is dispersed by wind from April to August during the dry season (Hamada et al. 2015, entire; Schneider et al. 2002, p. 282; Service 2020i, p. 7; Service 2020m, p. 7; Terry et al. 2009, pp. 83, 96). Males create very strongly scented cones when pollen matures, and females produce a cone-like structure that opens outward to receive fertilization by pollen (Service 2023l, p. 9). Specialist pollinators are attracted to the cones' chemical cues (Schneider et al. 2002, p. 282; Terry et al. 2009, pp. 83, 96). Seeds require 3 to 6 months to germinate (Raulerson and Rinehart 1991, p. 4; Service 2023l, p. 9).

(9) Eugenia bryanii PBFs

a. *Eugenia bryanii PBF 1:* Limestone forests with moisture, including (but not limited to) forest edge perimeters, exposed limestone cliffs, and limestone forests with karst as the primary substrate.

b. *Eugenia bryanii PBF 2:* Native seed dispersers such as birds and fruit bats.

c. *Eugenia bryanii PBF 3:* Native pollinators and native vegetation to support them.

Eugenia bryanii are small-to-medium-sized shrubs in the Myrtaceae family and are endemic to Guam, where they comprise part of the shrub community in limestone forest habitats, where limestone karst is the primary substrate; the species occupies a relatively narrow habitat niche along the perimeter of forest edges and exposed limestone cliffs (Costion and Lorence 2012, pp. 54, 82; Service 2020ae, p. 3; Service 2023n, pp. 3, 11). The species occurs in limestone forests where limestone karst is the primary substrate. However, it is unknown whether the species has any habitat requirements or limitations besides needing limestone soils or limestone karst, and it may previously have been more widely distributed; fewer ungulates can traverse karst substrates, potentially explaining why the species is only found along these edges (Service 2020k, pp. 7–8; Service 2023n, p. 11). Like other forest plants on Guam, the species likely requires pollinators, seed dispersers, water availability and vegetation communities consistent with native limestone forests, sunlight levels consistent with limestone karst forest edge habitat, limestone substrates, seasonal precipitation fluctuations, and relatively constant temperatures (Service 2023n, p. 12). Threats to this species include loss and degradation of habitat due to impacts from human activity and development, invasive species (*e.g.,* invertebrates and grazing by ungulates), and climate change (*i.e.,* increasing variability in temperatures, more severe alternating periods of droughts and floods, stronger typhoons) (Service 2023n, pp. 14–15).

Seeds require undisturbed substrates and moisture to survive. They are sensitive to desiccation, which affects seed germination and survival (Andrade et al. 2003, p. 131; Maluf et al. 2003, p. 471), and are dispersed by seed-eating birds and fruit bats (Gawel et al. 2018, p. 8). Habitats free from invasive pests are required for seed survival. Seed survival can be reduced by these factors: rats eat plants and seeds (possibly dispersing seeds as well); ungulates eat and crush plants and prevent regeneration; snakes remove plant-pollinating and seed-dispersing birds; and invasive plants outcompete native plants and overgrow native vegetation communities.

(10) Heritiera longipetiolata PBFs

a. *Heritiera longipetiolata PBF 1:* Closed-canopy native limestone forests where there are substrates of karsts, clifflines, and outcroppings.

b. *Heritiera longipetiolata PBF 2:* Sufficient space within limestone vegetation communities composed of plants such as (but not limited to) *Asplenium nidus, Hibiscus tiliaceus, Morinda citrifolia, Phymatosorus scolopendria, Psychotria mariana,* and *Abrus* spp., *Aidia* spp., *Aglaia* spp., *Ficus* spp., *Freycinetia* spp., *Melanolepis* spp., *Operculina* spp., *Pandanus* spp., and *Pipturus* spp.

c. *Heritiera longipetiolata PBF 3:* Individuals in close proximity to each other and adequate access by native seed dispersers such as birds and fruit bats.

d. *Heritiera longipetiolata PBF 4:* Native pollinators and native vegetation to support them.

Heritiera longipetiolata, a medium to large hibiscus tree in the Malvaceae family, is found in the limestone forest habitats of Guam, Tinian, Saipan, and Rota where there are substrates of karst, clifflines, or outcroppings (Service 2023p, p. 10; Willsey et al. 2019, p. 4). Tree roots grow into rough limestone crevices, especially on cliffs and plateaus (Raulerson and Rinehart 1991, p. 94). On Tinian, *Heritiera longipetiolata* are observed only in karsts within native limestone forest (Stone 1970, p. 420; Service 2020m, pp. 7–8; DoN 2018, in litt., entire). The species is restricted to native limestone forest habitats where they are considered a canopy tree (University of Guam (UOG) 2018, in litt., pp. 5, 11, 40) comprising a closed-canopy system of broadleaf trees with an understory of younger trees, vines, epiphytic ferns, and orchids (Stone 1970, pp. 419–420; Vogt and Williams 2018, p. 66; Willsey et al. 2019, p. 3). Specifically, these forests contain upper canopy tall trees (33 ft; 10 m or taller), mid-story small to mid-size trees (10 to 33 ft (3 to 10 m)), and an understory of shrubs and herbs (Falanruw et al. 1989, pp. 6, 8). The vegetation community comprises species commonly associated with limestone forests including (but not limited to) *Asplenium nidus, Hibiscus tiliaceus, Morinda citrifolia,*

Phymatosorus scolopendria, Psychotria mariana, Abrus spp., *Aidia* spp., *Aglaia* spp., *Ficus* spp., *Freycinetia* spp., *Melanolepis* spp., *Operculina* spp., *Pandanus* spp., and *Pipturus* spp. (Willsey et al. 2019, pp. 5–6; Service 2023p, p. 12). Threats to this species include loss and degradation of habitat due to impacts from invasive animal and plant species, development, and climate change (*i.e.,* increased precipitation and increased typhoon intensity and severity); loss of pollinators due to brown tree snake; herbivory by pigs, deer, rodents, invasive invertebrates, and leaf miners; and plant pathogens (Service 2023p, pp. 17–19).

Heritiera longipetiolata requires sufficient space for sexual and vegetative reproduction because individuals grow in clusters and compete for sunlight and space (Service 2020m, p. 7). Sexual reproduction requires close proximity to other conspecifics where pollinators and seed dispersers can access individuals (Service 2020ag, p. 9; Hawaii and Pacific Plants Recovery Coordinating Committee (HPPRCC) 2011, p. 1). Seed dispersers, such as fruit-eating animals like native birds and fruit bats, are necessary for population growth and maintaining genetic diversity (Service 2023p, p. 13). Mutualists (*i.e.,* an organism that associates with a different species and both benefit), such as *H. longipetiolata,* require abundant and reliable sources of nectar, pollen, and fruits, and absence or low abundance of invasive animals such as the brown tree snake and rodents (Service 2023p, pp. 12–13).

(11) Maesa walkeri PBFs

a. *Maesa walkeri PBF 1:* Native limestone forest and forest edge habitats ranging in elevation between 656–1,312 ft (200–400 m).

b. *Maesa walkeri PBF 2:* Adequate sunlight, variable amounts of moisture, and relatively constant temperatures.

c. *Maesa walkeri PBF 3:* Native vegetation such as *Pandanus* spp., and *Hernandia-Elaeocarpus.*

d. *Maesa walkeri PBF 4:* Native seed dispersers such as birds and fruit bats.

e. *Maesa walkeri PBF 5:* Native pollinators such as insects and native vegetation to support them.

Maesa walkeri are small to medium shrubs (family Myrsinaceae) endemic to Guam and Rota limestone forests; they are most common along sunny edges of *Pandanus* spp. forests in limestone substrate or karsts, at 656–1312 ft (200–400 m) elevation, where there are variable amounts of moisture and relatively constant temperatures (Fosberg and Sachet, 1979, pp. 368–369; Fosberg 1960, pp. 22, 42; Raulerson and Rinehart 1991, p. 67; Costion and Lorence 2012, p. 84; Service 2020n; p. 6; Service 2020ai, p. 7; Service 2023q, pp. 3, 5, 10, 11). *Maesa walkeri* are strongly tied to the extent and amount of limestone forest habitat (Service 2023q, p. 13). Survival of the species depends on a number of genetically well-maintained populations that can exchange genes. This requires population distributions across a variety of habitat types (Service 2020ai, pp. 7–8). *Maesa walkeri* is most abundant in grassland/*Pandanus* spp. forest edges, lesser in forest/abandoned pasture edges and species in the *Hernandia* and *Elaeocarpus* family (referred to as *Hernandia-Elaeocarpus*) canopy with *Pandanus tectorius* understory, and least abundant in *Pandanus* spp. forest/road edges (Service 2023q, pp. 10–11). Threats to this species include loss and degradation of habitat due to impacts from development, feral ungulates, and brown tree snakes; predation by rats, and climate change (*i.e.,* increased periods of drought and severe storm frequency) (Service 2023q, pp. 3, 14–15).

Maesa walkeri produces fruit and is assumed to be pollinated by insects (Service 2023q, p. 10). The species reproduces sexually and vegetatively (Service 2023q, pp. 6, 10). Seeds are likely dispersed by native fruit-eating birds fruit bat (Gawel et al. 2018, p. 8; Service 2023q, pp. 10, 11), and seed dispersers are required for recruitment and maintaining genetic diversity (Service 2023q, pp. 11, 14, 16; Wandrag et al. 2015, p. 1).

(12) Nervilia jacksoniae PBFs

a. *Nervilia jacksoniae PBF 1:* Connected closed-canopy native limestone, volcanic ravine, and mixed forests with leaf-littered humus or sandy forest floors, shade, minor to moderate light, and moisture.

b. *Nervilia jacksoniae PBF 2:* Native limestone forest understory with plants such as (but not limited to) *Elaeocarpus joga, Hernandia labyrinthica, Pandanus dubius* (påhong, bakong, or knob-fruited screwpine), *Pandanus tectorius, Pisonia umbellifera,* and *Psychotria malaspinae.*

c. *Nervilia jacksoniae PBF 3:* Native volcanic forest understory with plants such as (but not limited to) *Barringtonia asiatica, Hernandia sonora, Pandanus tectorius, Pisonia grandis,* and *Terminalia catappa.*

d. *Nervilia jacksoniae PBF 4:* Pollinators including insects, such as small bees and wasps, and native vegetation to support them.

This ground orchid is a small terrestrial herb in the Orchidaceae family that grows in canopy-covered, shady, moist, leaf-littered humus or sand on forest floors of Guam and Rota; the orchids are found only in native limestone and mixed-forest subtypes and native volcanic forests of ravines in southern Guam (Service 2020o, p. 8; Service 2023r, pp. 5, 14). The species requires soils with sand or humus (Service 2020aj, p. 14) for its subterranean reproductive tuber to grow; it then rises to produce a flower and seed pods that are dispersed by wind (Service 2023r, p. 8). *Nervilia jacksoniae* occur only where there is minor to moderate moisture because all life stages require precipitation during both rainy and dry seasons (Service 2020aj, p. 14; Service 2023r, pp. 9, 14).

Nervilia jacksoniae requires plant genera and substrates typical of native limestone or volcanic forests in the Mariana Islands, growing under native plants in limestone substrates such as *Pandanus tectorius, Pandanus dubius, Hernandia labyrinthica, Elaeocarpus joga, Pisonia umbellifera,* and the federally endangered *Psychotria malaspinae* (Service 2020aj, pp. 9, 14) and growing under native plants in volcanic substrates such as *Pisonia grandis, Hernandia sonora, Barringtonia asiatica, Pandanus tectorius,* and *Terminalia catappa* (Willsey et al. 2019, pp. 5–6). Species observations are limited to areas containing shade with minor to moderate filtered light (Service 2020aj, p. 14; Service 2023r, p. 9). Substrate required for volcanic forests are volcanic soils and associated plant species that may include *Pisonia grandis, Hernandia sonora, Barringtonia asiatica, Pandanus tectorius,* and *Terminalia catappa* (Willsey et al. 2019, pp. 5–6).

Reproduction requires wind and rain for seed dispersal (Service 2020aj, p. 15; Service 2023r, pp. 5, 17) and pollination by insects, such as small bees and wasps (Pettersson 1991, p. 19; Service 2020aj, p. 16). The flowers of the plant evolved to attach pollen masses to the stigma of the flower (Johnson and Edwards 2000, pp. 243, 255; Mosquera-Mosquera et al. 2019, pp. 363, 365–366). However, if there is an inadequate number of individual plants present, they are unlikely to attract pollinators (Gale 2007, p. 59). Germination rates are likely very low on forest floors (0 to 12 percent) compared to in vitro cultured seeds (76 to 99 percent) (Gale et al. 2010, p. 166), possibly caused by a lack of mycorrhizal fungi for seed development, and sometimes bacteria, which many orchid species require (Alghamdi 2019, p. 502; Gale et al. 2010,

pp. 166, 175; Ray and Vadramne 2015, p. 2; Tsavkelova et al. 2007, pp. 69, 75). Fungi play an important role in overcoming light inhibition of seed germination (Alghamdi 2019, p. 495). Reproduction also occurs by vegetative growth through multiple tuber development (Service 2023r, p. 8) requiring adequate space in humus and sand to allow new tubers to develop (Service 2020aj, pp. 14–15). *Nervilia jacksoniae* reproduction and survival requires minimal disturbance. However, habitat disturbance is frequent on Guam and caused by nonnative pigs, water buffalo (*Bubalus bubalis*), deer, rats, reptiles (*e.g.,* brown tree snakes), invertebrates (*e.g.,* cycad scale, slugs (*e.g.,* pancake slug (*Veronicella sloanii*)), and snails (*e.g.,* giant African land snail) (80 FR 59424 at 59437 and 59449, October 1, 2015; Willsey et al. 2019, p. 16). On Rota, reproduction and survival can be inhibited by deer, rats, and invertebrates (*e.g.,* cycad scale, slugs, and snails) because they eat, trample, or otherwise destroy seeds and plants (80 FR 59424 at 59437 and 59449, October 1, 2015; Willsey et al. 2019, p. 16). In addition to the habitat-based threats from invasive, nonnative animals, *N. jacksoniae* experiences loss and degradation of habitat due to impacts from invasive plants, development, wildfire, and climate change (*i.e.,* increased precipitation, typhoon intensity, and frequency) (Service 2023r, pp. 20–25).

(13) Psychotria malaspinae PBFs

a. *Psychotria malaspinae PBF 1:* Interconnected native limestone forest habitat.

b. *Psychotria malaspinae PBF 2:* Sufficient space within a vegetation community where there is closed canopy or where partial to full sunlight is available with plants such as (but not limited to) *Abrus* spp., *Aglaia mariannensis, Aidia cochinchinensis, Asplenium nidus, Ficus* spp., *Freycinetia* spp., *Hibiscus tiliaceus, Melanolepis multiglandulosa, Morinda citrifolia, Operculina* spp., *Pandanus* spp., *Phymatosorus scolopendria, Pipturus argenteus* (amahåyan, atmahåyan, amahadyan, ghasooso, native mulberry), and *Psychotria mariana.*

c. *Psychotria malaspinae PBF 3:* Native seed dispersers such as birds and fruit bats.

d. *Psychotria malaspinae PBF 4:* Native pollinators and native vegetation to support them.

Psychotria malaspinae, a rare endemic shrub or small tree in the Rubiaceae family, is found only in undisturbed, connected, native limestone forests with limestone soils and karsts on Guam (Service 2020ak, pp. 8, 9, 13, 16; Service 2023t, pp. 9–10; Stone 1970, pp. 554–555). The species requires predominantly native vegetation typical of limestone forests in the Mariana Islands that provide for their reproduction and recruitment (for specific vegetation species see Raulerson and Rinehart 1991, p. 83; Service 2020ak, p. 9; Service 2023t, p. 10; Stone 1970, pp. 554–555; Willsey et al. 2019, pp. 5–6), including closed canopy of broadleaf trees with an understory of younger trees, vines, epiphytic ferns, and orchids (Stone 1970, pp. 554–555; Vogt and Williams 2018, p. 66); tall trees (32 ft (10 m)) comprising the upper canopy, small to mid-size trees (10 to 33 ft (3 to 10 m)) as mid-story, and shrubs and herbs that form the understory (Falanruw et al. 1989, pp. 6, 8).

Population connectivity results when seeds are dispersed across contiguous limestone forests, and this is necessary to maintain genetic diversity in multiple populations (Service 2020p, pp. 8–9; Service 2023t, p. 14). More than 83 percent of Guam's native forests are gone or have severely impaired habitat connectivity (Service 2020an, p. 3), but this species' persistence has been attributed to its distribution in native limestone forests (Service 2023t, p. 15). Fruits and flowers are eaten and dispersed by birds (Service 2023t, p. 9), which may account for the current scattered distribution of the remaining populations within the forest ecosystems on the northeast and southeast sides of Guam (Stone 1970, pp. 554–555; Raulerson and Rinehart 1991, p. 83; Costion and Lorence 2012, pp. 54, 85–86, 96).

Seed dispersers are required to ensure seeds are moved farther away from conspecifics allowing for increased recruitment to grow the populations and to maintain genetic diversity (Service 2023t, p. 14; Service 2020p, p. 9). Deposited seeds have low germination rates and sow themselves nearby and produce seedlings (Service 2023t, p. 9). Invasive ungulates and rodents cause significant rates of mortality to seedlings and immature plants (*i.e.,* by eating the seeds or disturbing soils and substrates, exposing the seeds and ultimately killing them) (Kessler 2011, p. 320; Rubinoff and Holland 2018, pp. 222–224). The species requires pollination and seed dispersal by native species, including birds. As stated previously, pollinators and birds are almost entirely absent from Guam (Egerer et al. 2018, p. 655; Service 2020ak, pp. 2, 14). Threats to this species include loss and degradation of habitat due to impacts from invasive animal (*e.g.,* brown tree snake) and plant (*e.g.,* vines) species, development, and increasing typhoon intensity; loss of pollinators due to brown tree snake and rodents; herbivory by pigs, Philippine deer, and rodents (Service 2023t, pp. 3, 15–16).

(14) *Tabernaemontana rotensis* PBFs

a. *Tabernaemontana rotensis PBF 1:* Interconnected native limestone forests, open patches, and forest edges providing moderate to full sunlight.

b. *Tabernaemontana rotensis PBF 2:* Native limestone forest habitat vegetation such as (but not limited to) *Abrus* spp., *Aidia* spp., *Aglaia* spp., *Aglaia mariannensis, Aidia cochinchinensis, Asplenium nidus, Elaeocarpus* spp., *Ficus* spp., *Freycinetia* spp., *Guamia* spp., *Hernandia* spp., *Hibiscus tiliaceus, Intsia bijuga, Macaranga thompsonii, Melanolepis* spp., *Morinda citrifolia, Operculina* spp., *Pandanus* spp., *Phymatosorus scolopendria, Pipturus* spp., *Pisonia grandis, Pouteria* spp., *Premna* spp., *Psychotria mariana,* and *Trema* spp.

c. *Tabernaemontana rotensis PBF 3:* Native seed dispersers such as birds and fruit bats.

d. *Tabernaemontana rotensis PBF 4:* Native pollinators, such as butterflies and other generalist pollinators, and native vegetation to support them.

Tabernaemontana rotensis is a medium-sized tree (approximately 30 ft (9 m) tall) in the Apocynaceae family that requires interconnected limestone forest habitat dominated by native vegetation (Service 2020al, pp. 10–11; UOG 2007, in litt., pp. 4, 11), which is found only in the limestone forest habitat of Guam and Rota (Stone 1970, p. 485). The species requires sufficient limestone forests with limestone soils and karst for reproduction and recruitment, pollinators, and plant species typical of a native limestone forest in the Mariana Islands, which may include the species noted above in PBF 2 (Service 2020al, p. 11; Willsey et al. 2019, pp. 5–6). Sufficient space is needed for the species to reproduce sexually or vegetatively (Service 2020al, p. 10), preferably in open patches or forest edges where partial to full sunlight is available (Service 2020al, p. 10; UOG 2007, in litt., pp. 4, 14–15). Germination and seedling emergence are maximized in partial to full sunlight conditions if an adequate seed bank is available (UOG 2007, pp. 4, 14–15). Threats to this species include loss and degradation of habitat due to impacts from invasive animal (*e.g.,* brown tree snake) and plant (*e.g.,* vines) species, development, fire, and climate change

(*i.e.,* typhoons with intense winds); loss of pollinators from brown tree snake and rodents; herbivory by invasive invertebrates and rodents; and trampling by ungulates (*i.e.,* pigs and Philippine deer) (Service 2023t, pp. 3, 15–17).

Tabernaemontana rotensis population distribution is clustered because seedling establishment is restricted to the vicinity of the parent tree due to the loss of frugivorous bird species on Guam (from being depredated by brown tree snakes) (UOG 2007, pp. 4–5, 9, 28; Service 2017, pp. 80–82). The species requires seed dispersers and contiguous limestone forest for population growth, maintaining genetic diversity (Service 2020al, p. 11), aiding recruitment, and ensuring seeds are dispersed away from conspecifics to increase recruitment (Service 2023v, p. 16). Without dispersal from the parent, the seeds develop in extreme competition with each other, and almost complete mortality occurs (Rogers et al. 2017, p. 2; Service 2023v, p. 16; UOG 2007, pp. 22, 73). Fruit-eating animals benefit plant recruitment by increasing germination during gut passage and moving seeds away from the parent plants, consequently increasing distribution and resiliency of the species (Service 2020al, p. 11). The pollinators are sustained by abundant, diverse, and reliable sources of native nectar and pollen plants, and stable habitats that are sufficiently free of nonnative plants and animals (*i.e.,* invertebrates, brown tree snake, rodents, and ungulates) (Service 2020q, pp. 6–7, 9, 12, 20; Service 2020al, p. 11; Service 2023v, p. 3).

(15) Tinospora homosepala PBFs

a. *Tinospora homosepala PBF 1:* Tall-canopy native limestone forests with limestone soils and karst substrates.

b. *Tinospora homosepala PBF 2:* Native pollinators and native vegetation to support them.

c. *Tinospora homosepala PBF 3:* Native seed dispersers such as native birds and fruit bats.

Tinospora homosepala is a woody, climbing vine in the Menispermaceae family that comprises the shrub or herbaceous components of the limestone forest ecosystem of central Guam (Service 2023w, p. 5). The species requires limestone soils to limestone karst, its primary substrate, and can inhabit backstrand habitat. It is most likely found where there are tall trees that it can climb, likely to obtain levels of sunlight consistent with limestone karst forest edge habitat (GPEPP 2024, in litt., entire; Service 2020am, pp. 9–10). Seasonal fluctuations (wet and dry season) typical of the Mariana Islands may be necessary for completion of its life cycle (Service 2020am, p. 6), as are relatively constant temperature ranges and precipitation requirements consistent with native limestone forests (Ohba 1994, pp. 13–16; Mueller-Dombois and Fosberg 1998, p. 241; Service 2023w, p. 9).

Tinospora homosepala reproduces both sexually and vegetatively and is limited by the very low population abundance of 150 individuals spread across only 4 locations; 120 of the plants are from 1 population, and the sexes of the plants are unknown (Service 2023w, p. 13). Sexual reproduction requires male and female plants and pollination from insects (Service 2020am, pp. 6–7). Reproduction also occurs via cloning (unisexual), in which severed vines send new roots into the ground (Stone 1970, p. 277; Service 2023w, p. 9). Seed-dispersing vertebrates, such as Mariana fruit bat, Mariana crow (*Corvus kubaryi*), and Micronesian megapode (*Megapodius laperouse*) are also likely necessary, because otherwise the plants would deposit their seeds directly below themselves with little successful reproduction due to low light, competition with more established plants, and high seed density (Willsey et al. 2019, p. 3).

Nonnative animals have severely degraded the habitat and life history requirements of *Tinospora homosepala.* The invasive brown tree snake decimated the avian and small animal community that likely functioned as seed dispersers (Service 2020r, pp. 8–9). Rodents eliminated native plant species by eating the plants and their seeds (although they possibly disperse seeds as well) (Service 2020r, pp. 8–9). Nonnative invertebrates kill and otherwise reduce the abundance of native invertebrates that likely serve as pollinators and provide other functions supporting a healthy ecosystem (Service 2020r, pp. 8–9). In addition to the nonnative brown tree snake, rodents, and other invertebrates previously discussed, the fruit-piercing moth (*Eudocima fullonia*) is an especially damaging invasive invertebrate that severely reduces the female vines' fruit production by puncturing it, causing the fruit to rot and decay (only female vines' fruit), with only male plants remaining (Service 2023w, p. 14). Other threats include loss and degradation of habitat due to development, feral ungulates, and climate change (*i.e.,* increased period of droughts and severe storm frequency) (Service 2023w, pp. 3, 11–12).

Savanna Plants

This rare Guam savanna habitat rises from highly weathered volcanic clay soils, and its distribution is associated with volcanic clay substratum (Service 2020af, p. 11; Service 2023o, p. 10). The volcanic clay soils are highly acidic in most places from the abundance of aluminum in the soil (Mueller-Dombois and Fosberg, 1998, pp. 269–270; Carroll and Hathaway 1963, pp. 29–30) and are characterized as nutrient deficient (Bojórquez-Quintal et al. 2017, pp. 1–4). Soils containing aqueous aluminum may stimulate plant growth by promoting nutrient intake depending on the environmental conditions, concentration of the aluminum, and the plant species (Bojórquez-Quintal et al. 2017, pp. 2–10). This savanna habitat has a uniquely stable climate with daily temperatures ranging between 73 and 86 °F (22 and 30 °C), 6 to 8 hours of sunlight, distinct dry and wet seasons averaging 96 in (218 centimeters (cm)) of rain annually, and underlying volcanic substratum with very low porosity causing most rainwater to run off into streams and the ocean (Service 2020af, p. 15; Service 2023o, p. 14). There are five plant communities in the savanna habitat, including (1) *Miscanthus* (silver grass or maiden grass), (2) *Dimeria* spp. (a type of woody/herbaceous grass), (3) erosion scar (pioneer species of grasses, ferns, and shrubs within heavily eroded savanna areas), (4) *Phragmites* (common reed), and (5) the weed community which follows disturbance (Fosberg 1960, pp. 64–66).

(16) *Hedyotis megalantha PBFs*

a. *Hedyotis megalantha PBF 1:* Native savanna habitats with volcanic soils.

b. *Hedyotis megalantha PBF 2:* Grasses, ferns, shrubs, and other savanna vegetation such as (but not limited to) *Decaspermum fruticosum* (no common name), *Dicranopteris linearis* (Old World forked fern, uluhe, chacha), *Dimeria* spp., *Fimbristylis* spp., *Geniostoma micranthum* (no common name), *Lycopodium cernuum* (påtas ngånga', staghorn clubmoss, nodding clubmoss), *Machaerina mariscoides* (tropical twigrush), *Melastoma malabathricum* var. *mariannum* (melastoma, gafao, gafau), *Myrtella benningseniana* (no common name), *Phyllanthus saffordii,* and *Rhynchospora rubra* (sweet broom, macao tea).

c. *Hedyotis megalantha PBF 3:* Native pollinators, such as butterflies and other generalist pollinators, and native vegetation to support them.

Hedyotis megalantha is a long-lived woody herb in the coffee family Rubiaceae and is endemic to Guam savanna (Global Biodiversity Information Facility 2024, website; Mueller-Dombois and Fosberg 1998, pp. 269–270; UOG 2018, in litt., pp. 10–11; Service 2020af, p. 7; Service 2023o, pp. 3, 10, 13). *Hedyotis megalantha* may require acidic soils for optimal growth, but research on other *Hedyotis* species indicates a preference for acidic soils, not confinement to them (Fosberg 1960, pp. 22–23, 31–32, 34–35; Service 2020af, p. 15). The species may require only minimal nutrients for survival or may have an enhanced ability to absorb soil nutrients (Service 2023o, p. 14). *Hedyotis megalantha* benefits from the presence of aqueous aluminum and may have other biological mechanisms allowing its survival in low-nutrient environments, including a symbiotic relationship with the microbial community or through commensalism (where a species receives benefits but there are no effects on the other organism) (Service 2020l, p. 7; Service 2023o, p. 14). Threats to this species include loss and degradation of habitat due to impacts from development, nonnative animals and plants, wildfire, erosion, off-road vehicle use, and possibly changes in frequency and intensity of precipitation and typhoon events (Service 2023o, pp. 3, 18–25).

Hedyotis megalantha is limited primarily to high-quality native savanna habitat with little human disturbance, often found growing in clusters with native ferns including *Dicranopteris linearis,* in *Dimeria* spp. plant communities, and in erosion scar communities (Frager et al. 2019, p. 4; Demeulenaere 2020, in litt., entire; Service 2020l, pp. 6–7; Service 2023o, pp. 10, 14). *Dimeria* spp. communities are dominated by *Dimeria chloridiformis* (no common name), a low-growing grass, with *Hedyotis megalantha* and *Phyllanthus saffordii* scattered throughout (Demeulenaere 2020, in litt., entire). Erosion scar communities contain *Hedyotis megalantha* growing in between low-growing shrubs such as *Melastoma malabathricum* var. *mariannum, Decaspermum fruticosum, Myrtella benningseniana, Phyllanthus saffordii,* and *Geniostoma micranthum;* low-growing sedges such as *Rhynchospora rubra, Fimbristylis* spp., and *Machaerina mariscoides* (relatively taller than *Hedyotis megalantha*); and ferns such as *Lycopodium cernuum,* and *Dicranopteris linearis* (Demeulenaere 2020, in litt., entire; Service 2020l, pp. 6–7; Service 2023o, p. 14).

Hedyotis megalantha reproduction may include self-pollination, inability to self-pollinate, and sexual reproduction; no studies have yet determined the breeding system (Service 2023o, p. 15). Pollinators are undocumented but the species likely requires cross-pollination for optimal breeding success, with pollinators likely consisting of a variety of insects similar to other species within the genus *Hedyotis* (Service 2020l, p. 7). The white flowers with purple anthers of *Hedyotis megalantha* may attract butterflies and other generalist insect pollinator species. Seed dispersal for *Hedyotis megalantha* likely occurs via abiotic factors such as wind, gravity, or water (Service 2020af, p. 17; Service 2023o, p. 16). Seeding likely occurs during the wet season, maturing occurs into the dry season, and the species may require dry seasons to set fruit and for seed germination (Service 2023o, pp. 15–16). Prolonged hours of sunlight may be needed for both seed germination and for seedlings to mature, including production of the next generation of seeds (Service 2020af, p. 15; Service 2023o, p. 14).

(17) Phyllanthus saffordii PBFs

a. *Phyllanthus saffordii PBF 1:* Savanna habitats with volcanic substrates containing lateritic soils, including (but not limited to) *Dimeria* spp. communities and erosion scar communities.

b. *Phyllanthus saffordii PBF 2:* Forest edges, steep slopes, and eroded soils on volcanic substrates containing lateritic soils.

c. *Phyllanthus saffordii PBF 3:* Savanna vegetation such as (but not limited to) *Decaspermum fruticosum, Dicranopteris linearis, Dimeria chloridiformis, Fimbristylis* spp., *Geniostoma micranthum, Melastoma malabathricum* var. *mariannum, Myrtella benningseniana, Machaerina mariscoides, Lycopodium cernuum, Phyllanthus saffordii,* and *Rhynchospora rubra.*

d. *Phyllanthus saffordii PBF 4:* Native pollinators, such as bees, ants, moths, butterflies, and other generalist pollinators, and native vegetation to support them.

e. *Phyllanthus saffordii PBF 5:* Native seed dispersers such as birds and fruit bats.

Phyllanthus saffordii is a short-stature and short-lived woody shrub in the Phyllanthaceae family and persists only in southern Guam in the savanna habitats with deeply weathered volcanic substrates that contain lateritic soils (high iron and aluminum content, red clay, and highly acidic), including erosion scar and *Dimeria* spp. communities, and the plants are also found along forest edges, steep slopes, and severely eroded soils; the species does not occur in alkaline soils of northern Guam (Service 2020s, p. 5; Service 2023s, pp. 2, 15). The species most commonly occurs among other low-growing plants including the native grass *Dimeria chloridiformis,* and among the native scar community, consisting of the low-growing shrubs, low-growing sedges, and fern species identified above (Demeulenaere 2020, in litt., entire). Both *Phyllanthus saffordii* and *Hedyotis megalantha* can be found growing between grass, sedges, shrubs, and ferns (Demeulenaere 2020, in litt., entire; Service 2023s, p. 4). Threats to this species include loss and degradation of habitat due to impacts from development, invasive animals (*e.g.,* ungulates) and plants (*e.g.,* nonnative grasses), erosion, wildfire, and climate change (*i.e.,* increased precipitation and increased typhoon intensity and frequency) (Service 2023s, pp. 16–23).

Like other species within the *Phyllanthus* genus, *Phyllanthus saffordii* likely relies on bees, ants, moths, butterflies, and other generalist pollinators rather than avian or fruit bat or wind for pollination (Kawakita 2010, p. 13; Service 2020y, p. 13). *Phyllanthus saffordii* is not known to be capable of self-pollinating or reproducing without fertilization (Service 2023s, p. 14; Sharma et al. 2009, p. 286). *Phyllanthus saffordii* likely depends on dry seasons for fruiting and seed germination, and seed dispersal likely involves fruit-eating avian species that distribute seeds (Prasad et al. 2004, entire; Service 2020y, p. 13; Service 2023s, p. 14). Prolonged hours of sunlight are likely needed for seed germination and for seedlings to mature, including the production of the next generation of seeds (Service 2020y, pp. 12–13).

Special Management Considerations or Protection

When designating critical habitat, we assess whether the specific areas within the geographical area occupied by the species at the time of listing contain features that are essential to the conservation of the species, and which may require special management considerations or protection. The specific PBFs essential to the conservation of the Mariana Islands species may require special management considerations or protection to reduce the threats affecting those features. Threats to the Mariana Islands species are described in the final listing rule (80 FR 59424; October 1, 2015) and summarized in this proposed

rule; noting that some information, descriptions, and references used herein are new since the final listing determination. The threats and associated special management considerations or protection addressed in this document are specific to the PBFs and grouped into six threat categories based on the primary threats to the PBFs. Each of these threats and associated special management considerations or protection are summarized below.

(1) Development—includes agricultural, military, urban, and commercial development, as well as activities associated with construction, repair, and maintenance of roads, bridges, and utilities (*e.g.,* power plants and renewable energy facilities).

Habitat clearing for development is among the greatest threats to the recovery of the Mariana Islands species. Development causes habitat loss and degradation by reducing the available habitat and foraging, breeding, and sheltering sites for the species (Service 2023a, p. 17). This may lead to habitat fragmentation, which separates populations, limits pollination, and can be deleterious to plant-pollinator mutualisms, especially invertebrates (Newman et al. 2013, p. 16). Many sites that species once occupied have been developed on several islands, thus reducing the amount of suitable habitat available for the species (80 FR 59424 at 59429–59430, October 1, 2015). Agricultural development can include land clearing to grow a wide range of agricultural products, including livestock (grazing), vegetable farms, and plant nurseries for commercial sale. Military development can include construction of housing and a wide variety of military activities, such as the placement and removal of objects, and unexploded ordnance management (although areas where this may occur are exempt under section 4(a)(3) of the Act (see Exemptions, below). Urban and commercial development can include the construction of residential homes and various commercial buildings, including parking lots.

Activities associated with development can include limestone rock quarrying; construction or maintenance of renewable power plants; and construction, repair, and maintenance of roads, bridges, and utilities including renewable energy. Actions associated with development also include stream diversions for municipal water supply that directly reduce the amount of available stream habitat annually (Service 2020aa, p. 4). For example, on the island of Rota, the reduction of and changes to forest landscape due to urban or agricultural development have changed the quantity and quality of the groundwater that the aquifer feeds to the island's streams. Additional/future impacts may also further degrade or reduce forest habitat and the capacity for the Sabana Plateau to replenish the aquifer water available for stream habitat (Service 2020aa, p. 50). Examples of special management and considerations or protections that could reduce the threat of development may include (but are not limited to):

- Use best management practices to limit or reduce erosion/stream sedimentation, retain natural barriers/culverts, or construct barriers that prevent erosion of the stream edge;
- Minimize the destruction of native forest vegetation, especially large-growth trees and species-specific host plants;
- Require qualified and experienced surveyors to conduct preconstruction surveys to locate and avoid listed species and PBFs;
- Conduct habitat restoration;
- Limit ground-disturbing activities;
- Cover open trenches and excavated pits and visually inspect excavated areas before backfilling;
- Implement stream stabilization and erosion control protocols;
- Create riparian buffers if land abuts streams to reduce soil erosion and filter water flowing from croplands;
- Restore disturbed areas using native plants once projects are completed;
- Avoid or limit vegetation and soil disturbance;
- Protect sensitive areas where they abut project boundaries by installing and maintaining plastic construction fencing or brightly colored flagging around these areas; and
- Use dust abatement techniques along roadways to minimize dust to vegetation.

(2) Invasive species—includes animals (ungulates, rodents, brown tree snake, ants, slugs) and nonnative plants.

Invasive animals (*e.g.,* ungulates, rodents, brown tree snake, ants, and slugs) degrade native forest, savanna, and stream habitats that are required by the Mariana Islands species. Ungulates damage mature vegetation and clear forest understory through grazing and trampling, contributing to erosion, and preventing the regeneration of seeds or seedlings by eating or damaging them (Service 2023a, pp. 17–18). They also contribute to the spread of invasive plants by transporting seeds and plant parts (Cuddihy and Stone 1990, p. 65). For Langford's tree snail, suitable habitat has been severely impacted on Aguiguan as nonnative goats have destroyed much of the forest on the island (Service 2020d, p. 5). Rodents reduce native plant reproduction and vigor by eating fruits, seeds, flowers, stems, roots, and other plant parts (Atkinson and Atkinson 2000, p. 23).

Forest degradation from invasive species is associated with declines in Slevin's skink populations, and skink populations increased following forest regeneration from ungulate removal on Sarigan and rodent eradication on Guam's Cocos Island (Kessler 2011, p. 320; Richmond et al. 2021, p. 69). Tree snails also increased in abundance within forested areas following ungulate removal on Sarigan (CNMI DFW 2008, p. 8–5). The ungulate removal on Sarigan Island was a mitigation measure that the U.S. Department of Navy (DoN) implemented to improve habitat and population sizes of the federally endangered Micronesian megapode (*Megapodius laperouse*) to offset the impacts of military bombing activities that occurred on Farallon de Medinilla.

Host plants for the Mariana eight-spot butterfly have become restricted to cliff edges and pinnacle karst terrain where they are less accessible to ungulates. Where brown tree snakes occur, they have caused the extirpation of most of the forest birds (and fruit bat) that were pollinators or seed dispersers (Fritts and Rodda 1998, p. 129). Invasive ants prey on vertebrate and invertebrate eggs, pupae, larvae, and adults as well as transport plant pests such as aphids, white flies, and scale insects, affecting the pollinators and seed dispersers required to maintain and grow native forests (Wild 2014, in litt., entire; Hawaii Invasive Species Council 2021, in litt., entire). Ants also exert direct predatory pressure on tree snails. Slugs damage both host plants of the Mariana eight-spot butterfly and other native forest plants, causing mortality and altering native forests (Service 2023a, p. 22). Invasive plants (*e.g., Spathodea campanulata* (African tulip tree), *Areca catechu, Citrus* sp., *Cocos nucifera, Delonix regia* (flame tree), *Casuarina equisetifolia, Pithecellobium dulce* (kamachile), *Mangifera* sp. (mango), *Acacia confusa* (sosugi), *Leucaena leucocephala* (tangantångan), *Samanea saman* (trongkon-mames or monkeypod), and *Vitex parviflora* (vitex) forests degrade native forests by modifying light availability, soil–water regimes, nutrient cycling, fire regimes, and converting plant communities from native to nonnative (Willsey et al. 2019, pp. 5–6, 16–17). Invasive plants and ungulates may reduce water input into the aquifer feeding the streams (Service 2020aa, p. 34). Examples of special management considerations and protections that could reduce the threat

of invasive animals and nonnative vegetation may include (but are not limited to):

- Implement biosecurity protocols to prevent the introduction or movement of invasive species in or out of the project area;
- Conduct habitat restoration;
- Control or remove/eradicate ungulates, rodents, brown tree snakes, invasive invertebrates (*e.g.,* New Guinea flatworm, parasitic wasps, and ants), and significant habitat-modifying invasive plants; and
- Install and monitor exclusion fencing to prevent reintroduction of invasive species into project areas after eradication.

(3) Wildfire—Wildfire is not a part of the ecosystem in the Mariana Islands, and natural fires in the Mariana Islands are uncommon due to moist environmental conditions; however, hunters and poachers are known to intentionally ignite fires to encourage new plant growth to attract prey animals (Guam Department of Agriculture 2021, p. 67). These intentionally ignited fires can spread out of control to become a wildfire. Wildfires destroy individual plants and alter suitable habitat conditions, allowing nonnative plants to dominate plant communities after the fire. Fires in the forest and savanna can convert these habitats to bare ground or grasslands, leading to either colonization by invasive plants or conversion to bare ground that cannot support plant growth due to severe erosion (Willsey et al. 2019, p. 18). Fires in these habitats may also lead to erosion and deposits of silt into streams and the ocean (Guam Department of Agriculture 2021, p. 55). Areas converted to grass facilitate the spread of future fires and reduce the area of remaining suitable forest and savanna habitats each successive dry season (Tunison et al. 2001, p. 126). Examples of special management considerations or protection may include (but are not limited to):

- Restrict activities that entail the use of extreme heat to areas that are kept bare of vegetation, such as paved or maintained gravel areas;
- Limit activities that are potential fire risks to the wet season (July–December);
- Create and maintain a system of firebreak roads between action areas and suitable habitat for listed species;
- Prescribe burning, mowing, vegetation removal, or planting native vegetation that is more fire resistant; and
- Minimize destruction of forest vegetation when implementing fire management actions such as firebreaks, vegetation removal, or prescribed burning, especially large-growth trees and species-specific host trees/plants.

(4) Climate change—includes increase in typhoon frequency and changes to precipitation seasonality and temperature.

Potential impacts of climate change to the Mariana Islands species include an increase in typhoon intensity and alteration to normal ranges for precipitation and temperature due to extreme El Niño events. Ocean surface temperature increases are expected to result in increased typhoon intensity in the Mariana Islands and may result in changes to habitat by defoliating or uprooting trees or breaking primary branches and creating space for invasive, disturbance-tolerant species to dominate (Emanuel 2013, p. 12,219; Camargo 2013, p. 9,896; Grecni et al. 2021, p. 5). Typhoons exacerbate other threats and adversely affect habitat and food resources and pose a particular threat to small and isolated populations, such as the Pacific sheath-tailed bat population on Aguiguan (Service 2023a, pp. 17–24; Service 2020u, p. 12). Typhoons can also cause landslides or flooding. An increase in extreme El Niño events can change normal precipitation and temperature ranges that may exacerbate the wildfire threat, alter stream flows, and change microclimate and suitability of habitats that support the Mariana Islands species (Grecni et al. 2021, p. 23). Anticipated sea level rise and coastal erosion are expected to remove low-lying and coastal sites from future terrestrial species conservation use, coupled with the effects of typhoons (Grecni et al. 2021, pp. 27, 32–33).

Examples of special management considerations or protections that could reduce the negative effects of climate change may include (but are not limited to):

- Conduct habitat restoration and debris cleanup after typhoons;
- Implement erosion control protocols to protect coastal strand areas from sea level rise;
- Implement watershed management plans to maintain waterflow and decrease the effects of flooding; and
- Ensure communication with external partners on preferred response methodologies, such as post-typhoon debris cleanup to prevent the spread of invasive species and consultations with local partners on the typhoon recovery actions to protect or restore degraded habitat after typhoons.

(5) Recreational land use—includes the use of essential and nonessential off-roading vehicles and recreational access/use, such as hiking and camping.

Land use for recreational purposes may have an impact to the Mariana Islands species and their habitats. Off-road vehicle use through savanna and forest habitats reduces suitable habitat by increasing erosion. For example, within savanna habitat on the island of Rota, vehicles tend to consistently follow the same paths causing soil trails to deepen and worsen erosion, which deposits silt into streams and the ocean, altering the water quality of streams and ponds occupied by the Rota damselfly. Off-road vehicle use also compacts the soil, decreasing the soil porosity, which is already low for volcanic clay soils of the savanna, and increasing soil erosion (Swaddell 2024, in litt., entire). Recreational access to caves and forests occupied by the Pacific sheath-tailed bat may lead to roost abandonment and alter food availability for the bat (Service 2023a, p. 24). An increase in human activity may also lead to movement of invasive plants and animals in and out of recreational areas. Examples of special management considerations or protections that could reduce threats related to recreational land use may include (but are not limited to):

- Implement and enforce policies that restrict access to highly weathered off-road trails during the wet season when the possibility of soil erosion is higher;
- Implement habitat restoration projects to help contain sediments during the wet season;
- Plant native vegetation to stabilize highly weathered savanna habitat;
- Implement biosecurity protocols within conservation areas and educate the public on their use and effectiveness;
- Avoid or reroute off-road trails away from stream crossings or prioritize closure of these routes;
- Restore the areas where high levels of erosion occur;
- Conduct micropropagation and develop ex situ populations of federally listed plants; and
- Implement wildfire prevention protocols and educate the public on the prevention of wildfires in areas where hiking and camping occur.

(6) Pesticides—includes herbicides and insecticides.

This threat may injure or kill listed plants and animals or harm their habitat. Pesticides alter foraging habitat for listed animal species addressed in this proposed rule by disrupting the life cycle of forest vegetation through decreasing or removing pollinators and reducing the availability of food sources (*e.g.,* insect prey for the Pacific sheath-tailed bat and the Slevin's skink) (Kearns et al. 1998, entire; Service

2020u, pp. 11–12; Harrington et al. 2020, p. 14). Examples of special management considerations or protections that could reduce the threat of pesticides may include (but are not limited to):

- Limit use of insecticides, herbicides, or fungicides and follow labeled instructions, or use natural predators or remedies to reduce pests;
- Avoid applying pesticides during the wet season (July–December) or if rainfall is expected within 24 hours to decrease the likelihood that pesticides will wash into streams and rivers;
- Avoid applying pesticides when wind speed is greater than 12 mph and direction may cause it to drift to sensitive sites;
- Protect nontargeted species (vegetation, vertebrates, or invertebrates) by monitoring for drift or accidental application and using a spotter to monitor application;
- Flag or otherwise identify native or listed plants and use plant guards to protect these plants in the application area; and
- For herbicides, cut or mow target vegetation first and subsequently treat cut stems or resprouting vegetation to reduce potential drift to nontargeted plants.

(7) Inadequate regulatory mechanisms—In addition to the six primary threats identified above, the listing rule and recovery plan identified inadequate regulatory mechanisms or failure to enforce these regulations as a factor affecting the status of all the Mariana Islands species (80 FR 59424 at 59467–59468, October 1, 2015; Service 2023a, p. 23). To date, these mechanisms do not address all of the species in this proposed rule:

- Existing Commonwealth and Territorial laws including Fish, Game, and Endangered Species Act (Public Law 2–51) and the Wildlife Conservation Act (CNMI 1994, entire) within the Sabana Heights and I'Chenchon Bird Sanctuary areas, Mariana Crow Conservation Area, and Sabana Protected Area;
- Memorandum of agreement between the Service's Pacific Islands Fish and Wildlife Office and the CNMI Department of Public Lands, with the Northern Mariana Islands Department of Land and Natural Resources, for the Mariana Crow Conservation Area (Service 2011, entire); and
- Management and action plans including CNMI Forest Action Plan 2020–2030 (CNMI Forestry Division of Agriculture—Department of Lands and Natural Resources (CNMI FDoA 2020, entire), CNMI Wildlife Action Plan 2015–2025 (CNMI Division of Fish and Wildlife 2015a, entire), MAC Plan (MAC Working Group 2014, entire), CNMI Comprehensive Public Land Use Plan Update for Rota, Tinian, Saipan, and the Northern Islands (CNMI Department of Public Lands (CNMI DPL) 2019, entire), and CNMI's Comprehensive Sustainable Development Plan 2021–2030 (CNMI OPD 2021, entire).

Inadequate regulatory mechanisms threaten the Mariana Islands species and their habitats by allowing development that degrades and destroys suitable habitat and allows spread of invasive/nonnative species by not employing biosecurity measures (Service 2023a, p. 23). The laws do not prohibit or address the intentional introduction of ungulates or intentional ignition of wildfires, except for Public Law 35–134, which extends the definition of arson to include destruction or damage to forest lands (Territory of Guam 2020, entire). Local laws in the Territory of Guam and the CNMI have not been updated to include all of the federally endangered and threatened species addressed in this proposed rule. As a result, ''take'' of endangered or threatened wildlife is not prohibited under local law during development and other activities, nor are endangered or threatened plants considered. This limits protection of these species and their habitats to projects with a Federal nexus (Service 2023a, p. 23). Examples of special management considerations or protection that could address inadequate regulatory mechanisms or failure to enforce these regulations may include (but are not limited to):

- Locally list federally listed species and ensure local laws are updated;
- Encourage the passage and enforcement of laws, ordinances, and codes that protect federally endangered and threatened species and their habitat, where applicable;
- Encourage Territorial and Commonwealth governments to adopt policies that support less development, address biosecurity inadequacies, prevent the intentional introduction of ungulates, and prevent the intentional ignition of wildfires; and
- Employ full-time enforcement officers that can educate the public about regulations and have the power to prosecute violations of local laws, ordinances, and codes.

Criteria Used To Identify Critical Habitat

As required by section 4(b)(2) of the Act, we use the best scientific data available to designate critical habitat. In accordance with the Act and our implementing regulations at 50 CFR 424.12(b), we review available information pertaining to the habitat requirements of the species and identify specific areas within the geographical area occupied by the species at the time of listing and any specific areas outside the geographical area occupied by the species to be considered for designation as critical habitat.

- For 9 animal species (Pacific sheath-tailed bat, Slevin's skink, Mariana eight-spot butterfly, Mariana wandering butterfly, Rota blue damselfly, fragile tree snail, Guam tree snail, humped tree snail, and Langford's tree snail) and 13 plant species (*Bulbophyllum guamense, Cycas micronesica, Dendrobium guamense, Eugenia bryanii, Hedyotis megalantha, Heritiera longipetiolata, Maesa walkeri, Nervilia jacksoniae, Phyllanthus saffordii, Psychotria malaspinae, Tabernaemontana rotensis, Tinospora homosepala,* and *Tuberolabium guamense*), we are proposing to designate critical habitat in areas within the geographical area that these species occupied at the time of listing (see tables 3–24 and descriptions for Areas 1–41, below). We are not proposing to designate any areas outside the geographical area occupied by the species because we have not identified any unoccupied areas that meet the definition of critical habitat. These occupied areas encompass the varying habitat types and distribution of these Mariana Islands species and provide sufficient habitat to allow for maintaining and potentially expanding their distributions, areas of which are essential to the species' conservation.
- For one plant species, *Solanum guamense,* we are not proposing critical habitat because the area that meets the definition of critical habitat is exempt under section 4(a)(3)(B)(i) of the Act (see Exemptions, below). We are also not proposing to designate any areas outside the geographical area occupied by *Solanum guamense* because we have not identified any unoccupied areas that meet the definition of critical habitat. This species was last seen in 1994 on DoD lands within the exempted area, and most other locations with historical records of this species have been developed or converted to unsuitable habitat (Service 2023u, p. i).
- For the Mariana subspecies of the Pacific sheath-tailed bat, we are proposing to designate critical habitat in one location that is within the geographical area occupied by the species at the time of listing (the island of Aguiguan) and also one location that is outside the geographical area occupied by the species at the time of listing (the island of Rota) because we

have determined the unoccupied area is essential for the conservation of the species (see table 2 and descriptions for Areas 9 and 14, below).

The Mariana subspecies of Pacific sheath-tailed bat occurs only on Aguiguan Island, but historically occupied seven islands within the Marianas (Service 2023a, p. 10). The bat is highly susceptible to stochastic and catastrophic events, especially considering the threats it faces, such as depredation by nonnative animals, disturbance at roost caves, and habitat loss from deforestation and overgrazing by ungulates (Service 2023a, pp. 10, 41–43, 63). Therefore, we have determined that the area currently occupied by this subspecies, on Aguiguan, is insufficient to support the species' representation, redundancy, and resiliency. We anticipate that recovery will require continued protection of the existing population and its habitat, and reintroduction of the Mariana subspecies of the Pacific sheath-tailed bat into other areas, ensuring there are adequate numbers of the bats in multiple locations. The delisting criteria specified in the species' recovery plan includes a minimum of six stable or increasing populations with consistently occupied roosts on three or more islands (noting that stable populations have at least 500 individuals over a 10-year period (Service 2023a, pp. 41–43)). Therefore, we have identified three locations necessary to recover the Mariana subspecies of Pacific sheath-tailed bat: the occupied island of Aguiguan (see Proposed Critical Habitat Designation, Area 9, below) and the unoccupied islands of Rota (see Proposed Critical Habitat Designation, Area 14, below) and Guam (on DoD lands that are exempt under section 4(a)(3) (see Exemptions, below)).

The Pacific sheath-tailed bat was historically found on Guam and Rota, and the caves and foraging habitat present on the islands provide the resources (*i.e.,* PBFs) needed by the species. At this time for Guam, the U.S. Department of Defense (DoD) has a contract with the U.S. Geological Survey (USGS) to survey for Pacific sheath-tailed bats using acoustic monitors and cameras in caves on DoD lands that are currently or were historically occupied by the endangered Mariana swiftlet, which is known to co-occur with the Pacific sheath-tailed bat (Duenas 2024, pers. comm.; Lemke 1986, p. 744). This roosting and foraging habitat meets the definition of critical habitat and occurs on DoD lands; therefore, in accordance with section 4(a)(3)(B)(i) of the Act, we have determined that the identified lands on Guam are subject to the Joint Region Marianas (JRM) INRMP and that conservation efforts identified in the JRM INRMP will provide a benefit to the Pacific sheath-tailed bat (see Exemptions, below).

At this time on Rota, communications are underway with CNMI Division of Fish and Wildlife and Biodiversity Research Institute to plan for potential future translocations of Pacific sheath-tailed bat from Aguiguan to Rota (Guilbert et al. 2024, pers. comm.). With the best available scientific information, we identified the unoccupied area on Rota as containing one or more of the PBFs that support the life history requirements of the subspecies and meeting the definition of critical habitat. Designating this unoccupied area as critical habitat for this subspecies also promotes conservation actions to restore the historical, geographical, and ecological representation that is important for its recovery (Service 2023a, p. 42). In general, this species, and others occupying CNMI and Guam, are so rare in the wild that they are at a high risk of extirpation or even extinction from various catastrophic events, such as typhoons. Therefore, supporting resiliency and redundancy for the Pacific sheath-tailed bat through the establishment of multiple, robust populations is a key component of conservation of the species (Service 2023a, p. 42). A designation limited to the single occupied area on Aguiguan is inadequate to ensure the conservation of this subspecies. Areas that may have been unoccupied at the time of listing, together with the area occupied at the time of listing, are reasonably certain to provide some or all of the habitat necessary for the expansion of existing wild populations and reestablishment of wild populations within the historical range of the subspecies to support viability.

For all of the Mariana Islands species addressed in this proposed rule, we evaluated the following information to determine and select appropriate areas occupied at the time of listing that also contain the PBFs essential to the conservation of each species: (1) the 2015 listing rule (80 FR 59424; October 1, 2015), (2) 5-year reviews (Service 2020a–u, entire; Service 2021, entire; Service 2024a–b, entire), (3) species reports (Service 2020t–ao, entire; Service 2023b–x, entire), (4) habitat status assessments (Frager et al. 2019, entire; Plentovich et al. 2020, entire; Polhemus and Richardson 2020, entire; Willsey et al. 2019, entire), (5) the recovery plan for the 23 species in the Marianas (Service 2023a, entire), (6) section 7 consultations and technical assistance requests, (7) multiple published and unpublished reports included in the literature cited section, and (8) our database information relevant to species presence and suitable habitat.

All of the species in this proposed rule had not been thoroughly surveyed prior to the time of listing in 2015, which required our consideration of and reliance on updated species occurrence data from our Federal and local partner agencies. Therefore, to determine if an area was occupied at the time of listing, either: (1) individuals were observed prior to listing; or (2) if surveys were not conducted until after listing, an area was considered occupied if the habitat had not changed since listing and the best available information indicated that the area was likely occupied at the time of listing (*e.g.,* individuals of a species were observed within adjacent and/or connected suitable habitat areas that have no barriers to dispersal). In some of these instances, recent surveys have confirmed individuals within these new areas.

In this proposed rule, we propose critical habitat for 22 species in CNMI and Guam that include 122 critical habitat units. Each proposed critical habitat unit contains all or some of the PBFs essential to the conservation of the species that occupy their respective units. In some instances, limited data sources were available on the species itself or surrogates to provide specificity for features such as food, water quality parameters, nutritional or physiological requirements, reproduction requirements, and the specific amount of space necessary for individual and population growth. Therefore, in some instances we use general descriptions of the PBFs based on the best scientific information available. The proposed critical habitat includes the soil substrate, vegetation, and (if applicable) cave or stream system that supports the life history requirements for each of the species. Some species may require more than one type of substrate and vegetation (*e.g., Cycas micronesica* occurs on volcanic, limestone, or coastal strand substrates, each with the associated forest plant communities typical of their respective substrates).

Because multiple species within this proposed rule have similar life history requirements, the species are grouped together within this preamble based on these related requirements. The eight species groups include:

(1) mammals (1 species—Pacific sheath-tailed bat);

(2) reptiles (1 species—Slevin's skink);

(3) tree snails (4 species—fragile tree snail, Guam tree snail, humped tree snail, and Langford's tree snail);

(4) butterflies (2 species—Mariana eight-spot butterfly, Mariana wandering butterfly);

(5) damselflies (1 species—Rota blue damselfly);

(6) epiphytic orchids (3 species—*Bulbophyllum guamense, Dendrobium guamense,* and *Tuberolabium guamense*);

(7) forest plants (9 species—*Eugenia bryanii, Heritiera longipetiolata, Maesa walkeri, Psychotria malaspinae, Tabernaemontana rotensis, Nervilia jacksoniae, Cycas micronesica,* and *Tinospora homosepala*); this grouping also included our evaluation of information for *Solanum guamense* (see Exemptions, below); and

(8) savanna plants (2 species—*Hedyotis megalantha* and *Phyllanthus saffordii*).

We used similar methods to identify critical habitat unit boundaries for each of the species and species groups. The species groups were considered together because spatial data used for delineating critical habitat are similar among the species in each group, and these species all occur within similar habitat types, such as limestone forests or savannas. When delineating critical habitat, we considered each species separately to determine the respective unit boundaries and subsequently overlapped units to determine if there were shared boundaries to also be able to report the total proposed critical habitat on each island and within geographic locations (*i.e.,* area descriptions). Critical habitat boundaries for all species were delineated to clearly depict and promote conservation of these species by identifying habitats that contain features on which each species depends. For units consisting of multiple habitat types, such as the cave and forest habitats for the Pacific sheath-tailed bat, the proposed critical habitat designation includes the entire suitable habitat area for the species because both habitat types contain the roosting and foraging features essential to the conservation of the species.

To delineate proposed critical habitat units, we relied on a conservation strategy in which each of the species was considered separately using a common approach for each grouping. The goal of the conservation strategy was to identify the specific areas for each species that provide essential PBFs while also taking into account range-wide resiliency, redundancy, and representation (Species Reports) (Service 2020t–ao, entire; Service 2023b–x, entire).

In general, we completed the following four basic steps for each species to delineate critical habitat: (a) We compiled the best scientific data available on observations and distributions of the Mariana Islands species that were extant at the time of listing or assumed extant at the time of listing; (b) we compiled the best available location and landcover data within the range of all the species, including soil substrate, vegetation, elevation, temperature, and precipitation, and identified areas containing the PBFs that may require special management considerations or protection; (c) we circumscribed boundaries of potential critical habitat units based on the above information specific to the resource needs of each species; and (d) we removed, to the extent practicable, areas that did not have the specific PBF components.

In summary, for areas within the geographical area occupied by the species at the time of listing, we delineated critical habitat unit boundaries using the following criteria:

(1) *Obtain and evaluate species observation and distribution data sources*—We obtained and evaluated observation and distribution data to include in our Geographic Information System (GIS) database for each of the species, including our Pacific Islands Fish and Wildlife Office's threatened and endangered species database, which contains current and historical species observation and distribution survey report data from Federal and local partners. We also obtained recent biological surveys and reports and discussed that information with experts familiar with the species and their habitats. We used historical and current species distribution information to understand occupancy at the time of listing and to develop initial critical habitat boundaries within the habitats occupied by each of the species. The initial boundaries were superimposed over digital topographical maps of each of the islands that one or more of the species occupied and further evaluated to (a) remove locations identified as highly degraded or developed, and (b) use natural or constructed features (*e.g.,* ridge lines, valleys, streams, coastlines, roads, etc.) to refine the proposed critical habitat boundaries.

(2) *Identify areas containing PBFs*—Data layers defining map units were created using Environmental Systems Research Institute ArcGIS Pro World Imagery (2021). We obtained and compiled temperature (Fick and Hijmans 2017, entire), precipitation (Fick and Hijmans 2017, entire), elevation (USGS 2013), soil substrate (Guam Bureau of Statistics and Plans 2013, entire; Natural Resources Conservation Service 2019, entire), landcover (Amidon et al. 2017, entire), and cave or stream system data sources for each island within the Mariana archipelago. We evaluated areas to ensure each unit for each species contained one or more of the PBFs essential to the conservation of the species and which may require species management considerations or protection.

Areas that were known to be occupied at the time of listing and containing one or more of the PBFs were evaluated and included as proposed critical habitat. These areas include the contiguous habitat surrounding survey points that were known at the time of listing, all of which contain one of more of the PBFs and where there were no barriers to dispersal (*e.g.,* no changes in landcover from forest to grassland or developed areas since 2015); recent surveys have confirmed occupancy in some of these contiguous habitat areas. We considered the degree to which the PBFs were present or absent in areas as an indication of habitat suitability for each species and removed areas lacking the identified PBFs. Areas within proposed critical habitat units that contained obvious unsuitable habitat (*e.g.,* grasslands, bare rock, agricultural lands) were removed from the unit boundaries because they do not contain one or more of the PBFs needed by the species.

(3) *Circumscribe boundaries of potential critical habitat units*—We considered several features in the selection of specific boundaries for critical habitat units, including occupancy of the area at the time of listing (*i.e.,* consideration of historical and current location data, as described above), the Service's landcover information, and the presence of adequate habitat to allow for increases in numbers of individuals and for the expansion of populations necessary for recovery (Service 2023a, entire). For example, if data layers indicated that substrate and vegetation type were present on small or disjunct parcels within developed communities, these areas were not included as proposed critical habitat. Areas of contiguous suitable habitat were included within a unit boundary if data layers indicated that substrate and vegetation were similar to that of the occupied areas, there were no barriers to dispersal to allow for future population expansion, and the areas contained one or more of the PBFs. Critical habitat boundaries for all species were delineated to promote

the conservation of these species by identifying the PBFs essential to the conservation of each species (*i.e.,* the resources on which each species depends).

(4) *For the unoccupied unit for the Mariana subspecies of Pacific sheath-tailed bat*—For the one unit on the island of Rota for the Mariana subspecies of Pacific sheath-tailed bat, which is outside the geographic area occupied by the subspecies at the time of listing, we delineated critical habitat unit boundaries using the following criteria:

First, we obtained and evaluated the historical observation and distribution data for the subspecies and superimposed the data layers over topographical maps. We identified areas containing the PBFs using information including temperature, precipitation, elevation, soil substrate, land cover, and cave system maps, which we inferred from information known from the occupied unit on Aguiguan. Similar to the occupied unit on Aguiguan, we considered historically occupied areas, the Service's landcover information, and habitat to allow for the expansion of populations. Finally, we removed areas that did not include the PBFs required by the subspecies (*e.g.,* coastlines or bare rock).

Then, to ensure the unit boundary of the unoccupied unit on Rota is based on the best available science, we examined all known sources of relevant information. Many potentially suitable roosting caves occur in southern Rota (Duenas 2024, pers. comm.). Cave system data layers were used to identify suitable bat roosting habitat while the landcover data layer was used to identify suitable foraging habitat (Keel et al. 2005, entire; Taborosi 2006, entire). We considered data on the current or historical locations of the Mariana swiftlet because the species is known to co-locate with the Pacific sheath-tailed bat in the same caves on Aguiguan (Lemke 1986, p. 744; Service 1991, pp. 8, 10–11; Wiles et al. 1997, p. 221). On Rota, the unit boundaries extend 3.1 mi (5 km) around roosting caves within the adjacent forested area to provide adequate adjacent foraging habitat. This distance is based on data from the Pacific sheath-tailed bat subspecies *Emballonura semicaudata palauensis,* a species also co-occurring with a cave-dwelling swiftlet on the island of Palau in the Pacific. The best available information indicates that the *palauensis* subspecies bats flew up to 3.1 mi (5 km) from caves to forage (Wiles et al. 1997, p. 221). Contiguous forested habitat surrounding or very near suitable roosting sites is necessary for the species (the whole of *Emballonura semicaudata*) because they avoid non-forest habitats (Esselstyn et al. 2004, p. 307).

When determining proposed critical habitat boundaries, we made every effort to avoid including developed areas such as lands covered by buildings, pavement, and other structures because such lands lack PBFs necessary for the Mariana Islands species. The scale of the maps we prepared under the parameters for publication within the Code of Federal Regulations may not reflect the exclusion of such developed lands. Any such lands inadvertently left inside critical habitat boundaries shown on the maps of this proposed rule have been excluded by text in the proposed rule and are not proposed for designation as critical habitat. Therefore, if the critical habitat is finalized as proposed, a Federal action involving these lands (and not affecting the designated critical habitat) would not trigger section 7 consultation with respect to critical habitat and the requirement of no adverse modification unless the specific action would affect the PBFs in the adjacent critical habitat.

The proposed critical habitat designation is defined by the map or maps, as modified by any accompanying regulatory text, presented at the end of this document under Proposed Regulation Promulgation.

Proposed Critical Habitat Designation

We are proposing approximately 59,886 ac (24,235 ha) as critical habitat in 41 distinct geographic areas that include 122 critical habitat units for 22 Mariana Islands species, including 9 animals (the Mariana subspecies of the Pacific sheath-tailed bat, Slevin's skink, fragile tree snail, Guam tree snail, humped tree snail, Langford's tree snail, Mariana eight-spot butterfly, Mariana wandering butterfly, and Rota blue damselfly) and 13 plants (*Bulbophyllum guamense, Cycas micronesica, Dendrobium guamense, Eugenia bryanii, Hedyotis megalantha, Heritiera longipetiolata, Maesa walkeri, Nervilia jacksoniae, Phyllanthus saffordii, Psychotria malaspinae, Tabernaemontana rotensis, Tinospora homosepala,* and *Tuberolabium guamense*). Critical habitat is not proposed for one plant, *Solanum guamense,* because we have determined that the area identified that meets the definition of critical habitat is exempt from designation under section 4(a)(3)(B) of the Act (see Exemptions, below). The critical habitat areas we describe below constitute our current best assessment of areas that meet the definition of critical habitat for each species. The 122 units we propose as critical habitat are presented in the following tables for each species. All units are occupied with the exception of one unit on the island of Rota for the Pacific sheath-tailed bat. A second unit for the Pacific sheath-tailed bat that was identified on Guam meets the definition of critical habitat but is exempt from critical habitat designation under section 4(a)(3)(B) of the Act (see Exemptions, below). Many of the units and acreage for a given species overlap in part or whole with units for other species in this proposed rule on most of the islands; additional overlap with existing critical habitat designations also occurs on the Islands of Rota and Guam. The landownership in many (but not all) of the proposed critical habitat units also include a category called ''uncategorized lands.'' For the purposes of this analysis and the proposed critical habitat designation, this category refers to lands where we were unable to determine local government or private ownership.

To ensure clarity for the public and landowners managing for multiple species in a given area, Table 2 identifies the 41 individual areas across CNMI and the Territory of Guam, as well as all species with proposed critical habitat units in each of those areas. Table 3 identifies the total number of areas, species, and acreage proposed as critical habitat on each island. Tables 4–26 show the proposed critical habitat units, land ownership, acreage size, and occupancy status for each of the 22 species. Unit names correspond to the specific species and island where they occur, with additional numbers or letters corresponding to the locations/areas, thereby providing the ability to cross reference to situations with overlapping units.

The islands of Asuncion, Pagan, Alamagan, Sarigan, Saipan, Tinian, and Aguiguan do not have any existing designated critical habitat; thus, there is no overlapping designated critical habitat on these islands and all proposed critical habitat in this rule is new to these islands. On the islands of Rota (Areas 10–14) and Guam (Areas 15–41), there are existing designated critical habitat units that overlap with critical habitat proposed in this rule. For Rota, this proposed rule includes 13,023 ac (5,270 ha) of proposed critical habitat for 13 of the 22 Mariana Islands species (Table 3), of which 63 percent (8,244 ac (3,336 ha)) overlap with existing critical habitat; thus, 37 percent (4,779 ac (1,934 ha)) of proposed critical habitat is new to this island. For Guam (which

includes Cocos Island), this proposed rule includes 36,473 ac (14,760 ha) of proposed critical habitat for 19 of the 22 Mariana Islands species (Table 3), of which 0.7 percent (257 ac (104 ha)) overlap with existing critical habitat; thus, 99 percent (36,216 ac (14,656 ha)) of proposed critical habitat is new to this island.

TABLE 2—PROPOSED CRITICAL HABITAT FOR EACH OF THE 41 AREAS AND THE SPECIES REPRESENTED WITHIN EACH AREA

[Area estimates reflect the total proposed critical habitat acres within each geographical area. The total acreage for each area does not double-count any acres of overlapping units, where applicable.]

Geographic area	Species represented	Total proposed critical habitat in acres (hectares)
Area 1—Asunción, CNMI	Slevin's skink	750 (304)
Area 2—Pagan, CNMI	Slevin's skink humped tree snail.	1,846 (747)
Area 3—Alamagan, CNMI	Slevin's skink humped tree snail.	1,420 (574)
Area 4—Sarigan, CNMI	Slevin's skink humped tree snail.	402 (163)
Area 5—Tapochau, Saipan, CNMI	humped tree snail	3,290 (1,332)
Area 6—American Memorial Park, Saipan, CNMI.	humped tree snail	35 (14)
Area 7—I'Naftan, Saipan, CNMI	*Heritiera longipetiolata*	779 (315)
Area 8—Kastiyu, Tinian, CNMI	*Heritiera longipetiolata*	651 (263)
Area 9—Aguiguan, CNMI	Pacific sheath-tailed bat Langford's tree snail. *Dendrobium guamense.*	1,217 (492)
Area 10—Mochong, Rota, CNMI	*Bulbophyllum guamense* *Tabernaemontana rotensis.*	*3,497 (1,415)
Area 11—Sabana, Rota, CNMI	*Bulbophyllum guamense* *Cycas micronesica.* *Dendrobium guamense.* *Maesa walkeri.* *Nervilia jacksoniae.* *Tabernaemontana rotensis.* *Tuberolabium guamense.*	*6,875 (2,782)
Area 12—Rota, CNMI	fragile tree snail humped tree snail. Mariana wandering butterfly.	12,282 (4,970)
Area 13—Talakhaya, Rota, CNMI	Rota blue damselfly	1,133 (459)
Area 14—Southern Rota, CNMI	Pacific sheath-tailed bat	*+7,632 (3,089)
Area 15—Ritidian, Guam	fragile tree snail Guam tree snail. humped tree snail. Mariana eight-spot butterfly. *Bulbophyllum guamense.* *Cycas micronesica.* *Dendrobium guamense.* *Eugenia bryanii.* *Heritiera longipetiolata.* *Tabernaemontana rotensis.* *Tuberolabium guamense.*	856 (346)
Area 16—Two Lovers' Point, Guam	fragile tree snail Guam tree snail. humped tree snail. Mariana eight-spot butterfly. *Bulbophyllum guamense.* *Cycas micronesica.* *Dendrobium guamense.* *Eugenia bryanii.* *Heritiera longipetiolata.* *Tabernaemontana rotensis.* *Tuberolabium guamense.*	1,245 (504)
Area 17—Anao, Guam	fragile tree snail Guam tree snail. humped tree snail. Mariana eight-spot butterfly. *Bulbophyllum guamense.* *Cycas micronesica.* *Dendrobium guamense.* *Eugenia bryanii.* *Heritiera longipetiolata.* *Psychotria malaspinae.* *Tabernaemontana rotensis.* *Tuberolabium guamense.*	2,166 (877)

TABLE 2—PROPOSED CRITICAL HABITAT FOR EACH OF THE 41 AREAS AND THE SPECIES REPRESENTED WITHIN EACH AREA—Continued

[Area estimates reflect the total proposed critical habitat acres within each geographical area. The total acreage for each area does not double-count any acres of overlapping units, where applicable.]

Geographic area	Species represented	Total proposed critical habitat in acres (hectares)
Area 18—Tre Vista, Guam	fragile tree snail Guam tree snail.	445 (180)
Area 19—Yigo, Guam	Guam tree snail	147 (59)
Area 20—Barrigada, Guam	Guam tree snail *Bulbophyllum guamense.*	267 (108)
Area 21—Taguan, Guam	Mariana eight-spot butterfly	242 (98)
Area 22—Anigua Cliffline, Guam	*Tinospora homosepala*	11 (5)
Area 23—Asan Ridge, Guam	*Tinospora homosepala*	12 (5)
Area 24—Asan Hillside, Guam	*Tinospora homosepala*	** 124 (50)
Area 25—Nimitz Hill Savanna, Guam	*Phyllanthus saffordii*	236 (95)
Area 26—Piti Savanna, Guam	*Phyllanthus saffordii*	82 (33)
Area 27—Sasa Valley, Guam	*Tinospora homosepala*	2 (1)
Area 28—Central Guam	fragile tree snail Guam tree snail.	4,313 (1,745)
Area 29—Fadi'an, Guam	Guam tree snail	61 (25)
Area 30—Piti, Guam	fragile tree snail Guam tree snail.	1,965 (795)
Area 31—Yoña, Guam	*Bulbophyllum guamense* *Hedyotis megalantha.* *Phyllanthus saffordii.*	5,938 (2,403)
Area 32—Mangilao, Guam	*Eugenia bryanii* *Heritiera longipetiolata.*	195 (79)
Area 33—Ylig, Guam	fragile tree snail Guam tree snail.	1,863 (754)
Area 34—Cross Island, Guam	*Bulbophyllum guamense* *Cycas micronesica.* *Dendrobium guamense.* *Hedyotis megalantha.* *Heritiera longipetiolata.* *Phyllanthus saffordii.* *Tuberolabium guamense.*	2,377 (962)
Area 35—Hågat, Guam	fragile tree snail Guam tree snail. *Bulbophyllum guamense.* *Cycas micronesica.* *Dendrobium guamense.* *Heritiera longipetiolata.* *Maesa walkeri.* *Nervilia jacksoniae.* *Phyllanthus saffordii.* *Psychotria malaspinae.* *Tabernaemontana rotensis.* *Tuberolabium guamense.*	720 (291)
Area 36—Talo'fo'fo', Guam	fragile tree snail Guam tree snail.	5,697 (2,306)
Area 37—Sella Bay, Guam	fragile tree snail Guam tree snail.	64 (26)
Area 38—Cetti Bay, Guam	Guam tree snail	102 (41)
Area 39—Bolanos, Guam	Guam tree snail *Bulbophyllum guamense.* *Cycas micronesica.* *Dendrobium guamense.* *Eugenia bryanii.* *Hedyotis megalantha.* *Phyllanthus saffordii.* *Tabernaemontana rotensis.* *Tuberolabium guamense.*	10,874 (4,400)
Area 40—Inalåhan, Guam	fragile tree snail Guam tree snail.	457 (185)
Area 41—Cocos Island (Islan Dåno'), Guam.	Slevin's skink	63 (25)
Total		59,886 ac (24,235 ha)

Note: Area sizes may not sum due to rounding. Additionally, the forest plant *Solanum guamense* also occurs in the vicinity of Area 15 and 17 on DoD lands (but not within any proposed critical habitat units); the range of this species resides solely on DoD lands and is exempt under section 4(a)(3) of the Act (see Exemptions, below).

* Areas 10, 11, and 14 lie within/overlap Areas 12 and 13; in addition, there is some overlap between Areas 12 and 13; therefore, only acres for Area 12 and 13 minus the overlap are included to prevent double counting in the overall total acreage of the proposed critical habitat designation.

** Area 24 lies within/overlaps Area 28; therefore, only acres for Area 28 are included to prevent double counting in the overall total acreage of the proposed critical habitat designation. Additionally, there is partial overlap between Areas 28 and 31, Areas 34 and 36, and Areas 36 and 39.

+ The Pacific sheath-tailed bat is not present at this time, but critical habitat is proposed within Area 14, which is the only unoccupied unit within this proposed critical habitat designation.

TABLE 3—AREAS, NUMBER OF SPECIES, AND TOTAL ACRES (HECTARES) PROPOSED AS CRITICAL HABITAT FOR EACH ISLAND

[Area estimates reflect all land within critical habitat units combined.]

Island	Area names	# of species	Acres	Hectares
Asuncion	Area 1	1	750	304
Pagan	Area 2	2	1,846	747
Alamagan	Area 3	2	1,420	574
Sarigan	Area 4	2	402	163
Saipan	Areas 5, 6, and 7	2	4,104	1,661
Tinian	Area 8	2	651	263
Aguiguan	Area 9	3	1,217	492
Rota	Areas 10–14	13	13,023	5,270
Guam	Areas 15–41	19	36,473	14,760
Total			59,886	24,235

Note: Area sizes may not sum due to rounding.

TABLE 4—PROPOSED CRITICAL HABITAT UNITS FOR PACIFIC SHEATH-TAILED BAT

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

Critical habitat unit	Area #	Landownership by type in acres (hectares)	Size of unit in acres (hectares)	Occupied?
1. Pacific Sheath-tailed Bat–1, Aguiguan	9	Federal 0 Commonwealth 589 (238). Private 0. Uncategorized 0.	589 ac (238 ha).	Yes.
2. Pacific Sheath-tailed Bat–1, Rota	14	Federal 0 Commonwealth 6,178 (2,500). Private 1,418 (574). Uncategorized 36 (15).	7,633 ac (3,089 ha).	No.
Total		Federal 0 Commonwealth 6,767 (2,738). Private 1,418 (574). Uncategorized 36 (15).	8,221 ac (3,327 ha).	

Note: Area sizes may not sum due to rounding. Within Area 9, the unit acreages presented for this species overlap proposed critical habitat units in full or in part for Langford's tree snail and *Dendrobium guamense.* For Area 14, the unit acreage presented is a full unit only for the Pacific sheath-tailed bat.

TABLE 5—PROPOSED CRITICAL HABITAT UNITS FOR SLEVIN'S SKINK

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

Critical habitat unit	Area #	Landownership by type in acres (hectares)	Size of unit in acres (hectares)	Occupied?
1. Slevin's Skink–1, Asuncion	1	Federal 0 Commonwealth 750 (304). Private 0. Uncategorized 0.	750 ac (304 ha).	Yes.
2. Slevin's Skink–1, Pagan	2	Federal 0 Commonwealth 1,846 (747). Private 0. Uncategorized 0.	1,846 ac (747 ha).	Yes.
3. Slevin's Skink–1, Alamagan	3	Federal 0 Commonwealth 1,420 (574). Private 0. Uncategorized 0.	1,420 ac (574 ha).	Yes.
4. Slevin's Skink–1, Sarigan	4	Federal 0 Commonwealth 402 (163). Private 0. Uncategorized 0.	402 ac (163 ha).	Yes.

TABLE 5—PROPOSED CRITICAL HABITAT UNITS FOR SLEVIN'S SKINK—Continued

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

Critical habitat unit	Area #	Landownership by type in acres (hectares)	Size of unit in acres (hectares)	Occupied?
5. Slevin's Skink–1, Cocos Island (Guam)	41	Federal 0 ..... Territory 0. Private 30 (12). Uncategorized 33 (13).	63 ac ..... (25 ha).	Yes.
Total	.....	Federal 0 ..... Commonwealth or Territory 4,418 (1,788). Private 30 (12). Uncategorized 33 (13).	4,481 ac ..... (1,813 ha).	

Note: Area sizes may not sum due to rounding. Within Areas 2, 3, and 4, the unit acreages presented for this species overlap proposed critical habitat units in full or in part for the humped tree snail and multiple plant species in this proposed rule. For Areas 1 and 41, the unit acreage presented is a full unit only for Slevin's skink.

TABLE 6—PROPOSED CRITICAL HABITAT UNITS FOR FRAGILE TREE SNAIL

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

Critical habitat unit	Area #	Landownership by type in acres (hectares)	Size of unit in acres (hectares)	Occupied?
1. Fragile Tree Snail–1, Rota	12	Federal 0 ..... Commonwealth 9,294 (3,761). Private 2,954 (1,195). Uncategorized 34 (14).	12,282 ac ..... (4,970 ha).	Yes.
2. Fragile Tree Snail–1, Guam	15	Federal 262 (106) ..... Territory 68 (27). Private 408 (165). Uncategorized 118 (48).	856 ac ..... (346 ha).	Yes.
3. Fragile Tree Snail–2, Guam	16	Federal 0 ..... Territory 1,081 (437). Private 108 (44). Uncategorized 56 (23).	1,245 ac ..... (504 ha).	Yes.
4. Fragile Tree Snail–3, Guam	17	Federal 0 ..... Territory 1,549 (627). Private 270 (109). Uncategorized 347 (141).	2,166 ac ..... (877 ha).	Yes.
5. Fragile Tree Snail–4, Guam	18	Federal 0 ..... Territory 0. Private 361 (146). Uncategorized 84 (34).	445 ac ..... (180 ha).	Yes.
6. Fragile Tree Snail–5, Guam	28	Federal 210 (85) ..... Territory 0. Private 1,954 (791). Uncategorized 2,149 (869).	4,313 ac ..... (1,745 ha).	Yes.
7. Fragile Tree Snail–6, Guam	30	Federal 102 (41) ..... Territory 0. Private 756 (396). Uncategorized 1,107 (448).	1,965 ac ..... (795 ha).	Yes.
8. Fragile Tree Snail–7, Guam	33	Federal 0 ..... Territory 0. Private 983 (398). Uncategorized 880 (356).	1,863 ac ..... (754 ha).	Yes.
9. Fragile Tree Snail–8, Guam	35	Federal 16 (6) ..... Territory 84 (34). Private 344 (139). Uncategorized 185 (75).	629 ac ..... (254 ha).	Yes.
10. Fragile Tree Snail–9, Guam	36	Federal 0 ..... Territory 142 (57). Private 3,915 (1,584). Uncategorized 1,640 (665).	5,697 ac ..... (2,306 ha).	Yes.
11. Fragile Tree Snail–10, Guam	37	Federal 0 ..... Territory 0. Private 57 (23). Uncategorized 7 (3).	64 ac ..... (26 ha).	Yes.

TABLE 6—PROPOSED CRITICAL HABITAT UNITS FOR FRAGILE TREE SNAIL—Continued

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

Critical habitat unit	Area #	Landownership by type in acres (hectares)	Size of unit in acres (hectares)	Occupied?
12. Fragile Tree Snail–11, Guam	40	Federal 0 Territory 0. Private 154 (62). Uncategorized 303 (123)	457 ac (185 ha).	Yes.
Total		Federal 590 (238) Commonwealth or Territory 12,218 (4,943). Private 12,264 (4,962). Uncategorized 6,910 (2,799).	31,982 ac (12,942 ha).	

Note: Area sizes may not sum due to rounding. For all areas, the unit acreages presented for this species overlap proposed critical habitat units in full or in part for multiple animal and plant species in this proposed rule.

TABLE 7—PROPOSED CRITICAL HABITAT UNITS FOR GUAM TREE SNAIL

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

Critical habitat unit	Area #	Landownership by type in acres (hectares)	Size of unit in acres (hectares)	Occupied?
1. Guam Tree Snail–1, Guam	15	Federal 262 (106) Territory 68 (27). Private 408 (165). Uncategorized 118 (48).	856 ac (346 ha).	Yes.
2. Guam Tree Snail–2, Guam	16	Federal 0 Territory 1,081 (437). Private 108 (44). Uncategorized 56 (23).	1,245 ac (504 ha).	Yes
3. Guam Tree Snail–3, Guam	17	Federal 0 Territory 1,549 (627). Private 270 (109). Uncategorized 347 (141).	2,166 ac (877 ha).	Yes.
4. Guam Tree Snail–4, Guam	18	Federal 0 Territory 0. Private 361 (146). Uncategorized 84 (34).	445 ac (180 ha).	Yes.
5. Guam Tree Snail–5, Guam	19	Federal 0 Territory 0. Private 110 (44). Uncategorized 37 (15)	147 ac (59 ha).	Yes.
6. Guam Tree Snail–6, Guam	20	Federal 0 Territory 0. Private 44 (18). Uncategorized 55 (22).	99 ac (40 ha).	Yes.
7. Guam Tree Snail–7, Guam	28	Federal 210 (85) Territory 0. Private 1,954 (791). Uncategorized 2,149 (869).	4,313 ac (1,745 ha).	Yes.
8. Guam Tree Snail–8, Guam	29	Federal 0 Territory 0. Private 61 (25). Uncategorized 0.	61 ac (25 ha).	Yes.
9. Guam Tree Snail–9, Guam	30	Federal 102 (41) Territory 0. Private 756 (306). Uncategorized 1,107 (448).	1,965 ac (795 ha).	Yes.
10. Guam Tree Snail–10, Guam	33	Federal 0 Territory 0. Private 983 (398). Uncategorized 880 (356).	1,863 ac (754 ha).	Yes.
11. Guam Tree Snail–11, Guam	35	Federal 16 (6) Territory 84 (34). Private 344 (139). Uncategorized 180 (73).	629 ac (254 ha).	Yes.
12. Guam Tree Snail–12, Guam	36	Federal 0 Territory 142 (57). Private 3,915 (1,584). Uncategorized 1,640 (665).	5,697 ac (2,306 ha).	Yes.

TABLE 7—PROPOSED CRITICAL HABITAT UNITS FOR GUAM TREE SNAIL—Continued

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

Critical habitat unit	Area #	Landownership by type in acres (hectares)	Size of unit in acres (hectares)	Occupied?
13. Guam Tree Snail–13, Guam	37	Federal 0 Territory 0. Private 57 (23). Uncategorized 7 (3).	64 ac (26 ha).	Yes.
14. Guam Tree Snail–14, Guam	38	Federal 0 Territory 0. Private 27 (11). Uncategorized 75 (30).	102 ac (41 ha).	Yes.
15. Guam Tree Snail–15, Guam	39	Federal 0.. Territory 19 (8). Private 31 (13). Uncategorized 134 (53).	184 ac (74 ha).	Yes.
16. Guam Tree Snail–16, Guam	40	Federal 0. Territory 0. Private 154 (62). Uncategorized 303 (123).	457 ac (185 ha).	Yes.
Total		Federal 590 (238). Territory 2,943 (1,190). Private 9,583 (3,878). Uncategorized 7,177 (2,905).	20,293 ac (8,211 ha).	

Note: Area sizes may not sum due to rounding. For Areas 19 and 38, the unit acreage presented are full units only for the Guam tree snail. Within all other areas, the unit acreages presented for this species overlap proposed critical habitat units in full or in part for multiple animal and plant species in this proposed rule.

TABLE 8—PROPOSED CRITICAL HABITAT UNITS FOR HUMPED TREE SNAIL

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

Critical habitat unit	Area #	Landownership by type in acres (hectares)	Size of unit in acres (hectares)	Occupied?
1. Humped Tree Snail–1, Pagan	2	Federal 0 Commonwealth 843 (341). Private 0. Uncategorized 0.	843 ac (341 ha).	Yes.
2. Humped Tree Snail–1, Alamagan	3	Federal 0 Commonwealth 1,420 (574). Private 0. Uncategorized 0.	1,420 ac (574 ha).	Yes.
3. Humped Tree Snail–1, Sarigan	4	Federal 0 Commonwealth 402 (163). Private 0. Uncategorized 0.	402 ac (163 ha).	Yes.
4. Humped Tree Snail–1, Saipan	5	Federal 0 Commonwealth 893 (361). Private 2,393 (969). Uncategorized 4 (2).	3,290 ac (1,332 ha).	Yes.
5. Humped Tree Snail–2, Saipan	6	Federal 35 (14) Commonwealth 0. Private 0. Uncategorized 0.	35 ac (14 ha).	Yes.
6. Humped Tree Snail–1, Rota	12	Federal 0 Commonwealth 9,294 (3,761). Private 2,954 (1,195). Uncategorized 34 (14).	12,282 ac (4,970 ha).	Yes.
7. Humped Tree Snail–1, Guam	15	Federal 262 (106) Territory 68 (27). Private 408 (165). Uncategorized 118 (48).	856 ac (346 ha).	Yes.
8. Humped Tree Snail–2, Guam	16	Federal 0 Territory 1,081 (437). Private 108 (44). Uncategorized 56 (23).	1,245 ac (504 ha).	Yes.

TABLE 8—PROPOSED CRITICAL HABITAT UNITS FOR HUMPED TREE SNAIL—Continued

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

Critical habitat unit	Area #	Landownership by type in acres (hectares)	Size of unit in acres (hectares)	Occupied?
9. Humped Tree Snail–3, Guam	17	Federal 0 Territory 1,549 (627). Private 270 (109). Uncategorized 347 (141).	2,166 ac. (877 ha).	Yes.
Total		Federal 297 (120) Commonwealth or Territory 15,550 (6,291). Private 6,133 (2,482). Uncategorized 559 (228).	22,539 ac (9,121 ha).	

Note: Area sizes may not sum due to rounding. Within Areas 2, 3, 4, 15, 16, and 17, the unit acreages presented for this species overlap proposed critical habitat units in full or in part for multiple animal and plant species in this proposed rule. For Areas 5 and 6, the unit acreage presented are full units only for the humped tree snail.

TABLE 9—PROPOSED CRITICAL HABITAT UNIT FOR LANGFORD'S TREE SNAIL

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

Critical habitat unit	Area #	Landownership by type in acres (hectares)	Size of unit in acres (hectares)	Occupied?
1. Langford's Tree Snail–1, Aguiguan	9	Federal 0 Commonwealth 1,217 (492). Private 0. Uncategorized 0.	1,217 ac (492 ha).	Yes.
Total		Federal 0 Commonwealth 1,217 (492). Private 0. Uncategorized 0.	1,217 ac (492 ha)	

Note: Area sizes may not sum due to rounding, and the unit acreage presented for this species partially overlaps proposed critical habitat units presented for the Pacific sheath-tailed bat and *Dendrobium guamense*.

TABLE 10—PROPOSED CRITICAL HABITAT UNITS FOR MARIANA EIGHT-SPOT BUTTERFLY

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

Critical habitat unit	Area #	Landownership by type in acres (hectares)	Size of unit in acres (hectares)	Occupied?
1. Mariana Eight-Spot Butterfly–1, Guam	15	Federal 262 (106) Territory 68 (27). Private 408 (165). Uncategorized 118 (48)	856 ac (346 ha).	Yes.
2. Mariana Eight-Spot Butterfly–2, Guam	16	Federal 0 Territory 1,081 (437). Private 108 (44). Uncategorized 56 (23).	1,245 ac (504 ha).	Yes.
3. Mariana Eight-Spot Butterfly–3, Guam	17	Federal 0 Territory 1,549 (627). Private 270 (109). Uncategorized 347 (141).	2,166 ac (877 ha).	Yes.
4. Mariana Eight-Spot Butterfly–4, Guam	21	Federal 0 Territory 0. Private 133 (54). Uncategorized 109 (44).	242 ac (98 ha).	Yes.
Total		Federal 262 (106) Territory 2,698 (1,091). Private 919 (372). Uncategorized 630 (256).	4,509 ac (1,825 ha).	

Note: Area sizes may not sum due to rounding. Within Areas 15, 16, and 17, the unit acreages presented for this species overlap proposed critical habitat units in full or in part for multiple animal and plant species in this proposed rule. For Area 21, the unit acreage presented is a full unit only for the Mariana eight-spot butterfly.

TABLE 11—PROPOSED CRITICAL HABITAT UNIT FOR MARIANA WANDERING BUTTERFLY

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

Critical habitat unit	Area #	Landownership by type in acres (hectares)	Size of unit in acres (hectares)	Occupied?
1. Mariana Wandering Butterfly–1, Rota	12	Federal 0 Commonwealth 9,294 (3,761). Private 2,954 (1,195). Uncategorized 34 (14).	12,282 ac (4,970 ha).	Yes.
Total		Federal 0 Commonwealth 9,294 (3,761). Private 2,954 (1,195). Uncategorized 34 (14).	12,282 ac (4,970 ha).	

Note: Area sizes may not sum due to rounding. The unit acreage presented for this species within this area fully overlaps proposed critical habitat units presented for the fragile tree snail and Langford tree snail within this proposed rule.

TABLE 12—PROPOSED CRITICAL HABITAT UNIT FOR ROTA BLUE DAMSELFLY

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

Critical habitat unit	Area #	Landownership by type in acres (hectares)	Size of unit in acres (hectares)	Occupied?
1. Rota Blue Damselfly–1, Rota	13	Federal 0 Commonwealth 671 (272). Private 433 (175). Uncategorized 29 (12).	1,133 ac (459 ha).	Yes.
Total		Federal 0 Commonwealth 671 (272). Private 433 (175). Uncategorized 29 (12).	1,133 ac (459 ha).	

Note: Area sizes may not sum due to rounding. The unit acreage presented for this species does not overlap proposed critical habitat units for other species in this proposed rule.

TABLE 13—PROPOSED CRITICAL HABITAT UNITS FOR *Bulbophyllum guamense*

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

Critical habitat unit	Area #	Landownership by type in acres (hectares)	Size of unit in acres (hectares)	Occupied?
1. Rota 1—*Bulbophyllum guamense*—a	10	Federal 0 Commonwealth 1,397 (565) Private 533 (216) Uncategorized 0	1,930 ac (781 ha)	Yes.
2. Rota 2—*Bulbophyllum guamense*—b	11	Federal 0 Commonwealth 5,806 (2,350) Private 1,039 (420) Uncategorized 30 (12)	6,875 ac (2,782 ha)	Yes.
3. Guam 1—*Bulbophyllum guamense*—a	15	Federal 257 (104) Territory 68 (27) Private 375 (152) Uncategorized 42 (17)	741 ac (300 ha)	Yes.
4. Guam 2—*Bulbophyllum guamense*— b	16	Federal 0 Territory 1,081 (437) Private 108 (44) Uncategorized 56 (23)	1,245 ac (504 ha)	Yes.
5. Guam 3—*Bulbophyllum guamense*—c	17	Federal 0 Territory 1,549 (627) Private 270 (109) Uncategorized 347 (141)	2,166 ac (877 ha)	Yes.
6. Guam 4—*Bulbophyllum guamense*—d	20	Federal 0 Territory 0 Private 171 (69) Uncategorized 96 (39)	267 ac (108 ha)	Yes.
7. Guam 11—*Bulbophyllum guamense*—e	31	Federal 0 Territory 0 Private 324 (131) Uncategorized 590 (239)	914 ac (370 ha)	Yes.

TABLE 13—PROPOSED CRITICAL HABITAT UNITS FOR *Bulbophyllum guamense*—Continued

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

Critical habitat unit	Area #	Landownership by type in acres (hectares)	Size of unit in acres (hectares)	Occupied?
8. Guam 13—*Bulbophyllum guamense*—f	34	Federal 0 Territory 142 (57) Private 859 (348) Uncategorized 725 (293)	1,726 ac (698 ha)	Yes.
9. Guam 14—*Bulbophyllum guamense*—g	35	Federal 16 (6) Territory 84 (34) Private 344 (139) Uncategorized 185 (75)	629 ac (254 ha)	Yes.
10. Guam 15—*Bulbophyllum guamense*—h	39	Federal 0 Territory 919 (372) Private 3,612 (1,462) Uncategorized 1,617 (654)	6,148 ac (2,488 ha)	Yes.
Total		Federal 273 (110) Commonwealth or Territory 11,046 (4,469) Private 7,635 (3,090) Uncategorized 3,688 (1,493)	22,642 ac (9,162 ha)	

Note: Area sizes may not sum due to rounding. Within all areas, the unit acreages presented for this species overlap proposed critical habitat units in full or in part for multiple animal and plant species in this proposed rule.

TABLE 14—PROPOSED CRITICAL HABITAT UNITS FOR *Cycas micronesica*

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

Critical habitat unit	Area #	Landownership by type in acres (hectares)	Size of unit in acres (hectares)	Occupied?
1. Rota 2–*Cycas micronesica*–a	11	Federal 0 Commonwealth 5,806 (2,350) Private 1,039 (420) Uncategorized 30 (12)	6,875 ac (2,782 ha)	Yes.
2. Guam 1–*Cycas micronesica*–a	15	Federal 262 (106) Territory 68 (27) Private 408 (165) Uncategorized 118 (48)	856 ac (346 ha)	Yes.
3. Guam 2–*Cycas micronesica*–b	16	Federal 0 Territory 1,081 (437) Private 108 (44) Uncategorized 56 (23)	1,245 ac (504)	Yes.
4. Guam 3–*Cycas micronesica*–c	17	Federal 0 Territory 1,549 (627) Private 270 (109) Uncategorized 347 (141)	2,166 ac (877 ha)	Yes.
5. Guam 13–*Cycas micronesica*–d	34	Federal 0 Territory 142 (57) Private 859 (348) Uncategorized 725 (293)	1,726 ac (698 ha)	Yes.
6. Guam 14–*Cycas micronesica*–e	35	Federal 16 (6) Territory 84 (34) Private 344 (139) Uncategorized 185 (75)	629 ac (254 ha)	Yes.
7. Guam 15–*Cycas micronesica*–f	39	Federal 0 Territory 919 (372) Private 3,612 (1,462) Uncategorized 1,617 (654)	6,148 ac (2,488 ha)	Yes.
Total		Federal 278 (112) Commonwealth or Territory 9,649 (3,904) Private 6,640 (2,687) Uncategorized 3,078 (1,246)	19,645 ac (7,949 ha)	

Note: Area sizes may not sum due to rounding. Within all areas, the unit acreages presented for this species overlap proposed critical habitat units in full or in part for multiple plant species in this proposed rule.

TABLE 15—PROPOSED CRITICAL HABITAT UNITS FOR *Dendrobium guamense*

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

Critical habitat unit	Area #	Landownership by type in acres (hectares)	Size of unit in acres (hectares)	Occupied?
1. Aguiguan 1–*Dendrobium guamense*–a	9	Federal 0 Commonwealth 1,094 (443) Private 0 Uncategorized 0	1,094 ac (443 ha)	Yes.
2. Rota 2–*Dendrobium guamense*–a	11	Federal 0 Commonwealth 5,806 (2,350) Private 1,039 (420) Uncategorized 30 (12)	6,875 ac (2,782 ha)	Yes.
3. Guam 1–*Dendrobium guamense*–a	15	Federal 257 (104) Territory 68 (27) Private 375 (152) Uncategorized 41 (17)	741 ac (300 ha)	Yes.
4. Guam 2–*Dendrobium guamense*–b	16	Federal 0 Territory 1,081 (437) Private 108 (44) Uncategorized 56 (23)	1,245 ac (504)	Yes.
5. Guam 3–*Dendrobium guamense*–c	17	Federal 0 Territory 1,488 (602) Private 198 (80) Uncategorized 300 (122)	1,986 ac (804)	Yes.
6. Guam 13–*Dendrobium guamense*–d	34	Federal 0 Territory 142 (57) Private 859 (348) Uncategorized 725 (293)	1,726 ac (698 ha)	Yes.
7. Guam 14–*Dendrobium guamense*–e	35	Federal 16 (6) Territory 84 (34) Private 344 (139) Uncategorized 185 (75)	629 ac (254 ha)	Yes.
8. Guam 15–*Dendrobium guamense*–f	39	Federal 0 Territory 919 (372) Private 3,612 (1,462) Uncategorized 1,617 (654)	6,148 ac (2,488 ha)	Yes.
Total		Federal 273 (110) Commonwealth or Territory 10,682 (4,322) Private 6,535 (2,645) Uncategorized 2,954 (1,196)	20,444 ac (8,273 ha)	

Note: Area sizes may not sum due to rounding. Within all areas, the unit acreages presented for this species overlap proposed critical habitat units in full or in part for multiple plant and animal species in this proposed rule.

TABLE 16—PROPOSED CRITICAL HABITAT UNITS FOR *Eugenia bryanii*

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

Critical habitat unit	Area #	Landownership by type in acres (hectares)	Size of unit in acres (hectares)	Occupied?
1. Guam 1–*Eugenia bryanii*–a	15	Federal 257 (104) Territory 68 (27) Private 375 (152) Uncategorized 41 (17)	741 ac (300 ha)	Yes.
2. Guam 2–*Eugenia bryanii*–b	16	Federal 0 Territory 159 (64) Private 0 Uncategorized 3 (1)	162 ac (65 ha)	Yes.
3. Guam 3–*Eugenia bryanii*–c	17	Federal 0 Territory 1,488 (602) Private 198 (80) Uncategorized 300 (122)	1,986 ac (804)	Yes.
4. Guam 12–*Eugenia bryanii*–d	32	Federal 0 Territory 0 Private 190 (77) Uncategorized 5 (2)	195 ac (79 ha)	Yes.

TABLE 16—PROPOSED CRITICAL HABITAT UNITS FOR *Eugenia bryanii*—Continued

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

Critical habitat unit	Area #	Landownership by type in acres (hectares)	Size of unit in acres (hectares)	Occupied?
5. Guam 15–*Eugenia bryanii*–e	39	Federal 0 Territory 181 (73) Private 253 (103) Uncategorized 36 (14)	470 ac (190 ha)	Yes.
Total		Federal 257 (104) Territory 1,896 (766) Private 1,016 (412) Uncategorized 385 (156)	3,554 ac (1,438 ha)	

Note: Area sizes may not sum due to rounding. Within all areas, the unit acreages presented for this species overlap proposed critical habitat units in full or in part for multiple plant and animal species in this proposed rule.

TABLE 17—PROPOSED CRITICAL HABITAT UNITS FOR *Hedyotis megalantha*

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

Critical habitat unit	Area #	Landownership by type in acres (hectares)	Size of unit in acres (hectares)	Occupied?
1. Guam 11–*Hedyotis megalantha*–a	31	Federal 45 (18) Territory 0 Private 3,031 (1,227) Uncategorized 1,948 (788)	5,024 ac (2,033 ha)	Yes.
2. Guam 13–*Hedyotis megalantha*–b	34	Federal 0 Territory 0 Private 651 (264) Uncategorized 1 (<1)	652 ac (264 ha)	Yes.
3. Guam 15–*Hedyotis megalantha*–c	39	Federal 0 Territory 510 (206) Private 334 (135) Uncategorized 201 (82)	1,045 ac (423 ha)	Yes.
Total		Federal 45 (18) Territory 510 (206) Private 4,016 (1,626) Uncategorized 2,150 (870)	6,721 ac (2,720 ha)	

Note: Area sizes may not sum due to rounding. Within all areas, the unit acreages presented for this species overlap proposed critical habitat units in full or in part for multiple plant species in this proposed rule, as well as with the Guam tree snail in Area 39.

TABLE 18—PROPOSED CRITICAL HABITAT UNITS FOR *Heritiera longipetiolata*

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

Critical habitat unit	Area #	Landownership by type in acres (hectares)	Size of unit in acres (hectares)	Occupied?
1. Saipan 1—*Heritiera longipetiolata*–a	7	Federal 0 Commonwealth 634 (257) Private 143 (58) Uncategorized 2 (<1)	779 ac (315 ha)	Yes.
2. Tinian 1—*Heritiera longipetiolata*–a	8	Federal 0 Commonwealth 639 (258) Private 3 (1) Uncategorized 9 (4)	651 ac (263 ha)	Yes.
3. Guam 1—*Heritiera longipetiolata*–a	15	Federal 262 (106) Territory 68 (27) Private 408 (165) Uncategorized 118 (48)	856 ac (346 ha)	Yes.
4. Guam 2—*Heritiera longipetiolata*–b	16	Federal 0 Territory 1,081 (437) Private 108 (44) Uncategorized 56 (23)	1,245 ac (504)	Yes.
5. Guam 3—*Heritiera longipetiolata*–c	17	Federal 0 Territory 1,488 (602) Private 198 (80) Uncategorized 300 (122)	1,986 ac (804)	Yes.

TABLE 18—PROPOSED CRITICAL HABITAT UNITS FOR *Heritiera longipetiolata*—Continued

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

Critical habitat unit	Area #	Landownership by type in acres (hectares)	Size of unit in acres (hectares)	Occupied?
6. Guam 12—*Heritiera longipetiolata*–d	32	Federal 0 Territory 0 Private 190 (77) Uncategorized 5 (2)	195 ac (79 ha)	Yes.
7. Guam 13—*Heritiera longipetiolata*–e	34	Federal 0 Territory 142 (57) Private 859 (348) Uncategorized 725 (293)	1,726 ac (698 ha)	Yes.
8. Guam 14—*Heritiera longipetiolata*–f	35	Federal 16 (6) Territory 84 (34) Private 344 (139) Uncategorized 185 (75)	629 ac (254 ha)	Yes.
Total		Federal 278 (112) Commonwealth or Territory 4,136 (1,672) Private 2,253 (912) Uncategorized 1,400 (567)	8,067 ac (3,263 ha)	

Note: Area sizes may not sum due to rounding. For Areas 1 and 8, the unit acreage presented are full units only for *Heritiera longipetiolata.* Within all other areas, the unit acreages presented for this species overlap proposed critical habitat units in full or in part for multiple animal and plant species in this proposed rule.

TABLE 19—PROPOSED CRITICAL HABITAT UNITS FOR *Maesa walkeri*

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

Critical habitat unit	Area #	Landownership by type in acres (hectares)	Size of unit in acres (hectares)	Occupied?
1. Rota 2—*Maesa walkeri*–a	11	Federal 0 Commonwealth 5,806 (2,350) Private 1,039 (420) Uncategorized 30 (12)	6,875 ac (2,782 ha)	Yes.
2. Guam 14—*Maesa walkeri*–a	35	Federal 16 (6) Territory 84 (34) Private 344 (139) Uncategorized 185 (75)	629 ac (254 ha)	Yes.
Total		Federal 16 (6) Commonwealth or Territory 5,890 (2,384) Private 1,383 (559) Uncategorized 215 (87)	7,504 ac (3,036 ha)	

Note: Area sizes may not sum due to rounding. Within both areas, the unit acreages presented for this species overlap proposed critical habitat units in full or in part for multiple animal and plant species in this proposed rule.

TABLE 20—PROPOSED CRITICAL HABITAT UNITS FOR *Nervilia jacksoniae*

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

Critical habitat unit	Area #	Landownership by type in acres (hectares)	Size of unit in acres (hectares)	Occupied?
1. Rota 2—*Nervilia jacksoniae*–a	11	Federal 0 Commonwealth 3,585 (1,451) Private 753 (305) Uncategorized 30 (12)	4,368 ac (1,768 ha)	Yes.
2. Guam 14—*Nervilia jacksoniae*–a	35	Federal 16 (6) Territory 84 (34) Private 344 (139) Uncategorized 185 (75)	629 ac (254 ha)	Yes.

TABLE 20—PROPOSED CRITICAL HABITAT UNITS FOR *Nervilia jacksoniae*—Continued

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

Critical habitat unit	Area #	Landownership by type in acres (hectares)	Size of unit in acres (hectares)	Occupied?
Total		Federal 16 (6) Commonwealth or Territory 3,669 (1,485) Private 1,097 (444) Uncategorized 215 (87)	4,997 ac (2,022 ha)	

Note: Area sizes may not sum due to rounding. Within both areas, the unit acreages presented for this species overlap proposed critical habitat units in full or in part for multiple animal and plant species in this proposed rule.

TABLE 21—PROPOSED CRITICAL HABITAT UNITS FOR *Phyllanthus saffordii*

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

Critical habitat unit	Area #	Landownership by type in acres (hectares)	Size of unit in acres (hectares)	Occupied?
1. Guam 8—*Phyllanthus saffordii*–a	25	Federal 169 (68) Territory 0 Private 55 (22) Uncategorized 12 (5)	236 ac (95 ha)	Yes.
2. Guam 9—*Phyllanthus saffordii*–b	26	Federal 2 (1) Territory 0 Private 18 (7) Uncategorized 62 (25)	82 ac (33 ha)	Yes.
3. Guam 11—*Phyllanthus saffordii*–c	31	Federal 45 (18) Territory 0 Private 3,031 (1,227) Uncategorized 1,948 (788)	5,024 ac (2,033 ha)	Yes.
4. Guam 13—*Phyllanthus saffordii*–d	34	Federal 0 Territory 0 Private 651 (264) Uncategorized 1 (<1)	652 ac (264 ha)	Yes.
5. Guam 14—*Phyllanthus saffordii*–e	35	Federal 73 (30) Territory 0 Private 17 (7) Uncategorized 1 (<1)	91 ac (37 ha)	Yes.
6. Guam 15—*Phyllanthus saffordii*–f	39	Federal 0 Territory 550 (223) Private 3,532 (1,429) Uncategorized 644 (260)	4,726 ac (1,912 ha)	Yes.
Total		Federal 289 (117) Territory 550 (223) Private 7,304 (2,956) Uncategorized 2,668 (1,078)	10,811 ac (4,374 ha)	

Note: Area sizes may not sum due to rounding. For Areas 25 and 26, the unit acreages presented are full units only for *Phyllanthus saffordii*. Within all other areas, the unit acreages presented for this species overlap proposed critical habitat units in full or in part for multiple animal and plant species in this proposed rule.

TABLE 22—PROPOSED CRITICAL HABITAT UNITS FOR *Psychotria malaspinae*

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

Critical habitat unit	Area #	Landownership by type in acres (hectares)	Size of unit in acres (hectares)	Occupied?
1. Guam 3—*Psychotria malaspinae*–a	17	Federal 0 Territory 468 (189) Private 79 (32) Uncategorized 164 (67)	711 ac (288 ha)	Yes.
2. Guam 14—*Psychotria malaspinae*–b	35	Federal 16 (6) Territory 84 (34) Private 344 (139) Uncategorized 185 (75)	629 ac (254 ha)	Yes.

TABLE 22—PROPOSED CRITICAL HABITAT UNITS FOR *Psychotria malaspinae*—Continued

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

Critical habitat unit	Area #	Landownership by type in acres (hectares)	Size of unit in acres (hectares)	Occupied?
Total		Federal 16 (6) Territory 552 (223) Private 423 (171) Uncategorized 349 (142)	1,340 ac (542 ha)	

Note: Area sizes may not sum due to rounding. Within all areas, the unit acreages presented for this species overlap proposed critical habitat units in full or in part for multiple plant and animal species in this proposed rule.

TABLE 23—PROPOSED CRITICAL HABITAT UNITS FOR *Tabernaemontana rotensis*

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

Critical habitat unit	Area #	Landownership by type in acres (hectares)	Size of unit in acres (hectares)	Occupied?
1. Rota 1—*Tabernaemontana rotensis*–a	10	Federal 0 Commonwealth 2,656 (1,075) Private 671 (272) Uncategorized <1 (<1)	3,327 ac (1,347 ha)	Yes.
2. Rota 2—*Tabernaemontana rotensis*–b	11	Federal 0 Commonwealth 5,806 (2,350) Private 1,039 (420) Uncategorized 30 (12)	6,875 ac (2,782 ha)	Yes.
3. Guam 1—*Tabernaemontana rotensis*–a	15	Federal 257 (104) Territory 68 (27) Private 375 (152) Uncategorized 41 (17)	741 ac (300 ha)	Yes.
4. Guam 2—*Tabernaemontana rotensis*–b	16	Federal 0 Territory 1,081 (437) Private 108 (44) Uncategorized 56 (23)	1,245 ac (504)	Yes.
5. Guam 3—*Tabernaemontana rotensis*–c	17	Federal 0 Territory 1,488 (602) Private 198 (80) Uncategorized 300 (122)	1,986 ac (804)	Yes.
6. Guam 14—*Tabernaemontana rotensis*–d	35	Federal 16 (6) Territory 84 (34) Private 344 (139) Uncategorized 185 (75)	629 ac (254 ha)	Yes.
7. Guam 15—*Tabernaemontana rotensis*–e	39	Federal 0 Territory 181 (73) Private 323 (131) Uncategorized 259 (105)	763 ac (309 ha)	Yes.
Total		Federal 273 (110) Commonwealth or Territory 11,364 (4,598) Private 3,058 (1,238) Uncategorized 871 (354)	15,566 ac (6,300 ha)	

Note: Area sizes may not sum due to rounding. Within all areas, the unit acreages presented for this species overlap proposed critical habitat units in full or in part for multiple animal and plant species in this proposed rule.

TABLE 24—PROPOSED CRITICAL HABITAT UNITS FOR *Tinospora homosepala*

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

Critical habitat unit	Area #	Landownership by type in acres (hectares)	Size of unit in acres (hectares)	Occupied?
1. Guam 5—*Tinospora homosepala*–a	22	Federal 0 Territory 0 Private 0 Uncategorized 11 (5)	11 ac (5 ha)	Yes.
2. Guam 6—*Tinospora homosepala*–b	23	Federal 11 4 Territory 0 Private 0 Uncategorized 1 (1)	12 ac (5 ha)	Yes.

TABLE 24—PROPOSED CRITICAL HABITAT UNITS FOR *Tinospora homosepala*—Continued

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

Critical habitat unit	Area #	Landownership by type in acres (hectares)	Size of unit in acres (hectares)	Occupied?
3. Guam 7—*Tinospora homosepala*–c	24	Federal 102 (41) Territory 0 Private 11 (4) Uncategorized 11 (5)	124 ac (50 ha)	Yes.
4. Guam 10—*Tinospora homosepala*–d	27	Federal 0 Territory 0 Private 0 Uncategorized 2 (1)	2 ac (1 ha)	Yes.
Total		Federal 113 (45) Territory 0 Private 11 (4) Uncategorized 25 (12)	149 ac (61 ha)	

Note: Area sizes may not sum due to rounding. The unit acreage presented for all four areas are full units only for *Tinospora homosepala.*

TABLE 25—PROPOSED CRITICAL HABITAT UNITS FOR *Tuberolabium guamense*

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

Critical habitat unit	Area #	Landownership by type in acres (hectares)	Size of unit in acres (hectares)	Occupied?
1. Rota 2—*Tuberolabium guamense*–a	11	Federal 0 Commonwealth 5,806 (2,350) Private 1,039 (420) Uncategorized 30 (12)	6,875 ac (2,782 ha)	Yes.
2. Guam 1—*Tuberolabium guamense*–a	15	Federal 257 (104) Territory 68 (27) Private 375 (152) Uncategorized 41 (17)	741 ac (300 ha)	Yes.
3. Guam 2—*Tuberolabium guamense*–b	16	Federal 0 Territory 1,081 (437) Private 108 (44) Uncategorized 56 (23)	1,245 ac (504 ha)	Yes.
4. Guam 3—*Tuberolabium guamense*–c	17	Federal 0 Territory 1,488 (602) Private 198 (80) Uncategorized 300 (122)	1,986 ac (804 ha)	Yes.
5. Guam 13—*Tuberolabium guamense*–d	34	Federal 0 Territory 142 (57) Private 859 (348) Uncategorized 725 (293)	1,726 ac (698 ha)	Yes.
6. Guam 14—*Tuberolabium guamense*–e	35	Federal 16 (6) Territory 84 (34) Private 344 (139) Uncategorized 185 (75)	629 ac (254 ha)	Yes.
7. Guam 15—*Tuberolabium guamense*–f	39	Federal 0 Territory 919 (372) Private 3,612 (1,462) Uncategorized 1,617 (654)	6,148 ac (2,488 ha)	Yes.
Total		Federal 273 (110) Commonwealth or Territory 9,588 (3,879) Private 6,535 (2,645) Uncategorized 2,954 (1,195)	19,350 ac (7,829 ha)	

Note: Area sizes may not sum due to rounding. Within all areas, the unit acreages presented for this species overlap proposed critical habitat units in full or in part for multiple animal and plant species in this proposed rule.

We present below brief descriptions of the 41 areas that encompass all units for the 22 species presented in tables 4 through 25, including the specific species and units that fall within these areas, and reasons why they meet the definition of critical habitat.

Area 1: Asunción, CNMI

Species: Slevin's skink

Unit: Slevin's Skink–1, Asunción

Area 1 consists of 750 ac (304 ha) (a single occupied unit) of forested lands on Asunción Island (an uninhabited volcano that last erupted in 1906 (Williams et al. 2009, p. 3)), occurring roughly along the north, west, and south sides of the volcano's slopes. All lands are owned by the CNMI Government. General land use for Area 1 is in natural resource conservation; the island was

designated as a conservation area in 1985 through the CNMI's Constitution (CNMI 1985, entire). This area contains one or more of the PBFs essential to the conservation of the species. The unit includes all volcanic forests on the island because they contain the PBFs identified for the species.

Threats to the PBFs within Area 1 include habitat loss or modification of forests from typhoons, volcanic eruptions, climate change, and invasive species. Additionally, rats can adversely affect the PBFs by eating fruits, seeds, flowers, stems, roots, and other plant parts thereby reducing the reproduction and vigor of native plant communities and altering the native habitats that Slevin's skink and other species rely on (Service 2023a, pp. 18–19). Special management considerations or protection measures to reduce or alleviate the threats may include restoring and managing habitat and developing and implementing biosecurity measures to remove and prevent the spread of invasive plants and animals (see Special Management Considerations or Protection, above).

Area 2: Pagan, CNMI

Species: Slevin's skink and humped tree snail

Units:

Slevin's Skink–1, Pagan

Humped Tree Snail–1, Pagan

Area 2 consists of two occupied units, including 1,846 ac (747 ha) for Slevin's skink and 843 ac (341 ha) for humped tree snail, the latter of which is included in the larger Slevin's skink unit boundary. The area is located from the isthmus to the southern portion of the island. The island of Pagan contains two active volcanos—Mount Pagan in the north and South Pagan in the south. Most recorded eruptions originated from the northern volcano, including the last eruption in 2021 (Global Volcanism Program 2022, entire). All lands are owned by the CNMI Government. General land use for Area 2 includes homesteading, and it is inhabited by a small human population year-round.

Both units in Area 2 contain one or more of the PBFs essential to the conservation of each species. For Slevin's skink, the unit includes the larger patches of volcanic forests on the southern half of the island because they contain the PBFs identified for the species. For the humped tree snail, the unit includes volcanic substrate and associated forest plant canopy with a dense mid-story and developed understory.

Threats to PBFs within Area 2 include habitat loss or modification of forests caused by typhoons, volcanic eruptions, and climate change. Habitat modification from invasive plants and animals including ungulates and rats also threatens the forests on Pagan, as these invasive species are known to alter native habitats that both species rely on by reducing native plant reproduction and vigor by damaging seedlings or eating fruits, seeds, flowers, stems, roots, and other plant parts (Service 2023a, pp. 17–18). Special management considerations or protection measures to reduce or alleviate the threats may include conducting habitat restoration, developing and implementing biosecurity plans and measures to prevent the spread of invasive plants and animals that alter habitat, and removing invasive plants, rodents, and ungulates (see Special Management Considerations or Protection, above).

Area 3: Alamagan, CNMI

Species: Slevin's skink and humped tree snail

Units:

Slevin's Skink–1, Alamagan

Humped Tree Snail–1, Alamagan

Area 3 consists of two occupied units that completely overlap and total 1,420 ac (574 ha) for both Slevin's skink and humped tree snail. This area is located roughly along portions of the northern, the entire western, and the southern slopes of the volcano on the island of Alamagan. The island contains one active volcano at the center of the island with no confirmed eruptions in recent history. All lands are owned by the CNMI Government. General land use for Area 3 includes homesteading, and it is inhabited by a small human population year-round.

The two units contain one or more of the PBFs essential to the conservation of each species. For Slevin's skink, the unit includes all volcanic forests on the island because they contain the PBFs identified for the species. For the humped tree snail, the unit includes volcanic substrate and associated forest plant canopy with a dense mid-story and developed understory.

Threats to PBFs within Area 3 include habitat loss or modification of forests caused by typhoons, volcanic eruptions, and climate change. Habitat modification from invasive plants and animals, including ungulates and rats, also threatens the forests on Alamagan, as these invasive species are known to alter native habitats that both species rely on by reducing native plant reproduction and vigor by damaging seedlings or eating fruits, seeds, flowers, stems, roots, and other plant parts (Service 2023a, pp. 17–18). Special management considerations or protection measures to reduce or alleviate the threats may include conducting habitat restoration, developing and implementing biosecurity plans and measures to prevent the spread of invasive plants and animals that alter habitat, and removing invasive plants, rodents, and ungulates (see Special Management Considerations or Protection, above).

Area 4: Sarigan, CNMI

Species: Slevin's skink and humped tree snail

Units:

Slevin's Skink–1, Sarigan

Humped Tree Snail–1, Sarigan

Area 4 consists of two occupied units that completely overlap and total 402 ac (163 ha) for both Slevin's skink and humped tree snail. This area is located across the northwestern portion of Sarigan, which is an uninhabited island due to volcanic activity (although there are no records of eruptions (Global Volcanism Program 2014, entire)). All lands are owned by the CNMI Government. General land use for Area 4 is conservation (a nature preserve).

The two units contain one or more of the PBFs essential to the conservation of each species. For Slevin's skink, the unit includes all volcanic forests on the island because they contain the PBFs identified for the species. For the humped tree snail, the unit includes volcanic substrate and associated forest plant canopy with a dense mid-story and developed understory because this area contains the PBFs identified for the species.

Threats to PBFs within Area 4 include habitat loss or modification of forests caused by typhoons, volcanic activity, and climate change. Habitat modification from invasive plants and animals (*e.g.,* rats) also threatens the forests on Sarigan, as these invasive species are known to alter native habitats by reducing native plant reproduction and vigor by eating fruits, seeds, flowers, stems, roots, and other plant parts (Service 2023a, pp. 17–18). Special management considerations or protection measures to reduce or alleviate the threats may include conducting habitat restoration, developing and implementing biosecurity plans and measures to prevent the spread of invasive plants and animals that alter habitat, and removing invasive plants and rodents (see Special Management Considerations or Protection, above).

Area 5: Tapochau, Saipan, CNMI

Species: Humped tree snail

Unit: Humped Tree Snail–1, Saipan

Area 5 consists of 3,290 ac (1,332 ha) (a single occupied unit) of forested lands in the central western part of Saipan, near Mount Tapochau. Landownership within this area consists of 893 ac (361 ha) of land owned by the CNMI Government, 2,393 ac (969 ha) of private land, and 4 ac (2 ha) that are uncategorized. General land use for Area 5 includes public facilities, urban or agricultural homesteads, and urban or agricultural development. Saipan is a densely populated island in the southern Marianas, and a majority of the native forest on these islands have undergone conversion to secondary or monoculture forests due to human activities such as development or agricultural land use and invasive plants or animals (Willsey et al. 2019, pp. 13–18, 26).

Area 5 contains one or more of the PBFs essential to the conservation of the species. The unit includes secondary forests and a limestone substrate with intrusions of exposed volcanic ridges and slopes (Harrington et al. 2020, p. 8). Boundaries for the unit were delineated to include all contiguous limestone forests on the island because they contain the PBFs identified for the species.

Threats to the PBFs within Area 5 include habitat loss or modification of forests caused by urban and agricultural development, wildfires, typhoons, and climate change. Habitat modification from invasive plants and animals (*e.g.,* rats) also threatens the forests on Saipan, as these invasive species are known to alter native habitats by reducing native plant reproduction and vigor by eating fruits, seeds, flowers, stems, roots, and other plant parts (Service 2023a, pp. 17–18). Special management considerations or protection measures to reduce or alleviate the threats may include conducting habitat restoration, developing and implementing biosecurity plans and measures to prevent the spread of habitat-altering invasive plants and animals; developing and implementing wildfire management plans to minimize the likelihood of wildfires; and removing invasive species, including plants and rodents (see Special Management Considerations or Protection, above).

Area 6: American Memorial Park, Saipan, CNMI

Species: Humped tree snail
Unit: Humped Tree Snail–2, Saipan

Area 6 consists of 35 acres (14 ha) (a single occupied unit) along the western coast of Saipan, in the vicinity of the village of Garapan and adjacent to the village of As Palacios. All lands are owned by the Federal Government (American Memorial Park). General land use for Area 6 is recreation (*i.e.,* tourism and environmental education).

Area 6 contains one or more of the PBFs essential to the conservation of the species. The unit includes secondary forests and all contiguous limestone forests on the island because they contain the PBFs identified for the species.

Threats to the PBFs within Area 6 includes habitat loss or modification of forests caused by urban and agricultural development, wildfires, typhoons, and climate change. Military training can also adversely affect the species and its habitat that occur in the vicinity of Area 6; however, these activities are confined to DoD lands, which are exempt under section 4(a)(3) of the Act (see Exemptions, below). Habitat modification from invasive plants and animals (*e.g.,* rats) also threatens the forests on Saipan, as these invasive species are known to alter native habitats by reducing native plant reproduction and vigor by eating fruits, seeds, flowers, stems, roots, and other plant parts (Service 2023a, pp. 17–18). Special management considerations or protection measures to reduce or alleviate the threats may include conducting habitat restoration, developing and implementing biosecurity plans and measures to prevent the spread of habitat-altering invasive plants and animals; developing and implementing wildfire management plans to minimize the likelihood that suitable habitat will burn; and removing invasive species, including plants and rodents (see Special Management Considerations or Protection, above). This area is managed by the National Park Service (NPS) as the American Memorial Park (NPS 2024a, entire).

Area 7: I'Naftan, Saipan, CNMI

Species: Heritiera longipetiolata
Unit: Saipan 1–*Heritiera longipetiolata*–a

Area 7 consists of 779 ac (315 ha) (a single occupied unit) in the southeast part of Saipan, within the Aslito area and adjacent to the village of I'Naftan. Landownership within this area consists of 634 ac (257 ha) of land owned by the CNMI Government, 143 ac (58 ha) of private land, and 2 ac (less than 1 ha) that are uncategorized. General land use for Area 7 is urban and agricultural development, including associated access roads, as well as conservation. Saipan is one of the southern islands in the Marianas that is densely populated, and a majority of the native forest on these islands have undergone conversion to secondary or monoculture forests due to human activities such as development or agricultural land use and invasive plants or animals (Willsey et al. 2019, pp. 13–18, 26).

Area 7 contains one or more of the PBFs essential to the conservation of the species. The unit includes limestone substrate with intrusions of exposed volcanic ridges and slopes (Harrington et al. 2020, p. 8). Boundaries for the unit were delineated to include all contiguous limestone forests on the island because they contain the PBFs identified for the species.

Threats to the PBFs within Area 7 include habitat loss or modification of forests caused by urban and agricultural development, wildfires, typhoons, and climate change. Military training can also adversely affect the species and its habitat that occur in the vicinity of Area 7; however, these activities are confined to DoD lands, which are exempt under section 4(a)(3) of the Act (see Exemptions, below). Habitat modification from invasive plants and animals (*e.g.,* rats) also threatens the forests as these invasive species are known to alter native habitats by reducing native plant reproduction and vigor by eating fruits, seeds, flowers, stems, roots, and other plant parts (Service 2023a, pp. 17–18). Special management considerations or protection measures to reduce or alleviate the threats may include conducting habitat restoration, developing and implementing biosecurity plans and measures to prevent the spread of habitat-altering invasive plants and animals; developing and implementing wildfire management plans to minimize the likelihood that suitable habitat will burn; and removing invasive species including plants and rodents (see Special Management Considerations or Protection, above).

Area 8: Kastiyu, Tinian, CNMI

Species: Heritiera longipetiolata
Unit: Tinian 1–*Heritiera longipetiolata*–a

Area 8 consists of 651 ac (263 ha) (a single occupied unit) in the southeastern part of Tinian. Landownership within this area consists of 639 ac (258 ha) of land owned by the CNMI Government, 3 ac (1 ha) of private land, and 9 ac (4 ha) that are uncategorized. General land use for Area 8 includes cattle ranching and urban and rural development, including associated access roads. It also contains several archaeological sites.

Area 8 contains one or more of the PBFs essential to the conservation of the species. The unit includes cliffs and limestone forests that are secondary forests comprising a mixture of native

and nonnative species generally dominated by nonnative species but may include components of other forest types (Willsey et al. 2019, pp. 5–6, 10). Boundaries for the unit were delineated to include all contiguous limestone forests on the island because they contain the PBFs identified for *Heritiera longipetiolata.*

Threats to PBFs within Area 8 include habitat loss or modification caused by urban and agricultural development, wildfires, typhoons, and climate change. Military training can also adversely affect the species and its habitat that occur in the vicinity of Area 9; however, these activities are confined to DoD lands, which are exempt under section 4(a)(3) of the Act (see Exemptions, below). Habitat modification from invasive plants and animals (*e.g.,* rats) also threatens the forests as these species are known to alter native habitats by reducing native plant reproduction and vigor by eating fruits, seeds, flowers, stems, roots, and other plant parts (Service 2023a, pp. 17–18). Special management considerations or protection measures to reduce or alleviate the threats may include conducting habitat restoration; developing and implementing biosecurity plans and measures to prevent the spread of habitat-altering invasive plants and animals; developing and implementing wildfire management plans to minimize the likelihood that suitable habitat will burn; and removing invasive species, including plants and rodents (see Special Management Considerations or Protection, above).

Area 9: Aguiguan, CNMI

Species: Pacific sheath-tailed bat, Langford's tree snail, and *Dendrobium guamense*

Units:

Pacific Sheath-tailed Bat–1, Aguiguan
Langford's Tree Snail–1, Aguiguan
Aguiguan 1–*Dendrobium guamense*–a

Area 9 consists of three occupied units that partially overlap, including 589 ac (238 ha) for the Pacific sheath-tailed bat, 1,217 ac (492 ha) for Langford's tree snail, and 1,094 ac (443 ha) for *Dendrobium guamense,* on the uninhabited island of Aguiguan, also known as Goat Island or Aguijan. All lands are owned by the CNMI Government. General land use for Area 9 is conservation, although no management plan exists for the island.

Each of the three units contain one or more of the PBFs essential to the conservation of each species. The island is composed of steep limestone cliffs and contains native limestone and secondary forests, including secondary forests that are composed of a mixture of native and nonnative species. Generally, the area is dominated by nonnative species but may include components of other forest types (Willsey et al. 2019, pp. 5–6, 10). For the Pacific sheath-tailed bat, the unit includes all contiguous limestone forests with known occupied/historically occupied caves, cliff overhangs, or crevasses for the species because this area contains the PBFs identified for the species. For Langford's tree snail, the unit includes limestone or volcanic substrate and associated forest plant canopy with a dense mid-story and developed understory because this area contains the PBFs identified for the species. For *Dendrobium guamense,* the unit includes limestone or volcanic substrate and associated native forest plant canopy and understory to maintain a stable microclimate for the epiphytic orchid because this area contains the PBFs identified for the species.

Threats to PBFs within Area 9 include habitat loss or modification caused by typhoons and climate change. Habitat modification from invasive plants and animals (*e.g.,* goats and rats) also threatens the forests on Aguiguan, as these species are known to alter native habitats by trampling seedlings or reducing native plant reproduction and vigor by eating fruits, seeds, flowers, stems, roots, and other plant parts (Service 2023a, pp. 17–18). Special management considerations or protection measures to reduce or alleviate the threats may include conducting habitat restoration; developing and implementing biosecurity plans and measures to prevent the spread of habitat-altering invasive plants and animals; and removing invasive species, including plants, rodents, and goats (see Special Management Considerations or Protection, above).

Area 10: Mochong, Rota, CNMI

Species: Bulbophyllum guamense and *Tabernaemontana rotensis*

Units: Rota 1–*Bulbophyllum guamense*–a

Rota 1—*Tabernaemontana rotensis*–a

Area 10, totaling 3,497 ac (1,415 ha), consists of two occupied units that partially overlap, including 1,930 ac (781 ha) for *Bulbophyllum guamense* and 3,327 ac (1,347 ha) for *Tabernaemontana rotensis,* in the northern part of Rota, from Mochong in the west to I'Chenchon Bird Sanctuary in the east. Additionally, Area 10 falls within the boundary of the larger Area 12 description, below. Landownership within the *Bulbophyllum guamense* unit consists of 1,397 ac (565 ha) of land owned by the CNMI Government and 533 ac (216 ha) of private lands. Landownership within the *Tabernaemontana rotensis* unit consists of 2,656 ac (1,075 ha) of land owned by the CNMI Government and 671 ac (272 ha) of private lands. General land use for Area 10 is urban and agricultural development, including associated access roads.

Each of the units contains one or more of the PBFs essential to the conservation of each species. Area 10 includes terraced limestone surrounding a volcanic core that protrudes from the topmost plateau, Mount Sabana (Harrington et al. 2020, p. 7), native limestone forest, and secondary forests, the latter of which comprises a mixture of native and nonnative species (generally dominated by nonnative species but may include components of other forest types (Willsey et al. 2019, pp. 5–6, 10)). For both species, the units include all limestone forests in this area as well as limestone substrate and associated forest plant canopy and understory because this area contains the PBFs identified for these species. Approximately 1,357 ac (549 ha; 70 percent) of the *Bulbophyllum guamense* unit and 2,526 ac (1,022 ha; 76 percent) of the *Tabernaemontana rotensis* unit overlap previously designated critical habitat for the Mariana crow (69 FR 62944; October 28, 2004).

Threats to PBFs within Area 10 include habitat loss or modification caused by urban and agricultural development, wildfires, typhoons, and climate change. Habitat modification from invasive plants and animals (*e.g.,* feral ungulates and rats) also threaten the forests on Rota, as these species are known to alter native habitats by damaging seedlings or reducing native plant reproduction and vigor by eating fruits, seeds, flowers, stems, roots, and other plant parts (Service 2023a, pp. 17–18). Special management considerations or protection measures to reduce or alleviate the threats may include conducting habitat restoration; developing and implementing biosecurity plans and measures to prevent the spread of invasive plants and animals; conducting wildfire risk management to prevent loss of suitable habitat; and removing invasive species including plants, rodents, and ungulates (see Special Management Considerations or Protection, above). Additionally, 2 ac (1 ha) of lands within the *Bulbophyllum guamense* unit and 654 ac (265 ha) of lands within the *Tabernaemontana rotensis* unit receive beneficial management under the Memorandum of Agreement for the Mariana Crow Conservation Area

(Service 2011, entire); these lands are considered for exclusion under section 4(b)(2) of the Act (see Consideration of Impacts Under Section 4(b)(2) of the Act, below).

Area 11: Sabana, Rota, CNMI

Species: Bulbophyllum guamense, Cycas micronesica, Dendrobium guamense, Maesa walkeri, Nervilia jacksoniae, Tabernaemontana rotensis, and *Tuberolabium guamense*
Units:
Rota 2—*Bulbophyllum guamense*–b
Rota 2—*Cycas micronesica*–a
Rota 2—*Dendrobium guamense*–a
Rota 2—*Maesa walkeri*–a
Rota 2—*Nervilia jacksoniae*–a
Rota 2—*Tabernaemontana rotensis*–b
Rota 2–*Tuberolabium guamense*–a

Area 11 consists of seven occupied units in the southern portion of Rota: six units completely overlap, totaling 6,875 ac (2,782 ha) for *Bulbophyllum guamense, Cycas micronesica, Dendrobium guamense, Maesa walkeri, Tabernaemontana rotensis,* and *Tuberolabium guamense;* and the seventh unit totals 4,368 ac (1,768 ha) for *Nervilia jacksoniae* and partially overlaps the larger area comprising the other six overlapping units. Additionally, Area 11 falls within the boundary of the larger Area 12 description, below. Landownership within the large 6-unit area consists of 5,806 ac (2,350 ha) of land owned by the CNMI Government, 1,039 ac (420 ha) of private land, and 30 ac (12 ha) that are uncategorized. Landownership within the single overlapping smaller 1-unit consists of 3,585 ac (1,451 ha) of land owned by the CNMI Government, 753 ac (305 ha) of private land, and 30 ac (12 ha) that are uncategorized. General land use for Area 11 is urban and agricultural development, including associated access roads.

Each of the units contains one or more of the PBFs essential to the conservation of each species. The area includes terraced limestone surrounding a volcanic core that protrudes from the topmost plateau, Mount Sabana (Harrington et. al. 2020, p. 7). Area 11 contains native limestone forests, a small patch of volcanic forest at Mount Sabana, and secondary forests that comprise a mixture of native and nonnative species (the latter generally dominated by nonnative species but may include components of other forest types (Willsey et al. 2019, pp. 5–6, 10)). Boundaries for the units were delineated to include all limestone and volcanic forests in this area because they contain the PBFs identified for *Bulbophyllum guamense, Cycas micronesica, Dendrobium guamense, Tuberolabium guamense, Tabernaemontana rotensis, Maesa walkeri,* and *Nervilia jacksoniae.* Approximately 5,365 ac (2,171 ha; 78 percent) of the following species units overlap previously designated critical habitat for the Mariana crow (69 FR 62944; October 28, 2004) and Rota bridled white-eye (*Zosterops rotensis*) (71 FR 26315; May 4, 2006): *Bulbophyllum guamense, Cycas micronesica, Dendrobium guamense, Maesa walkeri, Tabernaemontana rotensis, and Tuberolabium guamense.* Approximately 3,350 ac (1,356 ha; 77 percent) of the *Nervilia jacksoniae* unit overlap previously designated critical habitat for the Mariana crow (69 FR 62944; October 28, 2004) and Rota bridled white-eye (71 FR 26315; May 4, 2006).

Threats to PBFs within Area 11 include habitat loss or modification caused by urban and agricultural development, wildfires, typhoons, and climate change. Habitat modification from invasive plants and animals (*e.g.,* feral ungulates and rats) also threaten the forests on Rota, as these species are known to alter native habitats by damaging seedlings or reducing native plant reproduction and vigor by eating fruits, seeds, flowers, stems, roots, and other plant parts (Service 2023a, pp. 17–18). Special management considerations or protection measures to reduce or alleviate the threats may include conducting habitat restoration; developing and implementing biosecurity plans and measures to prevent the spread of habitat-altering invasive plants and animals; conducting wildfire risk management to avoid loss of suitable habitat; and removing invasive species, including plants and rodents (see Special Management Considerations or Protection, above). Additionally, 2,820 ac (1,141 ha) of lands within the large 6-unit area for *Bulbophyllum guamense, Cycas micronesica, Dendrobium guamense, Maesa walkeri, Tabernaemontana rotensis* and *Tuberolabium guamense* and 2,411 ac (976 ha) of lands within the smaller 1-unit area for *Nervilia jacksoniae* receive beneficial management under the Sabana Protected Area (Service 2011, entire; CNMI 1994, entire). The large 6-unit area also includes 233 ac (94 ha) that receive beneficial management under the Memorandum of Agreement for the Mariana Crow Conservation Area. All of these lands are considered for exclusion under section 4(b)(2) of the Act (see Consideration of Impacts Under Section 4(b)(2) of the Act, below).

Area 12: Rota, CNMI

Species: Fragile tree snail, Humped tree snail, and Mariana wandering butterfly
Units: Fragile Tree Snail–1, Rota
Humped Tree Snail–1, Rota
Mariana Wandering Butterfly–1, Rota

Area 12 consists of three completely overlapping occupied units throughout Rota totaling 12,282 ac (4,970 ha) for the fragile tree snail, Guam tree snail, and Mariana wandering butterfly. Additionally, Area 12 encompasses units within Areas 10 and 11, described previously. Landownership within Area 12 consists of 9,294 ac (3,761 ha) of land owned by the CNMI Government, 2,954 ac (1,195 ha) of private land, and 34 ac (14 ha) that are uncategorized. General land use for Area 12 is urban and agricultural development, including associated access roads.

All three of the overlapping units contain one or more of the PBFs essential to the conservation of each species. Area 12 includes native limestone forests, a small patch of volcanic forest at Mount Sabana, and secondary forests that comprise a mixture of native and nonnative species (the latter generally dominated by nonnative species but may include components of other forest types (Willsey et al. 2019, pp. 5–6, 10)). Boundaries for the units were delineated to include all limestone and volcanic forests because they contain the PBFs identified for each of the three species. Additionally, the area boundary includes limestone substrate, volcanic substrate, associated forest plant canopy with a dense mid-story and developed understory, and the presence of larval host plants (*i.e., Maytenus thompsonii)* for the butterfly because the area contains the PBFs identified for each of the three species. Approximately 7,933 ac (3,210 ha; 65 percent) of these units overlap previously designated critical habitat for the Mariana crow (69 FR 62944; October 28, 2004) and Rota bridled white-eye (71 FR 26315; May 4, 2006).

Threats to PBFs within Area 12 include habitat loss or modification caused by urban and agricultural development, wildfires, typhoons, and climate change. Habitat modification from invasive plants and animals (*e.g.,* feral ungulates and rats) also threaten the forests on Rota, as these species are known to alter native habitats by damaging seedlings or reducing native plant reproduction and vigor by eating fruits, seeds, flowers, stems, roots, and other plant parts (Service 2023a, pp. 17–18). Special management considerations or protection measures to reduce or

alleviate the threats may include conducting habitat restoration; developing and implementing biosecurity plans and measures to prevent the spread of habitat-altering invasive plants and animals; conducting wildfire risk management to avoid loss of suitable habitat; and removing invasive species including plants, rodents, and ungulates (see Special Management Considerations or Protection, above). Additionally, 2,820 ac (1,141 ha) of lands within the units for the fragile tree snail, humped tree snail, and Mariana wandering butterfly receive beneficial management under the Sabana Protected Area (CNMI DEQ 2012, entire; CNMI 1994, entire), and 887 ac (359 ha) receive beneficial management under the Memorandum of Agreement for the Mariana Crow Conservation Area. All of these lands are considered for exclusion under section 4(b)(2) of the Act (see Consideration of Impacts Under Section 4(b)(2) of the Act, below).

Area 13: Talakhaya, Rota, CNMI

Species: Rota blue damselfly
Unit: Rota Blue Damselfly–1, Rota

Area 13 consists of 1,133 ac (459 ha) (a single occupied unit) in the southern part of Rota. Landownership within this area consists of 671 ac (272 ha) of land owned by the CNMI Government, 433 ac (175 ha) of private land, and 29 ac (12 ha) that are uncategorized. General land use for Area 13 includes urban and agricultural development, including associated access roads.

Area 13 contains one or more of the PBFs essential to the conservation of the species. Area 13 includes terraced limestone surrounding a volcanic core that protrudes from the topmost plateau, Mount Sabana (Harrington et al. 2020, p. 7), as well as the only stream system on Rota and surrounding native limestone and secondary forests that comprise a mixture of native and nonnative species and are dominated by nonnative species but may include components of other forest types (Willsey et al. 2019, pp. 5–6, 10). Boundaries for the unit were delineated to include all limestone and secondary forests in this area because they contain the PBFs identified for the Rota blue damselfly. Approximately 570 ac (231 ha; 50 percent) of this unit overlap previously designated critical habitat for the Mariana crow (69 FR 62944; October 28, 2004) and Rota bridled white-eye (71 FR 26315; May 4, 2006).

Threats to PBFs within Area 13 include habitat loss or modification caused by urban and agricultural development, wildfires, typhoons, and climate change. Habitat modification from invasive plants and animals (*e.g.,* feral ungulates and rats) also threatens the damselfly's forested habitat, as these species are known to alter native habitats by damaging seedlings or reducing native plant reproduction and vigor by eating fruits, seeds, flowers, stems, roots, and other plant parts (Service 2023a, pp. 17–18). Special management considerations or protection measures to reduce or alleviate the threats may include conducting habitat restoration; developing and implementing biosecurity plans and measures to prevent the spread of invasive plants and animals; conducting wildfire risk management to avoid loss of suitable habitat; and removing invasive species, including plants, rodents, and ungulates (see Special Management Considerations or Protection, above). Additionally, 254 ac (103 ha) of this area/unit are beneficially managed under the Talakhaya Integrated Watershed Management Plan (CNMI BECQ 2020, entire), and an additional 289 ac (117 ha) of this area/unit, 152 ac (62 ha) of which overlap the Talakhaya Integrated Watershed Plan area, are beneficially managed under the Sabana Protected Area (Service 2011, entire; CNMI 1994, entire); these lands are considered for exclusion under section 4(b)(2) of the Act (see Consideration of Impacts Under Section 4(b)(2) of the Act, below).

Area 14: Southern Rota, CNMI

Species: Pacific sheath-tailed bat
Unit: Pacific Sheath-tailed Bat–1, Rota

Area 14 consists of 7,632 ac (3,089 ha) (a single unoccupied unit) in the southern part of Rota. Landownership within this area consists of 6,178 ac (2,500 ha) of land owned by the CNMI Government, 1,418 ac (574 ha) of private land, and 36 ac (15 ha) that are uncategorized. General land use for Area 14 is urban and agricultural development, including associated access roads.

Area 14 is an unoccupied unit for the Pacific sheath-tailed bat, but we have determined that this area contains one or more of the PBFs essential for the conservation of the species (see Criteria Used To Identify Critical Habitat, above). The unit includes terraced limestone surrounding a volcanic core that protrudes from the topmost plateau, Mount Sabana (Harrington et al. 2020, p. 7), including limestone caves and surrounding native limestone and secondary forests, which comprise a mixture of native and nonnative species, generally dominated by nonnative species but may include components of other forest types (Willsey et al. 2019, pp. 5–6, 10). Boundaries for the unit were delineated to include the largest number of limestone caves on Rota and limestone and secondary forests in this area because they contain the PBFs identified for the Pacific sheath-tailed bat. Approximately 5,676 ac (2,297 ha; 74 percent) of this unit overlaps previously designated critical habitat for the Mariana crow (69 FR 62944; October 28, 2004) and Rota bridled white-eye (71 FR 53589; September 12, 2006).

Threats to PBFs within Area 14 include habitat loss or modification caused by urban and agricultural development, pesticide use, wildfires, typhoons, and climate change. Habitat modification from invasive plants and animals (*e.g.,* feral ungulates and rats) also threatens the forests on Rota, as these species are known to alter native habitats by damaging seedlings or reducing native plant reproduction and vigor by eating fruits, seeds, flowers, stems, roots, and other plant parts (Service 2023a, pp. 17–18). Special management considerations or protection measures to reduce or alleviate the threats may include conducting habitat restoration; developing and implementing biosecurity plans and measures to prevent the spread of habitat-altering invasive plants and animals; conducting wildfire risk management to avoid loss of suitable habitat; removing invasive species including plants, rodents, and ungulates; and regulating pesticide use to avoid reducing availability of insect prey for the Pacific sheath-tailed bat (see Special Management Considerations or Protection, above). A total of 3,327 ac (1,347 ha) of this area receives beneficial management. The Memorandum of Agreement for the Mariana Crow Conservation Area covers 233 ac (94 ha), the Sabana Protected Area covers 2,840 ac (1,150 ha) (Service 2011, entire; CNMI 1994, entire), and the Talakhaya Integrated Watershed Management Plan covers 254 ac (103 ha) (CNMI BECQ 2020, entire). Approximately 152 ac (62 ha) of the Sabana Protected Area and Talakhaya Integrated Watershed Management Plan overlap. All of these lands are considered for exclusion under section 4(b)(2) of the Act (see Consideration of Impacts Under Section 4(b)(2) of the Act, below).

Area 15: Ritidian, Guam

Species: Fragile tree snail, Guam tree snail, humped tree snail, Mariana eight-spot butterfly, *Bulbophyllum guamense, Cycas micronesica, Dendrobium guamense, Eugenia bryanii, Heritiera longipetiolata, Tabernaemontana rotensis,* and *Tuberolabium guamense*

Units: Fragile Tree Snail–1, Guam
Guam Tree Snail–1, Guam
Humped Tree Snail–1, Guam
Mariana Eight-Spot Butterfly–1, Guam
Guam 1–*Bulbophyllum guamense*–a
Guam 1–*Cycas micronesica*–a
Guam 1–*Dendrobium guamense*–a
Guam 1–*Eugenia bryanii*–a
Guam 1–*Heritiera longipetiolata*–a
Guam 1–*Tabernaemontana rotensis*–a
Guam 1–*Tuberolabium guamense*–a

Area 15 consists of 11 occupied units in the northwestern part of the Territory of Guam, including the vicinities of Jinapsan and Ritidian along Route 3A in the villages of Dededo and Yigo. Six of the species, including the fragile tree snail, Guam tree snail, humped tree snail, Mariana eight-spot butterfly, *Cycas micronesica,* and *Heritiera longipetiolata,* have units that encompass the entire area as overlapping units that total 856 ac (346 ha) each. The other five species, *Bulbophyllum guamense, Dendrobium guamense, Eugenia bryanii, Tabernaemontana rotensis,* and *Tuberolabium guamense,* have units that overlap a smaller portion of Area 15, totaling 741 ac (300 ha) each. Landownership within the large 6-unit area consists of 262 ac (106 ha) of Federal lands (Guam National Wildlife Refuge (NWR)), 68 ac (27 ha) of land owned by the Territory of Guam, 408 ac (165 ha) of private land, and 118 ac (48 ha) that are uncategorized. Landownership within the five overlapping smaller units consists of 257 ac (104 ha) of Federal lands (Guam NWR), 68 ac (27 ha) of land owned by the Territory of Guam, 375 ac (152 ha) of private land, and 41 ac (17 ha) that are uncategorized. General land use for Area 15 includes conservation; recreation (*e.g.,* hiking, camping); and urban and agricultural development, including associated access roads.

Each of the units contain one or more of the PBFs essential to the conservation of each species. Area 15 includes limestone substrate, cliffs, and surrounding native limestone, secondary, and coastal strand forests. Secondary forests comprise a mixture of native and nonnative species, although generally dominated by nonnative species but may include components of other forest types (Willsey et al. 2019, p. 10). The southern extent of the area consists of volcanic soils and an extensive stream and drainage system (Harrington et al. 2020, p. 7). Boundaries for the units were delineated to include limestone and secondary forests in this area because they contain the PBFs identified for the 11 species. Approximately 257 ac (104 ha; 30 percent) of the following species units overlap previously designated critical habitat for the federally endangered Mariana crow and Guam kingfisher (*Todiramphus cinnamominus*) and the federally threatened Mariana fruit bat (69 FR 62944; October 28, 2004): *Hypolimnas octocula marianensis, Partula gibba, Partula radiolata, Samoana fragilis, Cycas micronesica, Heritiera longipetiolata.* Approximately 252 ac (102 ha; 34 percent) of the following species units overlap previously designated critical habitat for the Mariana crow, Guam kingfisher, and Mariana fruit bat (69 FR 62944; October 28, 2004): *Bulbophyllum guamense, Dendrobium guamense, Eugenia bryanii, Tabernaemontana rotensis,* and *Tuberolabium guamense.*

Threats to PBFs within Area 15 include habitat loss or modification caused by urban and agricultural development, recreational activities, wildfires, typhoons, and climate change. Military training that occurs in the vicinity of Area 15 can also adversely affect the species and its habitat; however, these activities are confined to DoD lands, which are exempt under section 4(a)(3) of the Act (see Exemptions, below). Habitat modification from invasive plants and nonnative animals (*e.g.,* ungulates, brown tree snakes, and rodents) also threaten the forests on Guam, as these species are known to alter and degrade native habitats by trampling, creating trails that damage vegetative cover or destabilize substrates causing erosion, and through the extirpation (via brown tree snake) of a large percentage of bird and small animal species that disperse seeds and pollinate native plants on Guam (Service 2023a, pp. 17–18). Special management considerations or protection measures to reduce or alleviate the threats may include conducting habitat restoration; developing and implementing biosecurity plans and measures to prevent the spread of habitat-altering invasive plants and animals; conducting wildfire risk management to avoid loss of suitable habitat; and removing invasive species, including plants, invertebrates, rodents, and ungulates (see Special Management Considerations or Protection, above). Approximately 258 ac (104 ha) of Guam NWR's lands within this area are managed under Guam NWR's Comprehensive Conservation Plan (Service 2009, entire).

Area 16: Two Lovers' Point, Guam

Species: Fragile tree snail, Guam tree snail, humped tree snail, Mariana eight-spot butterfly, *Bulbophyllum guamense, Cycas micronesica, Dendrobium guamense, Eugenia bryanii, Heritiera longipetiolata, Tabernaemontana rotensis,* and *Tuberolabium guamense*

Units: Fragile Tree Snail–1, Guam
Guam Tree Snail–1, Guam
Humped Tree Snail–1, Guam
Mariana Eight-Spot Butterfly–1, Guam
Guam 1–*Bulbophyllum guamense*–b
Guam 1–*Cycas micronesica*–b
Guam 1–*Dendrobium guamense*–b
Guam 1–*Eugenia bryanii*–b
Guam 1–*Heritiera longipetiolata*–b
Guam 1–*Tabernaemontana rotensis*–b
Guam 1–*Tuberolabium guamense*–b

Area 16 consists of 11 occupied units in the northwestern part of the Territory of Guam in the village of Dededo. Ten of the species, including the fragile tree snail, Guam tree snail, humped tree snail, Mariana eight-spot butterfly, *Bulbophyllum guamense, Cycas micronesica, Dendrobium guamense, Heritiera longipetiolata, Tuberolabium guamense,* and *Tabernaemontana rotensis,* encompass the entire area as overlapping units that total 1,245 ac (504 ha) each. Landownership within the large 10-unit area consists of 1,081 ac (437 ha) of land owned by the Territory of Guam, 108 ac (44 ha) of private land, and 56 ac (23 ha) that are uncategorized. The 11th unit totals 162 ac (65 ha) for *Eugenia bryanii* and partially overlaps the larger area comprising the other 10 overlapping units. Landownership within the overlapping smaller unit consists of 159 ac (64 ha) of land owned by the Territory of Guam and 3 ac (1 ha) that are uncategorized. General land use for Area 16 is urban and agricultural development, including associated access roads and utilities.

Each of the units contain one or more of the PBFs essential to the conservation of each species. Area 16 includes limestone plateaus in the north with a few low hills, two of which are volcanic and the others limestone. The south consists of volcanic soils and extensive stream and drainage systems (Harrington et. al. 2020, p. 7). Area 16 contains limestone substrate and cliffs and surrounding native limestone, secondary (mixed native and nonnative species, dominated by nonnative species but may include components of other forest types (Willsey et al. 2019, pp. 5–6)) and coastal strand forests (flowering plants, creeping vines, and salt-tolerant grasses (Plentovich et al. 2020, p. 186; Falanruw et al. 1989, p. 10)). Boundaries for the units were delineated to include limestone, secondary, and coastal strand forests in

this area because they contain the PBFs identified for the 11 species.

Threats to PBFs within Area 16 include habitat loss or modification caused by urban and agricultural development, wildfires, typhoons, and climate change. Military training that occurs in the vicinity of Area 16 can also adversely affect the species and its habitat; however, these activities are confined to DoD lands, which are exempt under section 4(a)(3) of the Act (see Exemptions, below). Habitat modification from invasive plants and nonnative animals (*e.g.,* ungulates, brown tree snakes, and rodents) also threaten the forest landscape on Guam, as these species are known to alter and degrade native habitats by trampling, creating trails that damage vegetative cover or destabilize substrates causing erosion, and through the extirpation (via brown tree snake) of a large percentage of bird and small animal species that disperse seeds and pollinate native plants on Guam. Special management considerations or protection measures to reduce or alleviate the threats may include conducting habitat restoration; developing and implementing biosecurity plans and measures to prevent the spread of habitat-altering invasive plants and animals; conducting wildfire risk management to avoid loss of suitable habitat; and removing invasive species, including plants, invertebrates, rodents, and ungulates (see Special Management Considerations or Protection, above). Approximately 2 ac (1 ha) is managed by the Guam Department of Agriculture as the Tumon Bay Marine Preserve established by Guam Public Law 24–21 (Territory of Guam 1997, pp. 10–13), although no management plan exists for this preserve.

Area 17: Anao, Guam

Species: Fragile tree snail, Guam tree snail, humped tree snail, Mariana eight-spot butterfly, *Bulbophyllum guamense, Cycas micronesica, Dendrobium guamense, Eugenia bryanii, Heritiera longipetiolata, Psychotria malaspinae, Tabernaemontana rotensis,* and *Tuberolabium guamense*

Units:

Fragile Tree Snail–1, *Guam*
Guam Tree Snail–1, Guam
Humped Tree Snail–1, Guam
Mariana Eight-spot Butterfly–1, Guam
Guam 1–*Bulbophyllum guamense*–a
Guam 1–*Cycas micronesica*–a
Guam 1–*Dendrobium guamense*–a
Guam 1–*Eugenia bryanii*–a
Guam 1–*Heritiera longipetiolata*–a
Guam 3–*Psychotria malaspinae*–a
Guam 1–*Tabernaemontana rotensis*–a
Guam 1–*Tuberolabium guamense*–a

Area 17 consists of 12 overlapping occupied units totaling 2,166 ac (877 ha) in the northeastern part of the Territory of Guam, including the Anao Nature Preserve and the Gayinero area along Route 15 in the village of Yigo. This area includes three different sizes of overlapping units for a total of 12 species, presented as follows in decreasing size. First, six of the species, including the fragile tree snail, Guam tree snail, humped tree snail, Mariana eight-spot butterfly, *Bulbophyllum guamense,* and *Cycas micronesica,* encompass the entire area as overlapping units that total 2,166 ac (877 ha) each. Landownership within the large 6-unit area consists of 1,549 ac (627 ha) of land owned by the Territory of Guam, 270 ac (109 ha) of private land, and 347 ac (141 ha) that are uncategorized. Second, five species, including *Dendrobium guamense, Eugenia bryanii, Heritiera longipetiolata, Tabernaemontana rotensis,* and *Tuberolabium guamense,* encompass a slightly smaller overlapping area of five units that total 1,986 ac (804 ha) each. Landownership within the 5-unit area consists of 1,488 ac (602 ha) of land owned by the Territory of Guam, 198 ac (80 ha) of private land, and 300 ac (122 ha) that are uncategorized. Third, one species, *Psychotria malaspinae,* occurs within a single partially overlapping unit that totals 711 ac (288 ha). Landownership within this single unit consists of 468 ac (189 ha) of land owned by the Territory of Guam, 79 ac (32 ha) of private land, and 164 ac (67 ha) that are uncategorized. General land use for Area 17 includes conservation and outdoor recreation (*e.g.,* hunting, hiking, and fishing), as well as urban and agricultural development, including associated access roads and utilities.

Each of the units contains one or more of the PBFs essential to the conservation of each species. Area 17 includes limestone substrate and cliffs, and surrounding native limestone, secondary, and coastal strand forests. Secondary forests comprise a mixture of native and nonnative species that are generally dominated by nonnative species but may include components of other forest types (Willsey et al. 2019, p. 10). Coastal strand forests include flowering plants, creeping vines, and salt-tolerant grasses (Plentovich et al. 2020, p. 186; Falanruw et al. 1989, p. 10). Boundaries for the units were delineated to include these substrates and forests because they contain the PBFs identified for the species.

Threats to PBFs within Area 17 include habitat loss or modification caused by urban and agricultural development, wildfires, typhoons, and climate change. Military training that occurs in the vicinity of Area 17 can also adversely affect the species and its habitat; however, these activities are confined to DoD lands, which are exempt under section 4(a)(3) of the Act (see Exemptions, below). Habitat modification from invasive plants and nonnative animals (*e.g.,* ungulates, brown tree snakes, and rodents) also threaten the forest landscape on Guam, as these species are known to alter and degrade native habitats by trampling, creating trails that damage vegetative cover or destabilize substrates causing erosion, and through the extirpation (via brown tree snake) of a large percentage of bird and small animal species that disperse seeds and pollinate native plants on Guam. Special management considerations or protection measures to reduce or alleviate the threats may include conducting habitat restoration; developing and implementing biosecurity plans and measures to prevent the spread of habitat-altering invasive plants and animals; conducting wildfire risk management to avoid loss of suitable habitat; and removing invasive species, including plants, rodents, invertebrates, and ungulates (see Special Management Considerations or Protection, above). Approximately 452 ac (183 ha) of Area 17 overlap the Anao Nature Preserve (created by the Territory of Guam, Executive Order No. 87–36 (Territory of Guam 1987, entire)), although no management plan exists for this preserve.

Area 18: Tre Vista, Guam

Species: Fragile tree snail and Guam tree snail

Units:

Fragile Tree Snail–1, Guam
Guam Tree Snail–1, Guam

Area 18 consists of two occupied units that completely overlap and total 445 ac (180 ha) in the northeastern part of the Territory of Guam, east of Route 1 in the village of Yigo. Landownership within this area consists of 361 ac (146 ha) of private land and 84 ac (34 ha) that are uncategorized. General land use for Area 18 is urban and agricultural development, including associated access roads and utilities.

The two units contain one or more of the PBFs essential to the conservation of each species. The units include limestone substrate and surrounding native limestone and secondary forests. The secondary forests comprise a mixture of native and nonnative species

that are generally dominated by nonnative species but may include components of other forest types (Willsey et al. 2019, p. 10). Boundaries for the unit were delineated to include limestone and secondary forests in this area because they contain the PBFs identified for the species.

Threats to PBFs within Area 18 include habitat loss or modification caused by urban and agricultural development, wildfires, typhoons, and climate change. Military training that occurs in the vicinity of Area 18 can also adversely affect the species and its habitat; however, these activities are confined to DoD lands, which are exempt under section 4(a)(3) of the Act (see Exemptions, below). Habitat modification from invasive plants and nonnative animals (*e.g.,* ungulates, brown tree snakes, and rodents) also threaten the forest landscape on Guam, as these species are known to alter and degrade native habitats by trampling, creating trails that damage vegetative cover or destabilize substrates causing erosion, and through the extirpation (via brown tree snake) of a large percentage of bird and small animal species that disperse seeds and pollinate native plants on Guam. Special management considerations or protection measures to reduce or alleviate the threats may include conducting habitat restoration or management; developing and implementing biosecurity plans and measures to prevent the spread of habitat-altering invasive plants and animals; conducting wildfire risk management to avoid loss of suitable habitat; and removing invasive species including plants, invertebrates, rodents, and ungulates (see Special Management Considerations or Protection, above).

Area 19: Yigo, Guam

Species: Guam tree snail
Unit: Guam Tree Snail–1, Guam

Area 19 consists of 147 ac (59 ha) (a single occupied unit) in the northeastern part of the Territory of Guam, along the east side of Route 1 in the village of Yigo. Landownership within the area consists of 110 ac (44 ha) of private land and 37 ac (15 ha) that are uncategorized. General land use for Area 19 is urban and agricultural development, including associated access roads and utilities.

Area 19 contains one or more of the PBFs essential to the conservation of the species. The unit includes secondary forests and a limestone substrate with intrusions of exposed volcanic ridges and slopes (Harrington et al. 2020, p. 7). Boundaries for the unit were delineated to include limestone and secondary forests in this area because they contain the PBFs identified for the species.

Threats to PBFs within Area 19 include habitat loss or modification caused by urban and agricultural development, wildfires, typhoons, and climate change. Military training that occurs in the vicinity of Area 19 can also adversely affect the species and its habitat; however, these activities are confined to DoD lands, which are exempt under section 4(a)(3) of the Act (see Exemptions, below). Habitat modification from invasive plants and animals (*e.g.,* feral ungulates and rodents) also threatens the forests on Guam, as these species are known to alter native habitats by trampling seedlings and reducing native plant reproduction and vigor by eating fruits, seeds, flowers, stems, roots, and other plant parts. Special management considerations or protection measures to reduce or alleviate the threats may include conducting habitat restoration; developing and implementing biosecurity plans and measures to prevent the spread of habitat-altering invasive plants and animals; conducting wildfire risk management to avoid loss of suitable habitat; and removing invasive species, including plants, rodents, and ungulates (see Special Management Considerations or Protection, above).

Area 20: Barrigada, Guam

Species: Guam tree snail and *Bulbophyllum guamense*
Units:
Guam Tree Snail–1, Guam
Guam 4–*Bulbophyllum guamense*–d

Area 20 consists of two occupied units that partially overlap, including 99 ac (40 ha) for the Guam tree snail and 267 ac (108 ha) for *Bulbophyllum guamense,* in the central part of the Territory of Guam, along the east side of Route 16 in the village of Barrigada. Landownership within the Guam tree snail unit consists of 44 ac (18 ha) of private land and 55 ac (22 ha) that are uncategorized. Landownership within the *Bulbophyllum guamense* unit consists of 171 ac (69 ha) of private land and 96 ac (39 ha) that are uncategorized. General land use for Area 20 is urban and agricultural development, including associated access roads and utilities.

Each of the units contain one or more of the PBFs essential to the conservation of each species. Area 20 includes limestone and volcanic substrates and surrounding native limestone and secondary forests, which were used to delineate the boundaries of these units because these areas contain the PBFs for each species.

Threats to PBFs within Area 20 include habitat loss or modification caused by urban and agricultural development, wildfires, typhoons, and climate change. Military training that occurs in the vicinity of Area 20 can also adversely affect the species and its habitat; however, these activities are confined to DoD lands, which are exempt under section 4(a)(3) of the Act (see Exemptions, below). Habitat modification from invasive plants and nonnative animals (*e.g.,* ungulates, brown tree snakes, and rodents) also threaten the forest landscape on Guam, as these species alter and degrade native habitats by trampling, creating trails that damage vegetative cover or destabilize substrates causing erosion, and through the extirpation (via brown tree snake) of a large percentage of bird and small animal species that disperse seeds and pollinate native plants. Special management considerations or protection measures to reduce or alleviate the threats may include conducting habitat restoration; developing and implementing biosecurity plans and measures to prevent the spread of habitat-altering invasive plants and animals; conducting wildfire risk management to avoid loss of suitable habitat; and removing invasive species, including plants, invertebrates, rodents, and ungulates (see Special Management Considerations or Protection, above).

Area 21: Taguan, Guam

Species: Mariana eight-spot butterfly
Unit: Mariana Eight-spot Butterfly–4, Guam

Area 21 consists of 242 ac (98 ha) (a single occupied unit) in the eastern part of the Territory of Guam, along the east side of Route 15 in the village of Mangilao. Landownership within the area consists of 133 ac (54 ha) of private land and 109 ac (44 ha) that are uncategorized. General land use for Area 21 is urban and agricultural development, including associated access roads and utilities.

Area 21 contains one or more of the PBFs essential to the conservation of the species. The unit includes limestone substrate and surrounding native limestone, secondary, and coastal strand forests. Boundaries for this unit were delineated to include these substrates and forest types, including the butterfly's larval host plant, because these areas contain the PBFs identified for the species.

Threats to the PBFs within Area 21 include habitat loss or modification from urban and agricultural development, wildfires, typhoons, and

climate change. Military training that occurs in the vicinity of Area 21 can also adversely affect the species and its habitat; however, these activities are confined to DoD lands, which are exempt under section 4(a)(3) of the Act (see Exemptions, below). Habitat modification from invasive plants and nonnative animals (*e.g.,* ungulates, brown tree snakes, and rodents) also threaten the forest landscape on Guam, as these species are known to alter and degrade native habitats by trampling, creating trails that damage vegetative cover or destabilize substrates causing erosion, and through the extirpation (via brown tree snake) of a large percentage of bird and small animal species that disperse seeds and pollinate native plants on Guam. Special management considerations or protection measures to reduce or alleviate the threats may include conducting habitat restoration; developing and implementing biosecurity plans and measures to prevent the spread of habitat-altering invasive plants and animals; conducting wildfire risk management to avoid loss of suitable habitat; and removing invasive species, including plants, invertebrates, rodents, and ungulates (see Special Management Considerations or Protection, above).

Area 22: Anigua Cliffline, Guam

Species: Tinospora homosepala Unit: Guam 5–*Tinospora homosepala*–a

Area 22 consists of 11 ac (5 ha) (a single occupied unit) in the central west part of the Territory of Guam, in the cliffline along West O'Brien Drive in the village of Hagåtña. Landownership within the entire area is uncategorized. General land use for Area 22 is urban and agricultural development, including associated access roads.

Area 22 contains one or more of the PBFs essential to the conservation of the species. The unit includes limestone, volcanic, or coastal strand substrates, cliffs, and surrounding secondary limestone forests. Boundaries for the unit were delineated to include these substrate types and forest in this area because they contain the PBFs identified for the species.

Threats to PBFs within Area 22 include habitat loss or modification caused by urban and agricultural development, wildfires, typhoons, and climate change. Military training that occurs in the vicinity of Area 22 can also adversely affect the species and its habitat; however, these activities are confined to DoD lands, which are exempt under section 4(a)(3) of the Act (see Exemptions, below). Habitat modification from invasive plants and nonnative animals (*e.g.,* ungulates, brown tree snakes, invertebrates, and rodents) also threaten the forest landscape on Guam, as these species are known to alter and degrade native habitats by trampling, creating trails that damage vegetative cover or destabilize substrates causing erosion, and through the extirpation (via brown tree snake) of a large percentage of bird and small animal species that disperse seeds and pollinate native plants on Guam. Special management considerations or protection measures to reduce or alleviate the threats may include conducting habitat restoration; developing and implementing biosecurity plans and measures to prevent the spread of habitat-altering invasive plants and animals; conducting wildfire risk management to avoid loss of suitable habitat; and removing invasive species, including plants, rodents, and ungulates (see Special Management Considerations or Protection, above).

Area 23: Asan Ridge, Guam

Species: Tinospora homosepala Unit: Guam 6–*Tinospora homosepala*–b

Area 23 consists of 12 ac (5 ha) (a single occupied unit) along the western coast in the central part of the Territory of Guam, on the north side of Route 1 in the village of Asan. Landownership within the area consists of 11 ac (4 ha) of Federal lands (War in the Pacific National Historical Park (NHP)), and 1 ac (1 ha) that are uncategorized. General land for Area 23 is conservation as well as recreation (*e.g.,* hiking, historic education).

Area 23 contains one or more of the PBFs essential to the conservation of the species. The unit includes limestone, volcanic, or coastal strand substrates, cliffs, and surrounding secondary limestone forests. Boundaries for the unit were delineated to include these substrate types and forest in this area because they contain the PBFs identified for the species.

Threats to PBFs within Area 23 include habitat loss or modification caused by urban and agricultural development, wildfires, typhoons, and climate change. Military training that occurs in the vicinity of Area 23 can also adversely affect the species and its habitat; however, these activities are confined to DoD lands, which are exempt under section 4(a)(3) of the Act (see Exemptions, below). Habitat modification from invasive plants and nonnative animals (*e.g.,* ungulates, brown tree snakes, and rodents) also threaten the forest landscape on Guam, as these species are known to alter and degrade native habitats by trampling, creating trails that damage vegetative cover or destabilize substrates causing erosion, and through the extirpation (via brown tree snake) of a large percentage of bird and small animal species that disperse seeds and pollinate native plants on Guam. Special management considerations or protection measures to reduce or alleviate the threats may include conducting habitat restoration; developing and implementing biosecurity plans and measures to prevent the spread of habitat-altering invasive plants and animals; conducting wildfire risk management to avoid loss of suitable habitat; and removing invasive species, including plants, invertebrates, rodents, and ungulates (see Special Management Considerations or Protection, above). Federal lands in this unit are managed under the War in the Pacific NHP's General Management Plan and Asan and Agat Units Management Plan (NPS 1983, entire; NPS 2024b, entire).

Area 24: Asan Hillside, Guam

Species: Tinospora homosepala Unit: Guam 7–*Tinospora homosepala*–c

Area 24 consists of 124 acres (50 ha) (a single occupied unit) in the central west part of the Territory of Guam, on the hillside south of Route 1 in the village of Asan. Landownership within the area consists of 102 ac (41 ha) of Federal lands (War in the Pacific NHP), 11 ac (4 ha) of private land, and 11 ac (5 ha) that are uncategorized. General land use for Area 24 is conservation and recreation (*e.g.,* hiking and historic education).

Area 24 contains one or more of the PBFs essential to the conservation of the species. The unit includes limestone substrates, cliffs, and surrounding secondary limestone forests that comprise a mixture of native and nonnative species. Generally, they are dominated by nonnative species but may include components of other forest types (Willsey et al. 2019, p. 10). Boundaries for the unit were delineated to include this substrate and secondary limestone forest in this area because they contain the PBFs identified for the species.

Threats to the PBFs within Area 24 include habitat loss or modification caused by urban and agricultural development, wildfires, typhoons, and climate change. Military training that occurs in the vicinity of Area 24 can also adversely affect the species and its habitat; however, these activities are confined to DoD lands, which are exempt under section 4(a)(3) of the Act (see Exemptions, below). Habitat modification from invasive plants and nonnative animals (*e.g.,* ungulates, brown tree snakes, and rodents) also

threaten the forest landscape on Guam, as these species are known to alter and degrade native habitats by trampling, creating trails that damage vegetative cover or destabilize substrates causing erosion, and through the extirpation (via brown tree snake) of a large percentage of bird and small animal species that disperse seeds and pollinate native plants on Guam. Special management considerations or protection measures to reduce or alleviate the threats may include conducting habitat restoration; developing and implementing biosecurity plans and measures to prevent the spread of habitat-altering invasive plants and animals; conducting wildfire risk management to avoid loss of suitable habitat; and removing invasive species, including plants, invertebrates, rodents, and ungulates (see Special Management Considerations or Protection, above). Federal lands in this unit are managed under the War in the Pacific NHP's General Management Plan and Asan and Agat Units Management Plan (NPS 1983, entire; NPS 2024b, entire).

Area 25: Nimitz Hill Savanna, Guam

Species: Phyllanthus saffordii
Unit: Guam 8–*Phyllanthus saffordii*–a

Area 25 consists of 236 ac (95 ha) (a single occupied unit) in the southern part of the Territory of Guam, north of Route 6 in Nimitz Hill in the village of Piti. Landownership within the area consists of 169 ac (68 ha) of Federal lands (War in the Pacific NHP), 55 ac (22 ha) of private land, and 12 ac (5 ha) that are uncategorized. General land use for Area 25 is tourism and recreation (*e.g.,* hiking) as well as urban and agricultural development, including associated access roads and utilities.

Area 25 contains one or more of the PBFs essential to the conservation of the species. The unit includes volcanic substrate and associated native plant savanna communities. Boundaries for this unit were delineated to include all volcanic substrates that support savanna plants in the area because they contain the PBFs identified for the species.

Threats to the PBFs within Area 25 include habitat loss or modification of habitat from urban and agricultural development, wildfires, typhoons, recreational off-road vehicles, and climate change. Military training that occurs in the vicinity of Area 25 can also adversely affect the species and its habitat; however, these activities are confined to DoD lands, which are exempt under section 4(a)(3) of the Act (see Exemptions, below). Habitat modification from invasive plants and nonnative animals (*e.g.,* feral ungulates, brown tree snakes, and rodents) also threaten the savanna landscape on Guam, as these species are known to alter and degrade native habitats by trampling, creating trails that damage vegetative cover or destabilize substrates causing erosion, and through the extirpation (via brown tree snake) of a large percentage of bird and small animal species that disperse seeds and pollinate native plants on Guam. Special management considerations or protection measures to reduce or alleviate the threats may include habitat restoration; developing and implementing biosecurity plans and measures to prevent the spread of habitat-altering invasive plants and animals; conducting wildfire management to avoid loss of suitable habitat; and removing invasive species, including plants, invertebrates, brown tree snakes, rodents, and ungulates (see Special Management Considerations or Protection, above). Federal lands in this unit are managed under the War in the Pacific NHP's General Management Plan and Asan and Agat Units Management Plan (NPS 1983, entire; NPS 2024b, entire).

Area 26: Piti Savanna, Guam

Species: Phyllanthus saffordii
Unit: Guam 9–*Phyllanthus saffordii*–b

Area 26 consists of 82 ac (33 ha) (a single occupied unit) in the central western part of the Territory of Guam, north of Route 6 in the village of Piti. Landownership within the area consists of 2 ac (1 ha) of Federal lands (War in the Pacific NHP), 18 ac (7 ha) of private land, and 62 ac (25 ha) that are uncategorized. General land use for Area 26 is recreation (*e.g.,* hiking) as well as urban and agricultural development, including associated access roads and utilities.

Area 26 contains one or more of the PBFs essential to the conservation of the species. The unit includes volcanic substrate and associated native plant savanna communities. Boundaries for this unit were delineated to include all volcanic substrates that support savanna plants in the area because they contain the PBFs identified for the species.

Threats to the PBFs within Area 26 include habitat loss or modification caused by urban and agricultural development, wildfires, typhoons, recreational off-road vehicles, and climate change. Military training that occurs in the vicinity of Area 26 can also adversely affect the species and its habitat; however, these activities are confined to DoD lands, which are exempt under section 4(a)(3) of the Act (see Exemptions, below). Habitat modification from invasive plants and nonnative animals (*e.g.,* ungulates, brown tree snakes, and rodents) also threaten the savanna landscape on Guam, as these species are known to alter and degrade native habitats by trampling, creating trails that damage vegetative cover or destabilize substrates causing erosion, and through the extirpation (via brown tree snake) of a large percentage of bird and small animal species that disperse seeds and pollinate native plants on Guam. Special management considerations or protection measures to reduce or alleviate the threats may include restoration or habitat management; developing and implementing biosecurity plans and measures to prevent the spread of habitat-altering invasive plants and animals; conducting wildfire risk management to avoid loss of suitable habitat; and removing invasive species, including plants, invertebrates, brown tree snakes, rodents, and ungulates (see Special Management Considerations or Protection, above). Federal lands in this unit are managed under the War in the Pacific NHP's General Management Plan (NPS 1983, entire).

Area 27: Sasa Valley, Guam

Species: Tinospora homosepala
Unit: Guam 10–*Tinospora homosepala*–d

Area 27 consists of 2 ac (1 ha) (a single occupied unit) in the central west part of the Territory of Guam, on the eastern side of Route 1 in the village of Piti. All lands are uncategorized.

Area 27 contains one or more of the PBFs essential to the conservation of the species. Boundaries for this unit were delineated to include limestone substrate and surrounding limestone and secondary forests because they contain the PBFs identified for the species.

Threats to PBFs within Area 27 include habitat loss or modification caused by wildfires, typhoons, and climate change. Habitat modification from invasive plants and nonnative animals (*e.g.,* ungulates, brown tree snakes, and rodents) also threaten the forest landscape on Guam, as these species are known to alter and degrade native habitats by trampling, creating trails that damage vegetative cover or destabilize substrates causing erosion, and through the extirpation (via brown tree snake) of a large percentage of bird and small animal species that disperse seeds and pollinate native plants on Guam. Special management considerations or protection measures to reduce or alleviate the threats may include conducting habitat restoration; developing and implementing biosecurity plans and measures to

prevent the spread of habitat-altering invasive plants and animals; conducting wildfire risk management to avoid loss of suitable habitat; and removing invasive species, including plants, invertebrates, rodents, and ungulates (see Special Management Considerations or Protection, above).

Area 28: Central Guam

Species: Fragile tree snail and Guam tree snail
Units:
Fragile Tree Snail–7, Guam
Guam Tree Snail–5, Guam

Area 28 consists of two occupied units that completely overlap and total 4,313 ac (1,745 ha) in the central part of the Territory of Guam, within the villages of Asan, Yoña, and Ordot-Chalan Pago. Landownership within the area consists of 210 ac (85 ha) of Federal lands (War in the Pacific NHP–Asan Inland Unit and Fonte Plateau Unit), 1,954 ac (791 ha) of private land, and 2,149 ac (869 ha) that are uncategorized. General land use for Area 28 includes recreation (*e.g.,* hiking), as well as urban and agricultural development, including associated access roads and utilities.

The two overlapping units contain one or more of the PBFs essential to the conservation of each species. Area 28 includes limestone substrate and surrounding native limestone and secondary forests. Secondary forests comprise a mixture of native and nonnative species that are generally dominated by nonnative species but may include components of other forest types (Willsey et al. 2019, pp. 10–12). Boundaries for the unit were delineated to include all contiguous limestone and secondary forests in this area because they contain the PBFs identified for the species.

Threats to the PBFs within Area 28 include habitat loss or modification caused by urban and agricultural development, wildfires, typhoons, and climate change. Military training can also adversely affect the species and its habitat that occur in the vicinity of Area 28; however, these activities are confined to DoD lands, which are exempt under section 4(a)(3) of the Act (see Exemptions, below). Habitat modification from invasive plants and nonnative animals (*e.g.,* ungulates, brown tree snakes, and rodents) also threaten the forest landscape on Guam, as these species are known to alter and degrade native habitats by trampling, creating trails that damage vegetative cover or destabilize substrates causing erosion, and through the extirpation (via brown tree snake) of a large percentage of bird and small animal species that disperse seeds and pollinate native plants on Guam. Special management considerations or protection measures to reduce or alleviate the threats may include conducting habitat restoration; developing and implementing biosecurity plans and measures to prevent the spread of habitat-altering invasive plants and animals; conducting wildfire risk management to avoid loss of suitable habitat; and removing invasive species, including plants, invertebrates, rodents, and ungulates (see Special Management Considerations or Protection, above). Federal lands in this unit are managed under the War in the Pacific NHP's General Management Plan and Asan and Agat Units Management Plan (NPS 1983, entire; NPS 2024b, entire).

Area 29: Fadi'an, Guam

Species: Guam tree snail
Unit:
Guam Tree Snail–8, Guam

Area 29 consists of 61 ac (25 ha) (a single occupied unit) in the eastern part of the Territory of Guam, south of Route 15 in the village of Mangilao. All lands are under private ownership. General land use for Area 29 is urban and agricultural development, including associated access roads and utilities.

Area 29 contains one or more of the PBFs essential to the conservation of the species. The unit includes both limestone and secondary forests with a limestone substrate (Harrington et al. 2020, p. 7). Boundaries for the unit were delineated to include limestone and secondary forests in this area because they contain the PBFs identified for the species.

Threats to the PBFs within Area 29 include habitat loss or modification caused by urban and agricultural development, wildfires, typhoons, and climate change. Military training that occurs in the vicinity of Area 29 can also adversely affect the species and its habitat; however, these activities are confined to DoD lands, which are exempt under section 4(a)(3) of the Act (see Exemptions, below). Habitat modification from invasive plants and nonnative animals (*e.g.,* ungulates, brown tree snakes, and rodents) also threaten the forest landscape on Guam, as these species are known to alter and degrade native habitats by trampling, creating trails that damage vegetative cover or destabilize substrates causing erosion, and through the extirpation (via brown tree snake) of a large percentage of bird and small animal species that disperse seeds and pollinate native plants on Guam. Special management considerations or protection measures to reduce or alleviate the threats may include conducting habitat restoration; developing and implementing biosecurity plans and measures to prevent the spread of habitat-altering invasive plants and animals; conducting wildfire risk management to avoid loss of suitable habitat; and removing invasive species, including plants, invertebrates, rodents, and ungulates (see Special Management Considerations or Protection, above).

Area 30: Piti, Guam

Species: Fragile tree snail and Guam tree snail
Units: Fragile Tree Snail–6, Guam
Guam Tree Snail–8, Guam

Area 30 consists of two occupied units that completely overlap and total 1,965 ac (795 ha) in the central western coast of the Territory of Guam along the eastern side of Route 1 in the village of Piti, which is located along the coastline between the villages of Asan-Maina in the north and Sånta Rita-Sumai in the south. Landownership within the area consists of 102 ac (41 ha) of Federal lands (War in the Pacific NHP), 756 ac (306 ha) of private land, and 1,107 ac (448 ha) that are uncategorized. General land use for Area 30 includes conservation as well as urban and agricultural development, including associated access roads and utilities.

The two overlapping units contain one or more of the PBFs essential to the conservation of each species. Boundaries for these overlapping units were delineated to include all volcanic and secondary forests in the area because they contain the PBFs identified for the two species.

Threats to PBFs within Area 30 include habitat loss or modification from urban and agricultural development, wildfires, typhoons, and climate change. Military training that occurs in the vicinity of Area 30 can also adversely affect the species and its habitat; however, these activities are confined to DoD lands, which are exempt under section 4(a)(3) of the Act (see Exemptions, below). Habitat modification from invasive plants and animals (*e.g.,* feral ungulates and rats) also threaten the forests on Guam, as these species are known to alter native habitats by damaging seedlings or reducing native plant reproduction and vigor by eating fruits, seeds, flowers, stems, roots, and other plant parts (Service 2023a, pp. 17–18). Special management considerations or protection measures to reduce or alleviate the threats may include surveys and inventories to inform invasive species removal; conducting habitat restoration; conducting wildfire risk management to avoid loss of suitable habitat; and invasive species

control, including eradicating little fire ants (see Special Management Considerations or Protection, above). Federal lands in these units are managed under the War in the Pacific NHP's General Management Plan and Asan and Agat Units Management Plan (NPS 1983, entire; NPS 2024b, entire). Additionally, 134 ac (54 ha) are managed by the Guam Department of Agriculture as the Sasa Bay Marine Preserve established by Guam Public Law 24–21 (Territory of Guam 1997, pp. 10–13), although no management plan exists for the preserve.

Area 31: Yoña, Guam

Species: *Bulbophyllum guamense, Hedyotis megalantha,* and *Phyllanthus saffordii*
Units:
Guam 11–*Bulbophyllum guamense*–e
Guam 11–*Hedyotis megalantha*–a
Guam 11–*Phyllanthus saffordii*–c

Area 31 consists of three occupied units encompassing a total of 5,938 ac (2,403 ha) in the southcentral part of the Territory of Guam, with parts of the units located within the villages of Yoña, Asan, Piti, Sånta Rita-Sumai, and Ordot-Chalan Pago. Two of the species, *Hedyotis megalantha* and *Phyllanthus saffordii,* encompass two overlapping units that total 5,024 ac (2,033 ha) each. Landownership within the large 2-unit area consists of 45 ac (18 ha) of Federal lands (War in the Pacific NHP), 3,031 (1,227 ha) of private land, and 1,948 ac (788 ha) that are uncategorized. The third unit totals 914 ac (370 ha) for *Bulbophyllum guamense.* Landownership within the third, smaller unit consists of 324 ac (131 ha) of private land and 590 ac (239 ha) that are uncategorized. General land use for Area 31 includes tourism/recreation (*e.g.,* hiking) as well as urban and agricultural development, including associated access roads and utilities.

Each of the units contain one or more of the PBFs essential to the conservation of each species. Area 31 contains volcanic or limestone substrates, and surrounding native limestone and secondary forests, or native savanna plant communities. Boundaries of the units were delineated to include these substrates and forests because they contain the PBFs identified for these species.

Threats to the PBFs within Area 31 include habitat loss or modification caused by urban and agricultural development, wildfires, typhoons, recreational off-road vehicles, and climate change. Military training that occurs in the vicinity of Area 31 can also adversely affect the species and its habitat; however, these activities are confined to DoD lands, which are exempt under section 4(a)(3) of the Act (see Exemptions, below). Habitat modification from invasive plants and nonnative animals (*e.g.,* ungulates, brown tree snakes, and rodents) also threaten the forest and savanna landscapes on Guam, as these species are known to alter and degrade native habitats by trampling, creating trails that damage vegetative cover or destabilize substrates causing erosion, and through the extirpation (via brown tree snake) of a large percentage of bird and small animal species that disperse seeds and pollinate native plants on Guam. Special management considerations or protection measures to reduce or alleviate the threats may include conducting habitat restoration; developing and implementing biosecurity plans and measures to prevent the spread of habitat-altering invasive plants and animals; conducting wildfire risk management to avoid loss of suitable habitat; and removing invasive species, including plants, invertebrates, rodents, and ungulates (see Special Management Considerations or Protection, above). Federal lands in these units are managed under the War in the Pacific NHP's General Management Plan (NPS 1983, entire). Additionally, 1 ac (less than 1 ha) of the *Hedyotis megalantha* and *Phyllanthus saffordii* units are managed by the Guam Department of Agriculture as part of the Cotal Conservation Area and owned by the Government of Guam (GDAWR 2019, p. 46), although no management plan exists for the conservation area.

Area 32: Mangilao, Guam

Species: Eugenia bryanii and *Heritiera longipetiolata*
Units:
Guam 12–*Eugenia bryanii*–d
Guam 12–*Heritiera longipetiolata*–d

Area 32 consists of two occupied units that completely overlap and total 195 ac (79 ha) in the central eastern part of the Territory of Guam in the village of Mangilao. Landownership within the area consists of 190 ac (77 ha) of private land and 5 ac (2 ha) that are uncategorized. General land use for Area 32 is urban and agricultural development, including associated access roads and utilities.

The two overlapping units contain one or more of the PBFs essential to the conservation of each species. Boundaries for these overlapping units were delineated to include limestone substrate and surrounding native limestone and secondary forests because they contain the PBFs identified for the two species.

Threats to the PBFs within Area 32 include habitat loss or modification from urban and agricultural development, wildfires, typhoons, and climate change. Military training that occurs in the vicinity of Area 32 can also adversely affect the species and its habitat; however, these activities are confined to DoD lands, which are exempt under section 4(a)(3) of the Act (see Exemptions, below). Habitat modification from invasive plants and nonnative animals (*e.g.,* ungulates, brown tree snakes, and rodents) also threaten the forest landscape on Guam, as these species are known to alter and degrade native habitats by trampling, creating trails that damage vegetative cover or destabilize substrates causing erosion, and through the extirpation (via brown tree snake) of a large percentage of bird and small animal species that disperse seeds and pollinate native plants on Guam. Special management considerations or protection measures to reduce or alleviate the threats may include conducting habitat restoration; developing and implementing biosecurity plans and measures to prevent the spread of habitat-altering invasive plants and animals; conducting wildfire risk management to avoid loss of suitable habitat, and removing invasive species, including plants, invertebrates, rodents, and ungulates (see Special Management Considerations or Protection, above).

Area 33: Ylig, Guam

Species: Fragile tree snail and Guam tree snail
Units:
Fragile Tree Snail–7, Guam
Guam Tree Snail–10, Guam

Area 33 consists of two occupied units that completely overlap and total 1,863 ac (754 ha) in southeastern Guam, along Route 4 in the village of Yoña; Ylig is on GU–17 (highway) and overlaps with a small portion of the southeast corner of Area 33. Landownership within the area consists of 983 ac (398 ha) of private land and 880 ac (356 ha) that are uncategorized. General land use for Area 33 is urban and agricultural development, including associated access roads and utilities.

The two overlapping units contain one or more of the PBFs essential to the conservation of each species. Boundaries for these overlapping units were delineated to include all volcanic and limestone substrates and associated native forests in the area because they contain the PBFs identified for the two species.

Threats to the PBFs within Area 33 include habitat loss or modification from urban and agricultural

development, wildfires, typhoons, and climate change. Guam forest habitats are threatened by severe alterations resulting from invasive plants and animals; invasive plants outcompete native plants and invasive animals reduce native plant reproduction and vigor by eating and trampling them. Special management considerations or protection measures to reduce or alleviate the threats may include surveys and inventories; translocations; conducting habitat restoration; and controlling invasive species, including eradication of little fire ants (see Special Management Considerations or Protection, above).

Area 34: Cross Island, Guam

Species: Bulbophyllum guamense, Cycas micronesica, Dendrobium guamense, Hedyotis megalantha, Heritiera longipetiolata, Phyllanthus saffordii, and *Tuberolabium guamense*

Units:

Guam 13–*Bulbophyllum guamense*–f
Guam 13–*Cycas micronesica*–d
Guam 13–*Dendrobium guamense*–d
Guam 13–*Hedyotis megalantha*–b
Guam 13–*Heritiera longipetiolata*–e
Guam 13–*Phyllanthus saffordii*–d
Guam 13–*Tuberolabium guamense*–d

Area 34 consists of seven occupied units, totaling 2,377 ac (962 ha) in the southern part of the Territory of Guam, along the eastern section of Cross Island Road (Route 17) in the villages of Yoña and Talo'fo'fo. Five of the units completely overlap, each totaling 1,726 ac (698 ha) for *Bulbophyllum guamense, Cycas micronesica, Dendrobium guamense, Heritiera longipetiolata,* and *Tuberolabium guamense.* Landownership within the large 5-unit area consists of 142 ac (57 ha) of land owned by the Territory of Guam, 859 ac (348 ha) of private land, and 725 ac (293 ha) that are uncategorized. The remaining, smaller two units total 652 ac (264 ha) each for *Hedyotis megalantha* and *Phyllanthus saffordii* and completely overlap with each other and partially intersect the larger units/area. These two units include 651 ac (264 ha) of private and 1 ac (less than 1 ha) of uncategorized lands. General land use for Area 34 includes conservation, recreation (*e.g.,* hunting and hiking), and urban and agricultural development, including associated access roads and utilities.

Each of the units contain one or more of the PBFs essential to the conservation of each species. Area 34 includes limestone and volcanic forests and mixed nonnative forest subtypes (Willsey et al. 2019, pp. 5–6) as well as nonnative trees and tall shrubs for the three epiphytic orchids and two forest plants, and volcanic substrate and associated savanna communities for the two savanna plants. Boundaries for these units were delineated to include all limestone and volcanic forests, as well as volcanic substrates for the two savanna plants, because these areas contain the PBFs identified for the species.

Threats to the PBFs within Area 34 include habitat loss or modification from agricultural development, wildfires, typhoons, recreational off-road vehicles, and climate change. Military training that occurs in the vicinity of Area 34 can also adversely affect the species and its habitat; however, these activities are confined to DoD lands, which are exempt under section 4(a)(3) of the Act (see Exemptions, below). Habitat modification from invasive plants and nonnative animals (*e.g.,* feral ungulates, brown tree snakes, rodents, and ants) also threaten the forest and savanna landscapes on Guam, as these species are known to alter and degrade native habitats by trampling seedlings, creating trails that damage vegetative cover or destabilize substrates causing erosion, reducing native plant reproduction and vigor by eating fruits, seeds, flowers, stems, roots, and other plant parts, and through extirpation (via brown tree snake) of a large percentage of bird and small animal species that disperse seeds and pollinate native plants on Guam. Special management considerations or protection measures to reduce or alleviate the threats may include habitat restoration; developing and implementing biosecurity plans and measures to prevent the spread of habitat-altering invasive plants and animals; conducting wildfire risk management to avoid loss of suitable habitat; and removing invasive species, including invertebrates, plants, brown tree snakes, rodents, and ungulates (see Special Management Considerations or Protection, above). The Guam Department of Agriculture manages 73 ac (30 ha) in the larger area/units as part of the Bolanos Conservation Area and 16 ac (6 ha) in the smaller area/units as part of the Cotal Conservation Area, although no management plans exist for either conservation area.

Area 35: Hågat, Guam

Species: Fragile tree snail, Guam tree snail, *Bulbophyllum guamense, Cycas micronesica, Dendrobium guamense, Heritiera longipetiolata, Maesa walkeri, Nervilia jacksoniae, Phyllanthus saffordii, Psychotria malaspinae, Tabernaemontana rotensis,* and *Tuberolabium guamense*

Units:

Fragile Tree Snail–8, Guam
Guam Tree Snail–11, Guam
Guam 14–*Bulbophyllum guamense*–g
Guam 14–*Cycas micronesica*–e
Guam 14–*Dendrobium guamense*–e
Guam 14–*Heritiera longipetiolata*–f
Guam 14–*Maesa walkeri*–a
Guam 14–*Nervilia jacksoniae*–a
Guam 14–*Phyllanthus saffordii*–e
Guam 14–*Psychotria malaspinae*–b
Guam 14–*Tabernaemontana rotensis*–d
Guam 14–*Tuberolabium guamense*–e

Area 35 consists of 12 occupied units, totaling 720 ac (291 ha), in the southern part of the Territory of Guam, east of Route 2 in the village of Hågat. Eleven of the units completely overlap, each totaling 629 ac (254 ha) for *Bulbophyllum guamense, Cycas micronesica, Dendrobium guamense,* fragile tree snail, Guam tree snail, *Heritiera longipetiolata, Maesa walkeri, Nervilia jacksoniae, Psychotria malaspinae, Tabernaemontana rotensis,* and *Tuberolabium guamense.* Landownership in the larger 11-unit area consists of 16 ac (6 ha) of Federal lands (War in the Pacific NHP), 84 ac (34 ha) of land owned by the Territory of Guam, 344 ac (139 ha) of private lands, and 185 ac (75 ha) of uncategorized lands. The smaller *Phyllanthus saffordii* unit totals 91 ac (37 ha), and landownership consists of 73 ac (30 ha) of Federal lands (War in the Pacific NHP), 17 ac (7 ha) of private lands, and 1 ac (less than 1 ha) of uncategorized lands. General land use for Area 35 is recreation, as well as urban and agricultural development, including associated access roads and utilities.

Each of the units contain one or more of the PBFs essential to the conservation of each species. Boundaries for these units were delineated to include habitat in native limestone forests and mixed nonnative forests, as well as volcanic substrate and (for *Phyllanthus saffordii*) associated native plant savanna communities because these areas contain the PBFs identified for the species.

Threats to PBFs within Area 35 include habitat loss or modification caused by urban and agricultural development, wildfires, typhoons, recreational off-road vehicles, and climate change. Military training activities are restricted to DoD lands and are exempt under section 4(a)(3) of the Act (see Exemptions, below). However, when military activities have impacts that extend outside DoD areas, they can adversely affect the species and habitats within or in the vicinity of Area 35.

Military activities that may affect adjacent areas, including Area 35, include habitat modification from invasive plants and nonnative animals (*e.g.,* ungulates, brown tree snakes, and rodents), which also threaten the savanna landscape on Guam. These species are known to alter and degrade native habitats by trampling seeds and plants, creating trails that damage vegetative cover or destabilize substrates causing erosion, and through the extirpation (via brown tree snake) of a large percentage of bird and small animal species that disperse seeds and pollinate native plants on Guam. Special management considerations or protection measures to reduce or alleviate the threats may include habitat restoration; developing and implementing biosecurity plans and measures to prevent the spread of habitat-altering invasive plants and animals; conducting wildfire risk management to avoid loss of suitable habitat; and removing invasive species, including plants, invertebrates, brown tree snakes, rodents, and ungulates (see Special Management Considerations or Protection, above). Federal lands in these units are managed under the War in the Pacific NHP's General Management Plan (NPS 1983, entire). Additionally, the Guam Department of Parks and Recreation (GDPR) manages 285 ac (115 ha) of the larger 11-unit area under the Guam Territorial Seashore Park's Master Plan (GDPR 1979, entire).

Area 36: Talo'fo'fo', Guam

Species: Fragile tree snail and Guam tree snail

Units:

Fragile Tree Snail–9, Guam

Guam Tree Snail–12, Guam

Area 36 consists of two occupied units that completely overlap and total 5,697 ac (2,306 ha) in the southern part of the Territory of Guam, south of Route 4A in the village of Talo'fo'fo'. Landownership within the area consists of 142 ac (57 ha) of land owned by the Territory of Guam, 3,915 ac (1,584 ha) of private land, and 1,640 ac (665 ha) that are uncategorized. General land use of Area 36 is urban and agricultural development, including associated access roads and utilities, as well as hunting and outdoor recreation.

The two overlapping units contain one or more of the PBFs essential to the conservation of each species. Boundaries for these overlapping units were delineated to include all volcanic and limestone substrates and associated native forests in the area because they contain the PBFs identified for the two species.

Threats to PBFs within Area 36 include habitat loss or modification from urban and agricultural development, wildfires, typhoons, and climate change. Military training activities are restricted to DoD lands and are exempt under section 4(a)(3) of the Act (see Exemptions, below). However, when military activities have impacts that extend outside DoD areas they can adversely affect the species and habitats within or in the vicinity of Area 36. Military activities that may affect adjacent areas, including Area 36, include habitat modification from invasive plants and animals (*e.g.,* feral ungulates, brown tree snakes, and rats), which threaten the habitat and forests on Guam. These species are known to alter and degrade native habitats by trampling seeds and plants, creating trails that damage vegetative cover or destabilize substrates causing erosion, and through the extirpation (via brown tree snake) of a large percentage of bird and small animal species that disperse seeds and pollinate native plants on Guam. Special management considerations or protection measures to reduce or alleviate the threats may include habitat restoration; developing and implementing biosecurity plans and measures to prevent the spread of habitat-altering invasive plants and animals; conducting wildfire risk management to avoid loss of suitable habitat; and removing invasive species, including plants, brown tree snakes, rodents, invertebrates, and ungulates (see Special Management Considerations or Protection, above). Approximately 73 ac (30 ha) of these units are managed by the Guam Department of Agriculture as the Bolanos Conservation Area, although no management plan exists for this area.

Area 37: Sella Bay, Guam

Species: Fragile tree snail and Guam tree snail

Units:

Fragile Tree Snail–10, Guam

Guam Tree Snail–13, Guam

Area 37 consists of two occupied units that completely overlap and total 64 ac (26 ha) in the southwest part of the Territory of Guam, west of Route 2 in the village of Humåtak. Landownership within the area consists of 57 ac (23 ha) of private land and 7 ac (3 ha) that are uncategorized. General land use of Area 37 is urban and agricultural development, including associated access roads and utilities, as well as outdoor recreation such as fishing.

The two overlapping units contain one or more of the PBFs essential to the conservation of each species. Boundaries for these overlapping units were delineated to include all volcanic and limestone substrates and associated native forests in the area because they contain the PBFs identified for the two species.

Threats to the PBFs within Area 37 include habitat loss or modification from urban and agricultural development, wildfires, typhoons, and climate change. Military training that occurs in the vicinity of Area 37 can also adversely affect the species and its habitat; however, these activities are confined to DoD lands, which are exempt under section 4(a)(3) of the Act (see Exemptions, below). Guam forest habitats are threatened by severe alterations resulting from invasive plants and animals; invasive plants outcompete native plants and invasive animals reduce native plant reproduction and vigor by eating and trampling them. Special management considerations or protection measures to reduce or alleviate the threats may include conducting habitat restoration; developing and implementing biosecurity plans and measures to prevent the spread of habitat-altering invasive plants and animals; conducting wildfire risk management to avoid loss of suitable habitat; and removing invasive species, including plants, rodents and invertebrates (see Special Management Considerations or Protection, above). The Guam Department of Parks and Recreation manages the entirety of the lands under the Guam Territorial Seashore Park's Master Plan (GDPR 1979, entire).

Area 38: Cetti Bay, Guam

Species: Guam tree snail

Unit: Guam Tree Snail–14, Guam

Area 38 consists of 102 ac (41 ha) (a single occupied unit) on the southwest part of the Territory of Guam, west of Route 2 in the village of Humåtak. Landownership within the area consists of 27 ac (11 ha) of private land and 75 ac (30 ha) that are uncategorized. General land use for Area 38 is conservation and outdoor recreation (*e.g.,* fishing), as well as urban and agricultural development, including associated access roads and utilities.

Area 38 contains one or more of the PBFs essential to the conservation of the species. The unit includes secondary forests and a limestone substrate with intrusions of exposed volcanic ridges and slopes (Harrington et al. 2020, p. 7). Boundaries for the unit were delineated to include a limestone substrate with limestone and secondary forests because they contain the PBFs identified for the species.

Threats to the PBFs within Area 38 include habitat loss or modification caused by urban and agricultural development, wildfires, typhoons, and climate change. Military training that occurs in the vicinity of Area 38 can also adversely affect the species and its habitat; however, these activities are confined to DoD lands, which are exempt under section 4(a)(3) of the Act (see Exemptions, below). Guam forest habitats are threatened by severe alterations resulting from invasive plants and animals; invasive plants outcompete native plants and invasive animals reduce native plant reproduction and vigor by eating and trampling them. Special management considerations or protection measures to reduce or alleviate the threats may include conducting habitat restoration; developing and implementing biosecurity plans and measures to prevent the spread of habitat-altering invasive plants and animals; conducting wildfire risk management to avoid loss of suitable habitat; and removing invasive species, including plants, rodents, and invertebrates (see Special Management Considerations or Protection, above). The Guam Department of Parks and Recreation manages the entirety of the lands under the Guam Territorial Seashore Park's Master Plan (GDPR 1979, entire).

Area 39: Bolanos, Guam

Species: Guam tree snail, *Bulbophyllum guamense, Cycas micronesica, Dendrobium guamense, Eugenia bryanii, Hedyotis megalantha, Phyllanthus saffordii, Tabernaemontana rotensis,* and *Tuberolabium guamense*

Units:

Guam Tree Snail–15, Guam

Guam 15–*Bulbophyllum guamense*–h

Guam 15–*Cycas micronesica*–f

Guam 15–*Dendrobium guamense*–f

Guam 15–*Eugenia bryanii*–e

Guam 15–*Hedyotis megalantha*–c

Guam 15–*Phyllanthus saffordii*–f

Guam 15–*Tabernaemontana rotensis*–e

Guam 15–*Tuberolabium guamense*–f

Area 39 consists of nine occupied units, totaling 10,874 ac (4,400 ha) in the southern part of the Territory of Guam in the villages of Malesso', Humåtak, Talo'fo'fo, and Inalåhan. Four of the units completely overlap, each totaling 6,148 ac (2,488 ha) for *Bulbophyllum guamense, Cycas micronesica, Dendrobium guamense,* and *Tuberolabium guamense.* Landownership within the large 4-unit area consists of 919 ac (372 ha) of land owned by the Territory of Guam, 3,612 ac (1,462 ha) of private land, and 1,617 ac (654 ha) that are uncategorized. A fifth unit partially overlaps the larger 4-unit area totaling 4,726 ac (1,912 ha) for *Phyllanthus saffordii.* Landownership within this fifth unit consists of 550 ac (223 ha) of land owned by the Territory of Guam, 3,532 ac (1,429 ha) of private land, and 644 ac (260 ha) that are uncategorized. A sixth unit partially overlaps the larger units/areas totaling 1,045 ac (423 ha) for *Hedyotis megalantha.* Landownership within the sixth unit consists of 510 ac (206 ha) of land owned by the Territory of Guam, 334 (135 ha) of private land, and 201 ac (82 ha) that are uncategorized. A seventh unit for *Tabernaemontana rotensis* totals 763 ac (309 ha) and overlaps a portion of the larger area/units. Landownership within the seventh unit consists of 181 ac (73 ha) of land owned by the Territory of Guam, 323 ac (131 ha) of private land, and 259 ac (105 ha) that are uncategorized. An eighth unit for *Eugenia bryanii* totals 470 ac (190 ha) and overlaps a portion of the larger area/units. Landownership within the eighth unit consists of 181 ac (73 ha) of land owned by the Territory of Guam, 253 ac (103 ha) of private land, and 36 ac (14 ha) that are uncategorized. Finally, the ninth and smallest unit overlaps a portion of the larger area/units, encompassing 184 ac (74 ha) for the Guam tree snail. Landownership for this smallest area consists of 19 ac (8 ha) of land owned by the Territory of Guam, 31 ac (13 ha) of private land, and 134 ac (53 ha) that are uncategorized. General land use of Area 39 includes conservation, recreation (*e.g.,* hunting, hiking, and fishing), and urban and agricultural development, including associated access roads and utilities.

Each of the units contains one or more of the PBFs essential to the conservation of each species. Boundaries for the units were delineated to include limestone, secondary, and coastal strand forests in this area because they contain the PBFs identified for the nine species. The unit boundaries include one or more of limestone or volcanic substrates, native volcanic or secondary forests, and/or native plant savanna communities because these areas contain the PBFs identified for the species.

Threats to the PBFs within Area 39 include habitat loss or modification caused by urban and agricultural development, wildfires, typhoons, recreational off-road vehicles, and climate change. Military training that occurs in the vicinity of Area 39 can also adversely affect the species and its habitat; however, these activities are confined to DoD lands, which are exempt under section 4(a)(3) of the Act (see Exemptions, below). Habitat modification from invasive plants and nonnative animals (*e.g.,* ungulates, brown tree snakes, and rodents) also threaten the forest landscape on Guam. These species are known to alter and degrade native habitats by trampling, creating trails that damage vegetative cover or destabilize substrates causing erosion, and through the extirpation (via brown tree snake) of a large percentage of bird and small animal species that disperse seeds and pollinate native plants on Guam. Special management considerations or protection measures to reduce or alleviate the threats may include conducting habitat restoration; developing and implementing biosecurity plans and measures to prevent the spread of habitat-altering invasive plants and animals; conducting wildfire risk management to avoid loss of suitable habitat; and removing invasive species, including plants, rodents, and invertebrates (see Special Management Considerations or Protection, above). The Guam Department of Agriculture manages 1,493 ac (604 ha) of the large 4-unit area, 798 ac (323 ha) of the *Phyllanthus saffordii* unit, 763 ac (309 ha) of the *Hedyotis megalantha* unit, 381 ac (154 ha) of the *Tabernaemontana rotensis* unit, 376 ac (152 ha) of the *Eugenia bryanii* unit, and 15 ac (6 ha) of the Guam tree snail unit (smallest unit) under the Bolanos Conservation Area, for which no management plan currently exists. The Guam Department of Parks and Recreation manages 617 ac (250 ha) of the large 4-unit area, 687 ac (278 ha) of the *Phyllanthus saffordii* unit, 152 ac (61 ha) of the *Hedyotis megalantha* unit, 382 ac (155 ha) of the *Tabernaemontana rotensis* unit, 94 ac (38 ha) of the *Eugenia bryanii* unit, and 169 ac (68 ha) of the Guam tree snail unit (smallest unit) under the Guam Territorial Seashore Park's Master Plan (GDPR 1979, entire).

Area 40: Inalåhan, Guam

Species: Fragile tree snail and Guam tree snail

Units:

Fragile Tree Snail–11, Guam

Guam Tree Snail–16, Guam

Area 40 consists of two occupied units that completely overlap and total 457 ac (185 ha) in the southeastern part of the Territory of Guam, along Route 4 in the village of Inalåhan. Landownership within the area consists of 154 ac (62 ha) of private land and 303 ac (123 ha) that are uncategorized. General land use of Area 40 is urban and agricultural development, including associated access roads and utilities.

The two overlapping units contain one or more of the PBFs essential to the

conservation of each species. Boundaries for these overlapping units were delineated to include all limestone substrates and associated native limestone forests in the area because they contain the PBFs identified for the two species.

Threats to the PBFs within Area 40 include habitat loss or modification from urban and agricultural development, wildfires, typhoons, and climate change. Military training that occurs in the vicinity of Area 40 can also adversely affect the species and its habitat; however, these activities are confined to DoD lands, which are exempt under section 4(a)(3) of the Act (see Exemptions, below). Guam forest habitats are threatened by severe alterations resulting from invasive plants and animals; invasive plants outcompete native plants and invasive animals reduce native plant reproduction and vigor by eating and trampling them. Special management considerations or protection measures to reduce or alleviate the threats may include conducting habitat restoration; developing and implementing biosecurity plans and measures to prevent the spread of habitat-altering invasive plants and animals; conducting wildfire risk management to avoid loss of suitable habitat; and removing invasive species, including plants, rodents, and invertebrates (see Special Management Considerations or Protection, above).

Area 41: Cocos Island (Islan Dˊno'), Guam

Species: Slevin's skink
Unit: Slevin's Skink–1, Cocos Island

Area 41 consists of 63 ac (25 ha) (a single occupied unit) on Cocos Island, an uninhabited island within the political jurisdiction of the Territory of Guam, a part of the municipality of the village of Malesso'. Landownership within this area consists of 30 ac (12 ha) of private land and 33 ac (13 ha) that are uncategorized. General land use for Area 41 is conservation and recreation, including frequent visitation by the public through private boats for fishing or recreation (*e.g.,* day visits or camping).

Area 41 contains one or more of the PBFs essential to the conservation of the species. The unit includes all limestone or coastal strand substrates and associated forests because they contain the PBFs identified for the species.

Threats to the PBFs within Area 41 include habitat loss or modification caused by urban development, wildfires, typhoons, and climate change. Habitat modification from invasive plants and animals (*e.g.,* brown tree snakes and rodents) also threaten the forest landscape on Cocos Island. These species are known to alter native habitats by damaging seedlings and reducing native plant reproduction and vigor by eating fruits, seeds, flowers, stems, roots, and other plant parts and through the extirpation (via brown tree snake) of a large percentage of bird and small animal species that disperse seeds and pollinate native plants on Guam (Service 2023a, pp. 17–18). Special management considerations or protection measures to reduce or alleviate the threats may include habitat restoration; recreational activities; developing and implementing biosecurity plans and measures to prevent the spread of habitat-altering invasive plants and animals; conducting wildfire risk management to avoid loss of suitable habitat; and removing invasive species, including plants, brown tree snakes, and rodents (see Special Management Considerations or Protection, above). The Guam Department of Parks and Recreation manages the entirety of this unit under the Guam Territorial Seashore Park's Master Plan (GDPR 1979, entire).

Effects of Critical Habitat Designation

Section 7 Consultation

Section 7(a)(2) of the Act requires Federal agencies, including the Service, to ensure that any action they authorize, fund, or carry out is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of designated critical habitat of such species. In addition, section 7(a)(4) of the Act requires Federal agencies to confer with the Service on any agency action which is likely to jeopardize the continued existence of any species proposed to be listed under the Act or result in the destruction or adverse modification of proposed critical habitat.

Destruction or adverse modification means a direct or indirect alteration that appreciably diminishes the value of critical habitat as a whole for the conservation of a listed species (50 CFR 402.02).

Compliance with the requirements of section 7(a)(2) is documented through our issuance of:

(1) A concurrence letter for Federal actions that may affect, but are not likely to adversely affect, listed species or critical habitat; or

(2) A biological opinion for Federal actions that may affect, and are likely to adversely affect, listed species or critical habitat.

When we issue a biological opinion concluding that a project is likely to jeopardize the continued existence of a listed species and/or destroy or adversely modify critical habitat, we provide reasonable and prudent alternatives to the project, if any are identifiable, that would avoid the likelihood of jeopardy and/or destruction or adverse modification of critical habitat. We define ''reasonable and prudent alternatives'' (at 50 CFR 402.02) as alternative actions identified during formal consultation that:

(1) Can be implemented in a manner consistent with the intended purpose of the action,

(2) Can be implemented consistent with the scope of the Federal agency's legal authority and jurisdiction,

(3) Are economically and technologically feasible, and

(4) Would, in the Service Director's opinion, avoid the likelihood of jeopardizing the continued existence of the listed species or avoid the likelihood of destroying or adversely modifying critical habitat.

Reasonable and prudent alternatives can vary from slight project modifications to extensive redesign or relocation of the project. Costs associated with implementing a reasonable and prudent alternative are similarly variable.

Regulations at 50 CFR 402.16 set forth requirements for Federal agencies to reinitiate consultation. Reinitiation of consultation is required and shall be requested by the Federal agency, where discretionary Federal involvement or control over the action has been retained or is authorized by law and: (1) If the amount or extent of taking specified in the incidental take statement is exceeded; (2) if new information reveals effects of the action that may affect listed species or critical habitat in a manner or to an extent not previously considered; (3) if the identified action is subsequently modified in a manner that causes an effect to the listed species or critical habitat that was not considered in the biological opinion or written concurrence; or (4) if a new species is listed or critical habitat designated that may be affected by the identified action. As provided in 50 CFR 402.16, the requirement to reinitiate consultations for new species listings or critical habitat designation does not apply to certain agency actions (*e.g.,* land management plans issued by the Bureau of Land Management in certain circumstances).

Destruction or Adverse Modification of Critical Habitat

The key factor related to the destruction or adverse modification determination is whether implementation of the proposed Federal action directly or indirectly alters the designated critical habitat in a way that appreciably diminishes the value of the critical habitat for the conservation of the listed species. As discussed above, the role of critical habitat is to support PBFs essential to the conservation of a listed species and provide for the conservation of the species.

Section 4(b)(8) of the Act requires that our **Federal Register** documents ''shall, to the maximum extent practicable also include a brief description and evaluation of those activities (whether public or private) which, in the opinion of the Secretary, if undertaken may adversely modify [critical] habitat, or may be affected by such designation.'' Activities that may be affected by designation of critical habitat for the Mariana Islands species include those that may affect the PBFs of the Mariana Island species' critical habitat (see Physical or Biological Features Essential to the Conservation of the Species).

Exemptions

Application of Section 4(a)(3) of the Act

The Sikes Act Improvement Act of 1997 (Sikes Act) (16 U.S.C. 670a) requires each military installation that includes land and water suitable for the conservation and management of natural resources to complete an INRMP by November 17, 2001. An INRMP integrates implementation of the military mission of the installation with stewardship of the natural resources found on the base. Each INRMP includes:

(1) An assessment of the ecological needs on the installation, including the need to provide for the conservation of listed species;

(2) A statement of goals and priorities;

(3) A detailed description of management actions to be implemented to provide for these ecological needs; and

(4) A monitoring and adaptive management plan.

Among other things, each INRMP must, to the extent appropriate and applicable, provide for fish and wildlife management; fish and wildlife habitat enhancement or modification; wetland protection, enhancement, and restoration where necessary to support fish and wildlife; and enforcement of applicable natural resource laws.

The National Defense Authorization Act for Fiscal Year 2004 (Pub. L. 108–136) amended the Act to limit areas eligible for designation as critical habitat. Specifically, section 4(a)(3)(B)(i) of the Act provides that the Secretary shall not designate as critical habitat any lands or other geographical areas owned or controlled by the Department of Defense, or designated for its use, that are subject to an INRMP prepared under section 101 of the Sikes Act, if the Secretary determines in writing that such plan provides a benefit to the species for which critical habitat is proposed for designation.

We consult with the military on the development and implementation of INRMPs for installations with listed species. We analyzed INRMPs developed by military installations located within the range of the proposed critical habitat designation for the Mariana Islands species to determine if they meet the criteria for exemption from critical habitat under section 4(a)(3) of the Act. The following areas are DoD lands with completed, Service-approved INRMPs within the proposed critical habitat designation.

Approved INRMPs

Joint Region Marianas (JRM)—Dump Coke, Tinian; Andersen AFB, Guam; Marine Corps Base Camp Blaz, Guam; Naval Base Guam, Guam; 18,549 ac (7,506 ha)

Naval Base Guam, Marine Corps Base (MCB) Camp Blaz, Andersen AFB, and Tinian Military Lease Area's Dump Coke site are 4 of 13 DoN holdings on Guam and Department-leased lands on Tinian that are part of Joint Region Marianas (under Commander, DoN Installations Command) (DoD 2024, Table 1–1 and Figure 1–2). The mission of the JRM is providing executive-level installation management support to all 13 DoD components and tenants through assigned regional installations on Guam and the CMNI in support of training in the Marianas; acting as the interface between the military and the civilian community; ensuring compliance with all environmental laws and regulations, safety procedures, and equal opportunity policy; and performing other functions and tasks as may be assigned (DoD 2024, p. 2–1).

Naval Base Guam Main Base, which is primarily located around Apra Harbor and on the Orote Peninsula along the central west side of Guam, consists of several locations on Guam that are controlled by the military, including the Naval Magazine and the Dandan sites that overlap multiple species/ranges addressed in this proposed rule. The Naval Base Guam Main Base supports Commander Naval Forces Marianas, Submarine Squadron 15, Coast Guard Sector Guam, Naval Special Warfare Unit One, and 28 other tenant commands, and it is the home base of three Los Angeles class submarines and dozens of units operating in support of U.S. Indo-Pacific Command, U.S. Pacific Fleet, Seventh Fleet, and Fifth Fleet (DoD 2024, p. 2–7). The primary function of the Base is to support fleet units and operational forces of the 5th and 7th Fleets, and it serves as a forward deployment base and logistics hub that includes a distribution center for material, personnel, and munitions that support sea, land, and air forces operating in Asia and the Western Pacific (DoD 2024, p. 5–1).

The Naval Magazine (also known as the Naval Munitions Site and the Munitions Annex) is approximately 8,645 ac (3,499 ha) and is in a mountainous region of south-central Guam. It provides support to units of the Pacific Fleet that operate in the western Pacific Ocean through receiving, renovating, maintaining, storing, and issuing ammunition, explosives, and expendable ordnance materials (DoD 2024, p. 6–1). The area also includes munitions-handling buildings, motor pools, mess halls, and related support buildings. The majority of the Naval Magazine is not fenced or marked with signage; thus, unauthorized access occurs through these unsecured areas (DoD 2024, p. 6–1).

MCB Camp Blaz Main Cantonment area is located on the northwest coast of Guam and includes approximately 11,241 ac (4,549 ha) of JRM submerged land and 2,949 ac (1,193 ha) of terrestrial land, the latter of which includes 2,604 ac (1,054 ha) of Guam NWR lands (*i.e.,* overlay refuge, to include the 252-ac (101-ha) Haputo Ecological Reserve) that the DoD manages (DoD 2024, p. 9–1). Outlying from the main cantonment, MCB Camp Blaz South (formerly South Finegayan and located southwest of the cantonment area) includes another 290 ac (117 ha) of terrestrial land and 5,388 ac (2,180 ha) of JRM submerged lands (DoD 2024, p. 9–1). Additionally, two training complexes, the Mason Live-Fire Training Range Complex includes 753 ac (304 ha) and the Urban Training Complex includes 2,032 ac (822 ha), are used primarily as training range complexes. DoD lands in both the cantonment and outlying areas are hereafter referred to collectively as MCB Camp Blaz (DoD 2024, p. 9–1).

Andersen AFB is located in Yigo at the northern tip of Guam and includes approximately 15,400 ac (6,232 ha) of land, including (but not limited to) an

active airfield and an extensive assemblage of operations, maintenance, and community services and support facilities. Andersen AFB supports operations in the Asia and South Pacific regions and is expanding in the near future to support the defense strategy mandated by Congress that allows the military to successfully execute its full range of missions within the strategy (DoD 2024, p. 8–1). This expansion includes development of additional training capabilities for unit, combined, and joint forces in the Western Pacific that assure readiness of U.S. forces to carry out military operations, provide humanitarian assistance, support disaster relief, and provide maritime security to maintain regional stability (DoD 2024, p. 8–1). Andersen AFB is home to the Pacific Air Forces' 13th Air Force and the 36th Wing, Air Mobility Command's 634th Air Mobility Support Squadron, 36th Contingency Response 30 Group, 36th Maintenance Group, 36th Medical Group, 36th Mission Support Group, and 36th Operations 31 Group.

The northern two-thirds of Tinian is leased to the DoD from the CNMI and is known as the Military Lease Area on the island. It is controlled and managed by the DoN and comprises approximately 15,355 ac (6,213 ha) north of the Tinian International Airport, and it is further divided into an Exclusive Military Use Area and a Lease Back Area. There are no permanent military facilities in this Lease Back Area, but it does include agricultural activities (*i.e.,* cattle grazing) and resident/human occupation, all of which are not allowed in the Exclusive Military Use Area. The 15,355–ac (6,213–ha) Military Lease Area is open to public access and recreational use (*e.g.,* fishing, swimming, camping) except when military training activities may require closures of some or all of the area (DoD 2024, p. 11–1). A small portion of the lease area known as Dump Coke (along Lamanibot Bay) includes limestone native forest that is occupied by the endangered humped tree snail; this area is covered under the JRM INRMP. The Military Lease Area supports medium- and small-scale military training activities annually, while large-scale training activities occur infrequently; exercises include combat search and rescue, amphibious assault, amphibious raid, personnel insertion and extraction, airfield seizure, and humanitarian assistance/disaster relief operations (DoD 2024, p. 11–3). Urban warfare training, Intelligence/Surveillance/Reconnaissance, and combat close quarters training are conducted only in association with historic structures (DoD 2024, p. 11–3).

The 2024 JRM INRMP guides the management and conservation of natural resources on the Mariana Islands at Naval Base Guam Main Base (all sites), MCB Camp Blaz, Andersen AFB, and the Tinian Military Lease Area, providing important habitat for federally listed species (DoD 2024, Table 1–1, p. 1–2). These installations include approximately 18,549 ac (7,506 ha) of habitat essential to the conservation for 19 species addressed within this proposed rule. The DoD engages in a variety of general conservation measures to benefit the animal and plant species addressed in this proposed rule (*e.g.,* terrestrial habitat management, terrestrial invasive species management, a regional biosecurity plan to reduce the risk of spreading nonnative species), as well as species-specific conservation measures. Figure 1, below, and the following paragraphs identify the areas containing the essential PBFs for 19 species addressed within this proposed rule that occur on lands owned, leased, and/or managed by the DoD in compliance with the JRM INRMP (DoD 2024, entire):

(1) Approximately 8,554 ac (3,462 ha) that overlap Naval Base Guam (which also includes the following areas: Naval Computer and Telecommunications Site Barrigada, Finnegayan South, Harmon Tank Farms, Apra Heights, Naval Hospital, Naval Magazine, Nimitz Hill, Sasa Valley Tank Farm, Tenjo Vista Tank Farm, and Dandan). These lands include occupied areas and habitat (some of which meet the definition of critical habitat) for the Pacific-sheath tailed bat, Mariana eight-spot butterfly, humped tree snail, Guam tree snail, fragile tree snail, and the following plants: *Bulbophyllum guamense, Cycas micronesica, Dendrobium guamense, Eugenia bryanii, Hedyotis megalantha, Heritiera longipetiolata, Maesa walkeri, Nervilia jacksoniae, Psychotria malaspinae, Phyllanthus saffordii, Tabernaemontana rotensis, Tinospora homosepala,* and *Tuberolabium guamense.*

(2) Approximately 2,454 ac (993 ha) overlap MCB Camp Blaz lands in northwestern Guam (also called Andersen South previously), of which 875 ac (354 ha) are the refuge overlay lands managed under the JRM INRMP. These lands include occupied areas that meet the definition of critical habitat for Mariana eight-spot butterfly, fragile tree snail, Guam tree snail, humped tree snail, and the following seven plants: *Bulbophyllum guamense, Cycas micronesica, Dendrobium guamense, Eugenia bryanii, Heritiera longipetiolata, Tabernaemontana rotensis,* and *Tuberolabium guamense.*

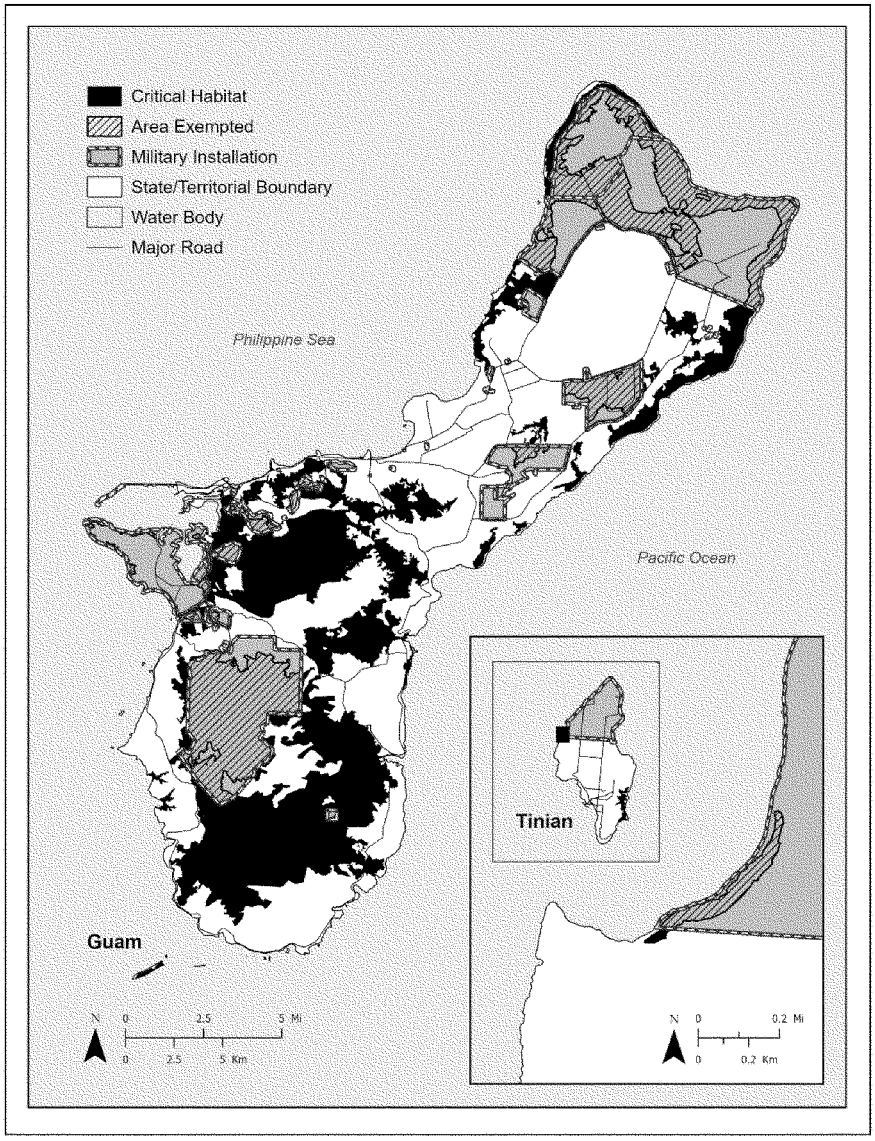
(3) Approximately 7,531 ac (3,048 ha) overlap Andersen AFB in Northern Guam; this area includes approximately 6,336 ac (2,564 ha) of Guam NWR that are DoD-managed lands. These lands include occupied areas and habitat (some of which meet the definition of critical habitat) for Mariana eight-spot butterfly, fragile tree snail, Guam tree snail, humped tree snail, and the following eight plants: *Bulbophyllum guamense, Cycas micronesica, Dendrobium guamense, Eugenia bryanii, Heritiera longipetiolata, Solanum guamense, Tabernaemontana rotensis,* and *Tuberolabium guamense.*

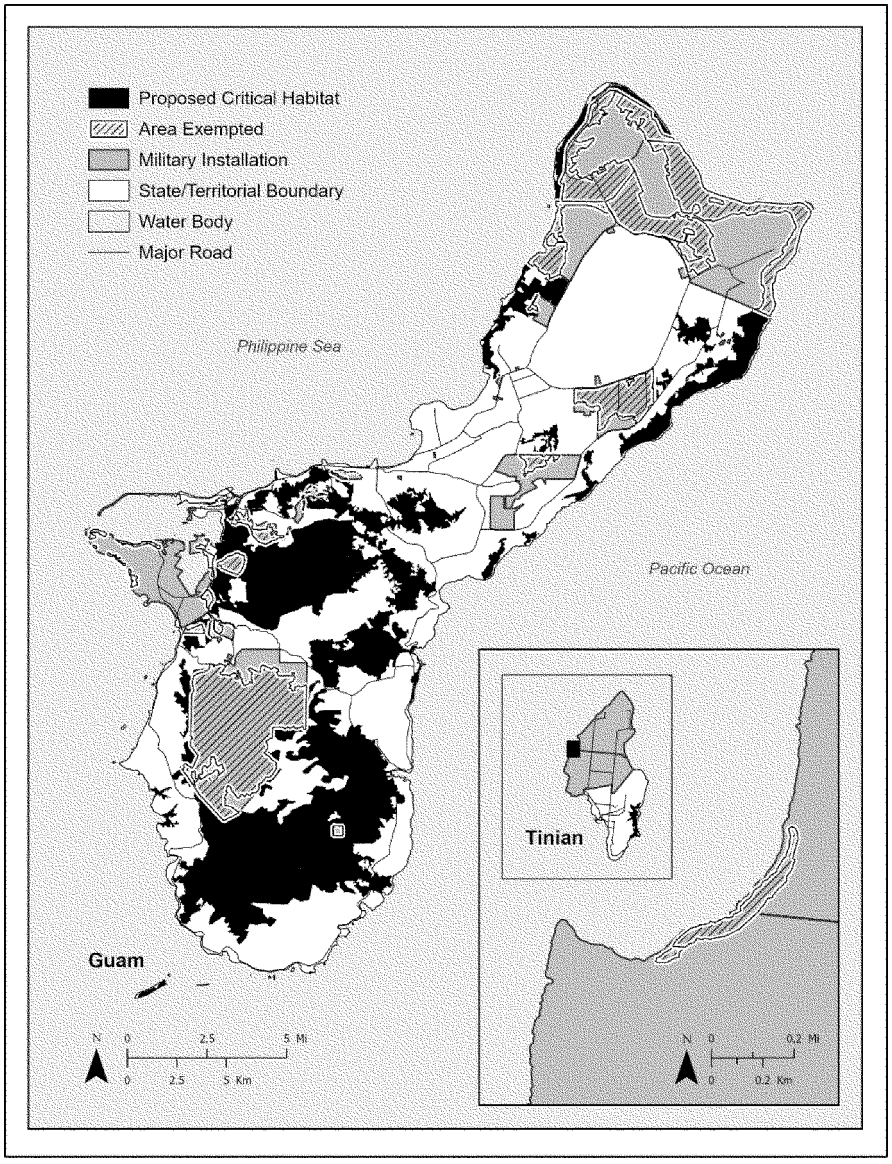
(4) Approximately 10 ac (4 ha) near Dump Coke on the northwestern side of Tinian overlap Military Lease Area lands in western Tinian. These lands include occupied areas and habitat for the humped tree snail.

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Figure 1—Department of Defense Lands Meeting the Definition of Critical Habitat but Exempt Under the Act

[Species (19) include Pacific sheath-tailed bat, Mariana eight-spot butterfly, humped tree snail, Guam tree snail, fragile tree snail, *Bulbophyllum guamense, Cycas micronesica, Dendrobium guamense, Eugenia bryanii, Hedyotis megalantha, Heritiera longipetiolata, Maesa walkeri, Nervilia jacksoniae, Phyllanthus saffordii, Psychotria malaspinae, Solanum guamense, Tabernaemontana rotensis, Tinospora homosepala,* and *Tuberolabium guamense*.]





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The ranges of 19 federally endangered and threatened species addressed in this proposed rule occur on DoD lands on the Islands of Guam and Tinian. These lands receive management that provides a conservation benefit to the species and their PBFs including (but not limited to) (DoD 2024, Table 13–5, pp. 13–22 to 13–85):

- Enhancing and restoring limestone forests;
- captive-propagating listed and native plants;
- eradicating or controlling invasive plant and animal species;
- implementing biosecurity protocols;
- constructing ungulate fencing in priority areas;
- implementing a fire management plan;
- protecting, propagating, and out-planting host plants for the Mariana eight-spot butterfly;
- protecting tree snail and butterfly populations and their habitats; and
- monitoring and removing brown tree snakes in and around swiftlet caves.

Based on the above considerations, and in accordance with section 4(a)(3)(B)(i) of the Act, we have determined that the identified lands are subject to the JRM INRMP and that conservation efforts identified in the JRM INRMP will provide a benefit to Pacific sheath-tailed bat, Mariana eight-spot butterfly, fragile tree snail, Guam tree snail, humped tree snail, *Bulbophyllum guamense, Cycas micronesica, Dendrobium guamense, Eugenia bryanii, Hedyotis megalantha, Heritiera longipetiolata, Maesa walkeri, Nervilia jacksoniae, Phyllanthus saffordii, Psychotria malaspinae, Solanum guamense, Tabernaemontana rotensis, Tinospora homosepala,* and *Tuberolabium guamense.* Therefore, lands owned or managed by the DoD on Guam and Tinian are exempt from critical habitat designation under section 4(a)(3) of the Act. We are not including a total of approximately 18,549 ac (7,506 ha) of habitat on Guam and Tinian in this proposed critical habitat designation because of this exemption. Additionally, *Solanum guamense* is the only species addressed in this proposed rule where its range and occurrences occur solely on DoD (Andersen AFB) lands. Given the section 4(a)(3)(B)(i) exemption addressed herein, there is no proposed critical habitat for *Solanum guamense.*

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

Section 4(b)(2) of the Act states that the Secretary shall designate and make revisions to critical habitat on the basis of the best available scientific data after taking into consideration the economic impact, the impact on national security impact, and any other relevant impact of specifying any particular area as critical habitat. The Secretary may exclude any area from critical habitat if the benefits of exclusion outweigh those of inclusion, so long as exclusion will not result in extinction of the species concerned. Exclusion decisions are governed by the regulations at 50 CFR 424.19 and the Policy Regarding Implementation of Section 4(b)(2) of the Endangered Species Act (hereafter, the ''2016 Policy''; 81 FR 7226, February 11, 2016), both of which were developed jointly with the National Marine Fisheries Service (NMFS). We also refer to a 2008 Department of the Interior Solicitor's opinion entitled ''The Secretary's Authority to Exclude Areas from a Critical Habitat Designation under Section 4(b)(2) of the Endangered Species Act'' (M–37016).

In considering whether to exclude a particular area from the designation, we identify the benefits of including the area in the designation, identify the benefits of excluding the area from the designation, and evaluate whether the benefits of exclusion outweigh the benefits of inclusion. If the analysis indicates that the benefits of exclusion outweigh the benefits of inclusion, the Secretary may exercise discretion to exclude the area only if such exclusion would not result in the extinction of the species. In making the determination to exclude a particular area, the statute on its face, as well as the legislative history, are clear that the Secretary has broad discretion regarding which factor(s) to use and how much weight to give to any factor. In our final rules, we explain any decision to exclude areas, as well as decisions not to exclude, to make clear the rational basis for our decision. We describe below the process that we use for taking into consideration each category of impacts and any initial analyses of the relevant impacts.

Consideration of Economic Impacts

Section 4(b)(2) of the Act and its implementing regulations require that we consider the economic impact that may result from a designation of critical habitat. To assess the probable economic impacts of a designation, we must first evaluate specific land uses or activities and projects that may occur in the area of the critical habitat. We then must evaluate the impacts that a specific critical habitat designation may have on restricting or modifying specific land uses or activities for the benefit of the species and its habitat within the areas proposed. We then identify which conservation efforts may be the result of the species being listed under the Act versus those attributed solely to the designation of critical habitat for this particular species. The probable economic impact of a 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, which includes the existing regulatory and socio-economic burden imposed on landowners, managers, or other resource users potentially affected by the designation of critical habitat (*e.g.,* under the Federal listing as well as other Federal, State, and local regulations). Therefore, the baseline represents the costs of all efforts attributable to the listing of the species under the Act (*i.e.,* conservation of the species and its habitat 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 would not be expected without the designation of critical habitat for the species. In other words, the incremental costs are those attributable solely to the designation of critical habitat, above and beyond the baseline costs. These are the costs we use when evaluating the benefits of inclusion and exclusion of particular areas from the final designation of critical habitat should we choose to conduct a discretionary section 4(b)(2) exclusion analysis.

Executive Order (E.O.) 12866 and E.O. 13563 direct Federal agencies to assess the costs and benefits of available regulatory alternatives in quantitative (to the extent feasible) and qualitative terms. Consistent with these E.O. regulatory analysis requirements, our effects analysis under the Act may take into consideration impacts to both directly and indirectly affected entities, where practicable and reasonable. If sufficient data are available, we assess to the extent practicable the probable impacts to both directly and indirectly affected entities. To determine whether the designation of critical habitat may have an economic effect of $100 million or more in any given year (which would trigger section 3(f)(1) of E.O. 12866), we used a screening analysis to assess whether a designation of critical habitat for the Mariana Islands species is likely to exceed the economically significant threshold.

For this particular designation, we developed an incremental effects memorandum (IEM) considering the probable incremental economic impacts that may result from this proposed designation of critical habitat. The information contained in our IEM was then used to develop a screening analysis of the probable effects of the designation of critical habitat for the Mariana Islands species (Industrial Economics Incorporated (IEc) 2025, entire). We began by conducting a screening analysis of the proposed designation of critical habitat in order to focus our analysis on the key factors that are likely to result in incremental economic impacts. The purpose of the screening analysis is to filter out particular geographical areas of critical habitat that are already subject to such protections and are, therefore, unlikely to incur incremental economic impacts. In particular, the screening analysis considers baseline costs (*i.e.,* absent critical habitat designation) and includes any probable incremental economic impacts where land and water use may already be subject to conservation plans, land management plans, best management practices, or regulations that protect the habitat area as a result of the Federal listing status of the species.

Ultimately, the screening analysis allows us to focus our analysis on evaluating the specific areas or sectors that may incur probable incremental economic impacts as a result of the designation. The presence of the listed species in occupied areas of critical habitat means that any destruction or adverse modification of those areas is also likely to jeopardize the continued existence of the species. Therefore, designating occupied areas as critical habitat typically causes little if any incremental impacts above and beyond the impacts of listing the species. As a result, we generally focus the screening analysis on areas of unoccupied critical habitat (unoccupied units or unoccupied areas within occupied units). Overall, the screening analysis assesses whether designation of critical habitat is likely to result in any additional management or conservation efforts that may incur incremental economic impacts. This screening analysis combined with the information contained in our IEM constitute what we consider to be our economic analysis of the proposed critical habitat designation for the Mariana Islands species and is summarized in the narrative below.

As part of our screening analysis, we considered the types of economic activities that are likely to occur within the areas likely affected by the critical habitat designation. In our evaluation of the probable incremental economic impacts that may result from the proposed designation of critical habitat for the Mariana Islands species, first we identified, in the IEM dated May 20, 2025, probable incremental economic impacts associated with the following categories of activities: development, including associated ground-disturbing actions; agriculture; fire management; limestone rock quarrying; recreation, including (but not limited to) off-road use and hunting using archery equipment; renewable energy (such as offshore wind farms); transportation; utility projects; forest management and water quality improvements, including potential impacts to adjacent soils or vegetation that may cause or result in erosion and increase turbidity or siltation in streams; geotechnical boring; ungulate removals (*i.e.,* hunting or trapping); research; invasive animal and biological controls; and application of disaster-related grants and activities, such as for emergencies through the Federal Emergency Management Agency (IEc 2025, p. 15; Service 2024e, in litt., pp. 95–97). We considered each industry or category individually. Additionally, we considered whether their activities have any Federal involvement. Critical habitat designation generally will not affect activities that do not have any Federal involvement; under the Act, designation of critical habitat affects only activities conducted, funded, permitted, or authorized by Federal agencies. For the 22 species in this proposed critical habitat designation that we have already listed as endangered or threatened species (80 FR 59424; October 1, 2015), Federal agencies are already required to consult with the Service under section 7 of the Act on activities they authorize, fund, or carry out that may affect these species. If we finalize this proposed critical habitat designation for the 22 species, Federal agencies would be required to consider the effects of their actions on the designated habitat, and if the Federal action may affect critical habitat, our consultations would include an evaluation of measures to avoid the destruction or adverse modification of critical habitat.

In our IEM, we attempted to clarify the distinction between the effects that would result from the species being listed and those attributable to the critical habitat designation (*i.e.,* the difference between the jeopardy and adverse modification standards) for the Mariana Islands species proposed critical habitat. The following specific circumstances help to inform our evaluation: (1) The essential PBFs identified for critical habitat are the same features that are essential for the life requisites of the species, (2) any actions determined to likely adversely affect the essential PBFs of occupied critical habitat are also likely to adversely affect the species itself, and (3) any actions determined to likely adversely affect the essential PBFs of unoccupied critical habitat (one unit only for Pacific sheath-tailed bat on the island of Rota) may also be likely to adversely affect the species because the unoccupied critical habitat has been deemed essential to the species. The IEM outlines our rationale concerning this limited distinction between baseline conservation efforts and incremental impacts of the designation of critical habitat for this species for all of the occupied units.

The proposed critical habitat designation for the Mariana Islands species includes 122 critical habitat units, totaling approximately 59,886 ac (24,235 ha). One unit for the Pacific sheath-tailed bat on the island of Rota is unoccupied, and the remaining 121 units across the Territory of Guam and the CNMI were occupied by the other species at the time of listing and/or are currently occupied.

The screening analysis reveals that the total annual incremental cost of critical habitat designation for this proposed rule is anticipated to be less than $31,300 per year (IEc 2025, pp. 2, 53, 54, 57). Costs are projected to likely be administrative due to: (1) projects with a Federal nexus being subject to section 7 consultation requirements regardless of whether critical habitat is designated, (2) conservation efforts recommended to avoid jeopardizing the continued existence of the species would be substantially similar to those that could be recommended for an adverse modification analysis, and (3) conservation efforts and recovery actions of other listed species and some existing critical habitat designations that overlap the proposed critical habitat for the 22 species in this proposed rule are likely to provide some protections even absent this critical habitat designation (IEc 2025, pp. 51–52). Given this information, the total incremental costs of this critical habitat designation, as proposed, is anticipated to cost approximately $313,100 (2024 dollars) during the next 10 years, or up to $31,300 annually (IEc 2025, pp. 2, 53, 54, 57). Additionally, we anticipate that the island of Guam would incur the highest incremental costs at $24,900 annually (2024 dollars) given that 61 percent of the proposed critical habitat designation occurs on this island (IEc 2025, p. 53). Finally, we do not expect this designation would trigger additional requirements under commonwealth, territory, or other local regulations (IEc 2025, p. 55).

Specifically for the single unoccupied critical habitat unit for the Pacific sheath-tailed bat on the island of Rota, we anticipate that project modifications for this unit would be the same to avoid jeopardy to the species as would be recommended for avoiding adverse modification to its habitat (*e.g.,* species surveys for presence/absence, reducing human disturbance and noise in or near cave habitat, minimizing nighttime lighting in forest areas (Service 2024d, pers. comm.; IEc 2025, p. 53)). We do not expect incremental costs due to the proposed critical habitat designation in this area as an unoccupied unit based on the following (IEc 2025, pp. 53–54):

(1) The cave and/or surrounding foraging area for the unit completely or partially overlaps with occupied areas for 12 other species addressed in this proposed rule (*i.e.,* humped tree snail, fragile tree snail, Mariana wandering butterfly, Rota blue damselfly, and the plants *Bulbophyllum guamense, Dendrobium guamense, Tuberolabium guamense, Nervilia jacksoniae, Cycas micronesica, Tabernaemontana rotensis,* and *Maesa walkeri*).

(2) This unoccupied unit completely overlaps with the ranges of other federally endangered or threatened species not addressed within this proposed rule. Approximately 75 percent of the proposed unit overlaps with existing critical habitat for the federally endangered Rota bridled white-eye and the Mariana crow, both of which share with the Pacific sheath-tailed bat intact, contiguous forest as a PBF.

(3) The cave identified for this unit is also suitable habitat for the federally endangered Mariana swiftlet; although the swiftlet is not currently present, this area is identified in the swiftlet's recovery plan as a recovery area for potential translocation. Because the swiftlet is federally endangered and potentially present, section 7 consultations would already occur in this area for potential effects to caves or swiftlets (Service 2024d, pers. comm.).

We are soliciting data and comments from the public on the economic analysis discussed above. During the development of a final designation, we will consider the information presented in the economic analysis and any additional information on economic

impacts we receive during the public comment period to determine whether any specific areas should be excluded from the final critical habitat designation under authority of section 4(b)(2), our implementing regulations at 50 CFR 424.19, and the 2016 Policy. 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.

Consideration of National Security Impacts

Section 4(a)(3)(B)(i) of the Act may not cover all DoD lands or areas that pose potential national-security concerns (*e.g.,* a DoD installation that is in the process of revising its INRMP for a newly listed species or a species previously not covered). If a particular area is not covered under section 4(a)(3)(B)(i), then national-security or homeland-security concerns are not a factor in the process of determining what areas meet the definition of ''critical habitat.'' However, we must still consider impacts on national security, including homeland security, on those lands or areas not covered by section 4(a)(3)(B)(i) because section 4(b)(2) requires us to consider those impacts whenever we designate critical habitat. Accordingly, if DoD, Department of Homeland Security (DHS), or another Federal agency has requested exclusion based on an assertion of national-security or homeland-security concerns, or we have otherwise identified national-security or homeland-security impacts from designating particular areas as critical habitat, we generally have reason to consider excluding those areas.

However, we cannot automatically exclude requested areas. When DoD, DHS, or another Federal agency requests exclusion from critical habitat on the basis of national-security or homeland-security impacts, we must conduct an exclusion analysis if the Federal requester provides information, including a reasonably specific justification of an incremental impact on national security that would result from the designation of that specific area as critical habitat. That justification could include demonstration of probable impacts, such as impacts to ongoing border-security patrols and surveillance activities, or a delay in training or facility construction as a result of compliance with section 7(a)(2) of the Act. If the agency requesting the exclusion does not provide us with a reasonably specific justification, we will contact the agency to recommend that it provide a specific justification or clarification of its concerns relative to the probable incremental impact that could result from the designation. If we conduct an exclusion analysis because the agency provides a reasonably specific justification or because we decide to exercise the discretion to conduct an exclusion analysis, we will defer to the expert judgment of DoD, DHS, or another Federal agency as to: (1) Whether activities on its lands or waters, or its activities on other lands or waters, have national-security or homeland-security implications; (2) the importance of those implications; and (3) the degree to which the cited implications would be adversely affected in the absence of an exclusion. In that circumstance, in conducting a discretionary section 4(b)(2) exclusion analysis, we will give great weight to national-security and homeland-security concerns in analyzing the benefits of exclusion.

Under section 4(b)(2) of the Act, we also consider whether a national security or homeland security impact might exist on lands owned or managed by DoD or DHS. In preparing this proposal, we have determined that, other than the land exempted under section 4(a)(3)(B)(i) of the Act based upon the existence of an approved INRMP (see Exemptions, above), the lands within the proposed designation of critical habitat for the Mariana Islands species are not owned or managed by DoD or DHS. Therefore, we anticipate no impact on national security or homeland security.

Consideration of Other Relevant Impacts

Under section 4(b)(2) of the Act, we consider any other relevant impacts, in addition to economic impacts and impacts on national security discussed above. To identify other relevant impacts that may affect the exclusion analysis, we consider a number of factors, including whether there are approved and permitted conservation agreements or plans covering the species in the area—such as safe harbor agreements, candidate conservation agreements with assurances (CCAAs) or ''conservation benefit agreement'' or ''conservation agreement'' (CBAs) (CBAs are a new type of agreement replacing SHAs and CCAAs in use after April 2024 (89 FR 26070; April 12, 2024)) or HCPs—or whether there are non-permitted conservation agreements and partnerships that may be impaired by designation of, or exclusion from, critical habitat. In addition, we look at whether Tribal conservation plans or partnerships, Tribal resources, or government-to-government relationships of the United States with Tribal entities may be affected by the designation. We also consider any State, local, social, or other impacts that might occur because of the designation.

When analyzing other relevant impacts of including a particular area in a designation of critical habitat, we weigh those impacts relative to the conservation value of the particular area. To determine the conservation value of designating a particular area, we consider a number of factors, including, but not limited to, the additional regulatory benefits that the area would receive due to the protection from destruction or adverse modification as a result of actions with a Federal nexus, the educational benefits of mapping essential habitat for recovery of the listed species, and any benefits that may result from a designation due to State or Federal laws that may apply to critical habitat.

In the case of the Mariana Islands species, the benefits of critical habitat include public awareness of the presence of these species and the importance of habitat protection, and, where a Federal nexus exists, increased habitat protection for these species due to protection from destruction or adverse modification of critical habitat. Continued implementation of an ongoing management plan that provides conservation equal to or more than the protections that result from a critical habitat designation would reduce those benefits of including that specific area in the critical habitat designation.

After identifying the benefits of inclusion and the benefits of exclusion, we carefully weigh the two sides to evaluate whether the benefits of exclusion outweigh those of inclusion. If our analysis indicates that the benefits of exclusion outweigh the benefits of inclusion, we then determine whether exclusion would result in extinction of the species. If exclusion of an area from critical habitat will result in extinction, we will not exclude it from the designation.

Non-Permitted Conservation Plans, Agreements, or Partnerships

We sometimes exclude specific areas from critical habitat designations based in part on the existence of private or other non-Federal conservation plans or agreements and their attendant partnerships. A conservation plan or agreement describes actions that are designed to provide for the conservation needs of a species and its habitat and may include actions to reduce or mitigate negative effects on the species caused by activities on or adjacent to the

area covered by the plan. Conservation plans or agreements can be developed by private entities with no Service involvement, or in partnership with the Service.

Shown below is a non-exhaustive list of factors that we consider in evaluating how non-permitted plans or agreements affect the benefits of inclusion or exclusion. These are not required elements of plans or agreements. Rather, they are some of the factors we may consider, and not all of these factors apply to every plan or agreement. We also consider information provided by proponents of an exclusion on the non-permitted plan or agreement.

(i) The degree to which the record of the plan, or information provided by proponents of an exclusion, supports a conclusion that a critical habitat designation would impair the realization of the benefits expected from the plan, agreement, or partnership.

(ii) The extent of public participation in the development of the conservation plan.

(iii) The degree to which agency review and required determinations (*e.g.,* State regulatory requirements) have been completed, as necessary and appropriate.

(iv) Whether National Environmental Policy Act (42 U.S.C. 4321 *et seq.*) compliance was required.

(v) The demonstrated implementation and success of the chosen mechanism.

(vi) The degree to which the plan or agreement provides for the conservation of the essential PBFs for the species.

(vii) Whether there is a reasonable expectation that the conservation management strategies and actions contained in a management plan or agreement will be implemented.

(viii) Whether the plan or agreement contains a monitoring program and adaptive management to ensure that the conservation measures are effective and can be modified in the future in response to new information.

A portion of the DoD-owned or managed lands that provides habitat for most of the species addressed in this rule will be addressed under a ''Mariana Islands Conservation Strategy.'' Department of Defense (DoD) lands are exempted from critical habitat under section 4(a)(3)(B)(i) of the Act. However, the proposed critical habitat designation for non-DoD-owned or managed lands is being addressed through the developing Mariana Islands Conservation Strategy. Although still in progress, this strategy seeks to benefit the species and habitats identified in the proposed designation through a collaborative partnership among the DoD, the Department of the Interior (DOI), and the territorial governments of the CNMI and Guam.

The proposed critical habitat designation includes three areas that are covered by non-permitted plans and provide for the conservation of the Pacific sheath-tailed bat, fragile tree snail, Guam tree snail, Mariana wandering butterfly, *Bulbophyllum guamense, Cycas micronesica, Dendrobium guamense, Maesa walkeri, Nervilia jacksoniae, Tabernaemontana rotensis,* and *Tuberolabium guamense.* After considering factors (i)–(viii) described above, we have reason to consider excluding these three non-permitted plans: The Memorandum of Agreement for the Mariana Crow Conservation Area (Service 2011, entire), Rota Local Law No. 9–1 for the Sabana Protected Area (CNMI 1994, entire), and the Talakhaya Integrated Watershed Management Plan (CNMI DEQ 2012, entire). An additional conservation effort is underway for a Guam HCP; however, that effort is not expected to be completed prior to our statutory timeline to submit a final rule to the **Federal Register** 12 months following this proposed rule and thus not included at this time for a potential exclusion. We describe below our reasons for considering the other three areas for potential exclusion.

(1) Memorandum of Agreement (MOA)—Mariana Crow Conservation Area

In 2011, the Service entered into an MOA with the Government of the CNMI (Department of Public Lands) in recognition of the importance to implement recovery actions for the federally endangered Mariana crow, including to protect and manage Mariana crow designated critical habitat on the island of Rota (Service 2011, p. 1). These coordination efforts resulted in an MOA outlining the commitment of the CNMI Department of Public Lands to implement conservation measures on 1,097 ac (444 ha) of lands to be protected and managed in perpetuity; this area includes 684 ac (277 ha) known as the I'Chenchon Bird Sanctuary. The total area is hereafter referred to as the Mariana Crow Conservation Area. Preservation and management of the 1,097-ac (444-ha) area is in perpetuity, with conservation measures that benefit the crow outlined in the Mariana Crow Conservation Area Management Plan (Service 2011, pp. 9–22). The MOA and management plan include a provision asserting that there would be no permits or approvals of any proposed or future projects on the island of Rota that may adversely affect the Mariana crow or its critical habitat without first obtaining approval from the Pacific Islands Fish and Wildlife Office (Service 2011, p. 2). The establishment of this area and associated prohibitions are memorialized by the Commonwealth Law Revision Commission (July 19, 2019), Title 85: Department of Lands and Natural Resources; Subchapter 30.4, Mariana Crow Conservation Area.

Approximately 8,871 ac (357 ha) of the Mariana Crow Conservation Area fully or partially overlap proposed critical habitat units for the Pacific sheath-tailed bat, fragile tree snail, Guam tree snail, Mariana wandering butterfly, *Bulbophyllum guamense, Cycas micronesica, Dendrobium guamense, Maesa walkeri, Tabernaemontana rotensis,* and *Tuberolabium guamense.* One or more of the PBFs essential to the conservation of these species receive direct or indirect conservation benefits as a result of the preservation and management originally intended for the Mariana crow. These benefits include, but are not limited to the following:

(a) Prohibitions (the MOA prohibits, in perpetuity) against the removal of plants, animals, soils, sand, and rocks that protect habitats and resources (*e.g.,* water, sunlight, moisture, soil porosity, nutritional components, vegetation stature, canopy composition, ground cover, and other habitat and resources).

(b) Preserving in perpetuity native volcanic and limestone forests, substrates, and understory, including maintaining closed canopy conditions, host plants, and other habitats and resources for native and federally listed species, pollinators, seed dispersers, and microbial partners.

(c) Prohibitions against establishing new roads.

(d) The Service and the CNMI Government agreed to develop an island-wide multiple-species conservation plan specifically protecting all federally listed species on Rota; the conservation plan is incomplete and expected to be completed when budgets and workforce allow.

(2) Rota Local Law No. 9–1—Sabana Protected Area

In 1994, Rota Local Law No. 9–1 (CNMI 1994, entire) was established by the Rota legislative delegation to provide protections to wildlife and forest vegetation within the Sabana Heights and part of the I'Chenchon Bird Sanctuary (hereafter referred to as the Sabana Protected Area) on the island of Rota. The protections are afforded to approximately 3,707 ac (1,500 ha) of lands and administered by CNMI's

Director of the Department of Natural Resources. The Sabana Protected Area consists of mixed agricultural lots and various types of native forest area, including forested cliffs, providing habitat for several endemic and federally endangered or threatened species. The law establishes restrictions and calls for implementation of conservation techniques to ensure there are no adverse impacts on the wildlife and vegetation in this area (CNMI 1994, p. 1). Prohibitions were established to include the prevention of take, such as harassment and disturbance of non-game wildlife, gathering/removal of vegetation (*i.e.,* all plant life, including fungi, forest vegetation, and grasses that are not used for medicinal purposes in traditional healing practices), and other disturbances to wildlife and plants (*e.g.,* destruction of nests, excavation of surface areas, disruptions of normal patterns of behavior or growth of wildlife); enforcement of the conservation area is also provided (CNMI 1994, pp. 1–2).

The Sabana Protected Area fully or partially overlaps proposed critical habitat units for approximately 2,840 ac (1,150 ha) for the Pacific sheath-tailed bat; approximately 2,820 ac (1,141 ha) for the fragile tree snail, humped tree snail, Guam tree snail, Mariana wandering butterfly, *Bulbophyllum guamense, Cycas micronesica, Dendrobium guamense, Maesa walkeri, Tabernaemontana rotensis,* and *Tuberolabium guamense;* approximately 2,411 ac (976 ha) for *Nervilia jacksoniae;* and approximately 289 ac (117 ha) for the Rota blue damselfly. One or more of the PBFs essential to the conservation of these 11 species receive direct or indirect conservation benefits as a result of the conserved area coupled with the provided prohibitions and enforcement to the forested habitats. These benefits include, but are not limited to, the following:

(a) Prohibitions against removing, injuring, or killing plants and wildlife with the exception of plants used for traditional medicine, or those being utilized through normal agricultural activities.

(b) Sabana Conservation area is gated and Rota DFW Law Enforcement patrols through the area during the day and sometimes as night. No permits of any activities are issued within this area since land clearing and hunting are prohibited.

(c) No removing or disturbing soil, sand, or rock.

(d) No harassing or disturbing wildlife or vegetation to include the following: darting, driving or herding animals out of an area; destruction of nesting areas; excavation of surface land for the removal of any type of soil or plant life; mining operations; and any other activities that result in disruption of the normal patterns of behavior or growth of wildlife or the destruction of plant life soil/rock/coral composition.

(e) Prohibit any other activities (recreational, commercial, and agricultural) that are deemed detrimental to the aquifer within or adjacent to the Sabana Heights area at the discretion of the Director of Department of Lands and Natural Resources, Chief of the Division of Fish and Wildlife, and the Rota Resident Director of Department of Lands and Natural Resources.

(3) Talakhaya Integrated Watershed Management Plan (CNMI DEQ 2012, Entire)

The Talakhaya/Sabana watershed encompasses 4,900 ac (1,983 ha) of lands at the southern end of Rota. This area includes a unique combination of geology and hydrology for Rota, including the only perennial streams on the southern side of the island (CNMI BECQ 2020, pp. 12, 18). The habitats comprise a mosaic of native forest habitat along with freshwater caves and spring systems, and five sub-watersheds and associated riparian areas. The watershed is jointly managed by three local government agencies (*i.e.,* CNMI BECQ, Department of Land and Natural Resources, and Forestry) whose management approach is described as ''ridge-to-reef'' (CNMI BECQ 2020, pp. 10, 26).

Approximately 254 ac (103 ha) of the Talakhaya watershed is managed under the Talakhaya Watershed Management Plan including approximately 152 ac (62 ha) overlapping the Sabana Protected Area. The remaining area managed under the Plan partially overlaps proposed critical habitat units for approximately 254 ac (103 ha) for the Pacific sheath-tailed bat and Rota blue damselfly. One or more of the PBFs essential to the conservation of these two species receive direct or indirect conservation benefits as a result of the managed area. Management actions that can benefit the PBFs for Pacific sheath-tailed bat and Rota blue damselfly include, but are not limited to, the following: (1) revegetate critically eroding areas, (2) decrease watershed erosion, (3) create enforcement measures for local laws, and (4) educate the Rota community about how fires affect the watershed (CNMI BECQ 2020, p. 36). The management plan also identifies a variety of strategies to address threats to the watershed area that could negatively impact bat and damselfly habitat, such as establishing partnerships with private landowners to implement watershed-friendly best management practices for agricultural and grazing activities (thus reducing negative impacts on habitat for the bat and damselfly) and stabilizing existing roads and culverts to reduce sedimentation (CNMI BECQ 2020, pp. 38–39). Additionally, adaptive management will be implemented and supported with monitoring activities to adjust priorities and actions should goals not be achieved (CNMI BECQ 2020, pp. 58–61).

Summary of Exclusions Considered Under 4(b)(2) of the Act

We have reason to consider excluding the following areas under section 4(b)(2) of the Act from the final critical habitat designation for the Pacific sheath-tailed bat, fragile tree snail, Guam tree snail, Mariana wandering butterfly, Rota blue damselfly, *Bulbophyllum guamense, Cycas micronesica, Dendrobium guamense, Maesa walkeri, Nervilia jacksoniae, Tabernaemontana rotensis,* and *Tuberolabium guamense.* All of these considered exclusions occur on the Island of Rota. Table 26 below provides the areas and approximate acreage (ac, ha) of lands that meet the definition of critical habitat but for which we are considering possible exclusion under section 4(b)(2) of the Act from the final critical habitat rule.

TABLE 26—AREAS CONSIDERED FOR EXCLUSION BY CRITICAL HABITAT UNIT

Area	Specific unit	Areas meeting the definition of critical habitat, in acres (hectares)	Areas considered for possible exclusion, in acres (hectares)	Reasons for considering exclusion
10	Rota 1–*Bulbophyllum guamense*–a	1,930 (781)	2 (1)	Mariana Crow Conservation Area/2011 MOA.
10	Rota 2–*Tabernaemontana rotensis*–b	3,327 (1,347)	654 (265)	

TABLE 26—AREAS CONSIDERED FOR EXCLUSION BY CRITICAL HABITAT UNIT—Continued

Area	Specific unit	Areas meeting the definition of critical habitat, in acres (hectares)	Areas considered for possible exclusion, in acres (hectares)	Reasons for considering exclusion
11	Rota 2–*Bulbophyllum guamense*–b Rota 2–*Dendrobium guamense*–a Rota 2–*Tuberolabium guamense*–a Rota 2–*Cycas micronesica*–a Rota 2–*Maesa walkeri*–a Rota 2–*Tabernaemontana rotensis*–b	6,875 (2,782)	233 (94)	
12	Fragile Tree Snail–1, Rota Mariana Wandering Butterfly–1, Rota	12,282 (4,970)	887 (359)	
14	Pacific Sheath-Tailed Bat–1, Rota	7,632 (3,089)	233 (94)	
Total Excluded MOA (no overlapping acres).			887 (359)	
11	Rota 2–*Bulbophyllum guamense*–b Rota 2–*Dendrobium guamense*–a Rota 2–*Tuberolabium guamense*–a Rota 2–*Cycas micronesica*–a Rota 2–*Maesa walkeri*–a Rota 2–*Tabernaemontana rotensis*–b	6,875 (2,782)	2,820 (1,141)	Sabana Protected Area.
11	Rota 2–*Nervilia jacksoniae*–a	4,368 (1,768)	2,411 (976)	
12	Fragile Tree Snail–1, Rota Mariana Wandering Butterfly–1, Rota.	12,282 (4,970)	2,820 (1,141)	
13	Rota Blue Damselfly–1, Rota	1,133 (459)	289 (117)	
14	Pacific Sheath-tailed Bat–1, Rota	7,632 (3,089)	2,840 (1,150)	
Total Excluded Sabana (no overlapping acres).			2,840 (1,150)	
13	Rota Blue Damselfly–1, Rota	1,133 (459)	254 (103)	Talakhaya Integrated Watershed Management Plan.
14	Pacific Sheath-tailed Bat–1, Rota	7,632 (3,089)		
Total Excluded Talakhaya (no overlapping acres).			254 (103)	

Note: Total acreages for each of the three management plans/conservation areas do not sum for each unit because of overlapping areas. More specifically, the Sabana Protected Area and total area managed under the Talakhaya Integrated Watershed Management Plan partially overlap by approximately 152 ac (62 ha). Proposed critical habitat considered for exclusion in this overlap of conservation areas is included in the acreages for the Sabana Protected Area only.

In conclusion, for this proposed rule, we have reason to consider excluding the areas identified above from the final designation based on other relevant impacts. We specifically solicit comments on the inclusion or exclusion of such areas. We also solicit comments on whether there are potential economic, national security, or other relevant impacts from designating any other particular areas as critical habitat. As part of developing the final designation of critical habitat, we will evaluate the information we receive regarding potential impacts from designating the areas described above or any other particular areas, and we may conduct a discretionary exclusion analysis to determine whether to exclude those areas under authority of section 4(b)(2) and our implementing regulations at 50 CFR 424.19. If we receive a request for exclusion of a particular area and after evaluation of supporting information we do not exclude, we will fully describe our decision in the final rule for this action.

Required Determinations

Clarity of the Proposed Rule

We are required by E.O.s 12866 and 12988 and by the Presidential memorandum of June 1, 1998, to write all rules in plain language. This means that each rule we publish must:

(1) Be logically organized;

(2) Use the active voice to address readers directly;

(3) Use clear language rather than jargon;

(4) Be divided into short sections and sentences; and

(5) Use lists and tables wherever possible.

If you feel that we have not met these requirements, send us comments by one of the methods listed in **ADDRESSES**. To better help us revise the proposed rule, your comments should be as specific as possible. For example, you should tell us the numbers of the sections or paragraphs that are unclearly written, which sections or sentences are too long, the sections where you feel lists or tables would be useful, etc.

Regulatory Planning and Review—E.O.s 12866,13563 and 14192

E.O. 12866 provides that the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget will review all significant rules as defined in section 3(f) of that E.O. OIRA has determined that this proposed rule is significant and has reviewed it.

E.O. 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the Nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. E.O. 13653 directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this proposed rule in a manner consistent with these requirements.

This proposed rule, if finalized as proposed, may be an E.O. 14192 regulatory action.

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; title II of Pub. L. 104–121, March 29, 1996), whenever a Federal 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.

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). The definition of a small business varies by industry. Small businesses size standards for manufacturing and mining vary between 500 and 1,500 employees, for wholesale trade entities between 100 and 250 employees, retail and service businesses with between $8 and $47 million in annual sales, general and heavy construction businesses with less than $45 million in annual business, special trade contractors doing less than $19 million in annual business, and agricultural businesses with annual sales between $2.25 and $5.5 million. To determine whether 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.

Under the RFA, as amended, and as understood in light of recent court decisions, Federal agencies are required to evaluate the potential incremental impacts of rulemaking on those entities directly regulated by the rulemaking itself; in other words, the RFA does not require agencies to evaluate the potential impacts to indirectly regulated entities. The regulatory mechanism through which critical habitat protections are realized is section 7 of the Act, which requires Federal agencies, in consultation with the Service, to ensure that any action authorized, funded, or carried out by the agency is not likely to destroy or adversely modify critical habitat. Therefore, under section 7, only Federal action agencies are directly subject to the specific regulatory requirement (avoiding destruction and adverse modification) imposed by critical habitat designation. Consequently, only Federal action agencies would be directly regulated if we adopt the proposed critical habitat designation. The RFA does not require evaluation of the potential impacts to entities not directly regulated. Moreover, Federal agencies are not small entities. Therefore, because no small entities would be directly regulated by this rulemaking, the Service certifies that, if made final as proposed, the proposed critical habitat designation will not have a significant economic impact on a substantial number of small entities.

In summary, we have considered whether the proposed designation would result in a significant economic impact on a substantial number of small entities. For the above reasons and based on currently available information, we certify that, if made final, 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.

Energy Supply, Distribution, or Use—E.O. 13211

E.O. 13211 (Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use) requires agencies to prepare statements of energy effects ''to the extent permitted by law'' when undertaking actions identified as significant energy actions (66 FR 28355; May 22, 2001). E.O. 13211 defines a ''significant energy action'' as, among other things, an action that (i) meets the definition of a ''significant regulatory action'' under E.O. 12866 (or any successor); and (ii) is likely to have a significant adverse effect on the supply, distribution, or use of energy. In our economic analysis, we identified geothermal wells, solar power, and wind farms as renewable energy projects that could potentially occur within the proposed critical habitat designation, but we did not find that the designation of critical habitat would significantly affect energy supplies, distribution, or use (IEc 2025, entire). Renewable energy activities have been known to occur in some areas on some islands, such as with a current wind farm off Guam where we are coordinating with the Bureau of Ocean Energy Management. Under section 7 of the Act, we consult on these types of activities with Federal agencies. As discussed in the economic analysis, the costs associated with consultations related to the proposed critical habitat designation would be largely administrative in nature and are not anticipated to reach $100 million in any given year based on the anticipated annual number of consultations and associated consultation costs, which are not expected to exceed $31,300 per year (2024 dollars) (IEc 2025, pp. 2, 53, 57). Therefore, this action is not a significant energy action, and no 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 *et seq.*), we make the following finding:

(1) This proposed rule would 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 are not likely to destroy or adversely modify critical habitat under section 7. While non-Federal entities that receive Federal funding, assistance, or permits, or that otherwise require approval or authorization from a Federal agency for an action, may be indirectly impacted by the designation of critical habitat, 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.

(2) This rule would not significantly or uniquely affect small governments, or small governments may be affected only to the extent that any programs having Federal permits, funds (including mayoral offices within the commonwealth and territory that rely on Federal funding), or other authorized activities must ensure that their actions will not adversely affect the critical habitat. Our analysis considered Federal funding, such as (but not limited to) affordable housing and community development block grant funding (IEc 2025, pp. 15–16). Small governments will be affected only to the extent that any programs having Federal funds, permits, or other authorized activities must ensure that their actions will not adversely affect the critical habitat. Therefore, a small government agency plan is not required.

Takings—E.O. 12630

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 Mariana Islands species in a takings implications assessment. The Act does not authorize the Service to regulate private actions on private lands or confiscate private property as a result of critical habitat designation. Designation of critical habitat does not affect land ownership, or establish any closures, or restrictions on use of or access to the designated areas. Furthermore, the designation of critical habitat 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. However, Federal agencies are prohibited from carrying out, funding, or authorizing actions that would destroy or adversely modify critical habitat. A takings implications assessment has been completed for the proposed designation of critical habitat for the Mariana Islands species, and it concludes that, if adopted, this designation of critical habitat does not pose significant takings implications for lands within or affected by the designation.

Federalism—E.O. 13132

In accordance with E.O. 13132 (Federalism), this proposed rule does not have significant Federalism effects. A federalism summary impact statement is not required. In keeping with Department of the Interior policy, we requested information from and coordinated development of this proposed critical habitat designation with, appropriate State resource agencies. From a federalism perspective, the designation of critical habitat directly affects only the responsibilities of Federal agencies. The Act imposes no other duties with respect to critical habitat, either for States and local governments, or for anyone else. As a result, the proposed rule does not have substantial direct effects either on the States, or on the relationship between the Federal Government and the States, or on the distribution of powers and responsibilities among the various levels of government. The proposed designation may have some benefit to these governments because the areas that contain the features essential to the conservation of the species are more clearly defined, and the PBFs of the habitat necessary for the conservation of the species are specifically identified. This information does not alter where and what federally sponsored activities may occur. However, it may assist State and local governments in long-range planning because they no longer have to wait for case-by-case section 7 consultations to occur.

Where State and local governments require approval or authorization from a Federal agency for actions that may affect critical habitat, consultation under section 7(a)(2) of the Act would be required. While non-Federal entities that receive Federal funding, assistance, or permits, or that otherwise require approval or authorization from a Federal agency for an action, may be indirectly impacted by the designation of critical habitat, the legally binding duty to avoid destruction or adverse modification of critical habitat rests squarely on the Federal agency.

Civil Justice Reform—E. O. 12988

In accordance with E.O. 12988 (Civil Justice Reform), the Office of the Solicitor has determined that the rule would not unduly burden the judicial system and that it meets the requirements of sections 3(a) and 3(b)(2) of the Order. We have proposed designating critical habitat in accordance with the provisions of the Act. To assist the public in understanding the habitat needs of the species, this proposed rule identifies the PBFs essential to the conservation of the species. The proposed areas of critical habitat are presented on maps, and the proposed rule provides several options for the interested public to obtain more detailed location information, if desired.

Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.)

This proposed rule does not contain information collection requirements, and a submission to the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) is not required. We may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number.

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

Regulations adopted pursuant to section 4(a) of the Act are exempt from the National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*) and do not require an environmental analysis under NEPA. We published a notice outlining our reasons for this determination in the **FEDERAL REGISTER** on October 25, 1983 (48 FR 49244). This includes listing, delisting, and reclassification rules, as well as critical habitat designations. In a line of cases starting with *Douglas County* v. *Babbitt,* 48 F.3d 1495 (9th Cir. 1995), the courts have upheld this position. Also see Section 1.1(a)(6)(iii)(D) of 516 DM 1—U.S. Department of the Interior Handbook of National Environmental Policy Act Implementing Procedures.

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994 (Government-to-Government Relations with Native American Tribal Governments; 59 FR 22951, May 4, 1994), E.O. 13175 (Consultation and Coordination with Indian Tribal Governments), the President's memorandum of November 30, 2022 (Uniform Standards for Tribal Consultation; 87 FR 74479, December 5,

2022), and the Department of the Interior's manual at 512 DM 2, we readily acknowledge our responsibility to communicate meaningfully with federally recognized Tribes and Alaska Native Corporations on a government-to-government basis. In accordance with the Secretary's Order 3206 of June 5, 1997 (American Indian Tribal Rights, Federal-Tribal Trust Responsibilities, and the Endangered Species Act), we readily acknowledge our responsibilities to work directly with Tribes in developing programs for healthy ecosystems, to acknowledge that Tribal lands are not subject to the same controls as Federal public lands, to remain sensitive to Indian culture, and to make information available to Tribes. We are also continuing to work closely with the indigenous community in CNMI and the Territory of Guam. We have determined that no Tribal lands fall within the boundaries of the proposed critical habitat for the Mariana Islands species, so no Tribal lands would be affected by the proposed designation.

References Cited

A complete list of references cited in this rulemaking is available on the internet at *https://www.regulations.gov* and upon request from the Pacific Islands Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**).

List of Subjects in 50 CFR part 17

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

Proposed Regulation Promulgation

Accordingly, we propose to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, 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; 1531–1544; and 4201–4245, unless otherwise noted.

■ 2. In § 17.11, in paragraph (h), amend the List of Endangered and Threatened Wildlife by:
■ a. Under MAMMALS, revising the entry for ''Bat, Pacific sheath-tailed (Mariana subspecies) (Payeyi, Paischeey)'';
■ b. Under REPTILES, revising the entry for ''Skink, Slevin's (Gualiik halumtanu, Gholuuf)'';
■ c. Under SNAILS, revising the entries for ''Snail, fragile tree (Akaleha dogas, Denden)'', ''Snail, Guam tree (Akaleha, Denden)'', ''Snail, humped tree (Akaleha, Denden)'', and ''Snail, Langford's tree (Akaleha, Denden)''; and
■ d. Under INSECTS, revising the entries for ''Butterfly, Mariana eight-spot (Ababbang, Libweibwogh)'', ''Butterfly, Mariana wandering (Ababbang, Libweibwogh)'', and ''Damselfly, Rota blue (Dulalas Luta, Dulalas Luuta)''.

The revisions read as follows:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Common name	Scientific name	Where listed	Status	Listing citations and applicable rules
MAMMALS				
*	*	*	*	*
Bat, Pacific sheath-tailed (Mariana subspecies) (=payeye, payeyi, payesyes, payesyis, paischeey, fanihen ganas, fanihin ganas, payesyis).	*Emballonurasemicaudata rotensis*.	Wherever found	E	80 FR 59424, 10/1/2015; 50 CFR 17.95(a)[CH].
*	*	*	*	*
REPTILES				
*	*	*	*	*
Skink, Slevin's (=Marianas emoia, Mariana skink, gualiek halomtano, gholuuf, gualiik halumtanu, gholuuf).	*Emoia slevini*	Wherever found	E	80 FR 59424, 10/1/2015; 50 CFR 17.95(c)[CH].
*	*	*	*	*
SNAILS				
*	*	*	*	*
Snail, fragile tree (=dengdeng, dengding, akaleha, denden).	*Samoana fragilis*	Wherever found	E	80 FR 59424, 10/1/2015; 50 CFR 17.95(f)[CH].
Snail, Guam tree (=dengdeng, dengding, akaleha, denden).	*Partula radiolata*	Wherever found	E	80 FR 59424, 10/1/2015; 50 CFR 17.95(f)[CH].
Snail, humped tree (=dengdeng, dengding, akaleha, denden).	*Partula gibba*	Wherever found	E	80 FR 59424, 10/1/2015; 50 CFR 17.95(f)[CH].
*	*	*	*	*
Snail, Langford's tree (=dengdeng, dengding, akaleha, denden).	*Partula langfordi*	Wherever found	E	80 FR 59424, 10/1/2015; 50 CFR 17.95(f)[CH].

Common name	Scientific name	Where listed	Status	Listing citations and applicable rules
*	*	*	*	*
INSECTS				
*	*	*	*	*
Butterfly, Mariana eight-spot (=ababang, ababbang, libweibwogh).	*Hypolimnas octocula marianensis*.	Wherever found	E	80 FR 59424, 10/1/2015; 50 CFR 17.95(i)[CH].
Butterfly, Mariana wandering (=ababang, ababbang, libweibwogh).	*Vagrans egistina*	Wherever found	E	80 FR 59424, 10/1/2015; 50 CFR 17.95(i)[CH].
*	*	*	*	*
Damselfly, Rota blue (=dulalas luta).	*Ischnura luta*	Wherever found	E	80 FR 59424, 10/1/2015; 50 CFR 17.95(i)[CH].
*	*	*	*	*

■ 3. In § 17.12, paragraph (h), amend the List of Endangered and Threatened Plants by:

■ a. Under FLOWERING PLANTS, revising the entries for ''*Bulbophyllum guamense*'', ''*Dendrobium guamense*'', ''*Eugenia bryanii*'', ''*Hedyotis megalantha*'', ''*Heritiera longipetiolata*'', ''*Maesa walkeri*'', ''*Nervilia jacksoniae*'', ''*Phyllanthus saffordii*'', ''*Psychotria malaspinae*'', ''*Tabernaemontana rotensis*'', ''*Tinospora homosepala*'', and ''*Tuberolabium guamense*''; and

■ b. Under CONIFERS AND ALLIES, revising the entry for ''*Cycas micronesica*''.

These revisions read as follows:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Scientific name	Common name	Where listed	Status	Listing citations and applicable rules
FLOWERING PLANTS				
*	*	*	*	*
Bulbophyllum guamense	Wild onion (=siboyas halomtano, siboyas halumtanu, siboyan halomtano).	Wherever found	T	80 FR 59424, 10/1/2015; 50 CFR 17.96(a)[CH].
*	*	*	*	*
Dendrobium guamense	No common name	Wherever found	T	80 FR 59424, 10/1/2015; 50 CFR 17.96(a)[CH].
*	*	*	*	*
Eugenia bryanii	No common name	Wherever found	E	80 FR 59424, 10/1/2015; 50 CFR 17.96(a)[CH].
*	*	*	*	*
Hedyotis megalantha	Pao dedo, paodedu, pao doodu.	Wherever found	E	80 FR 59424, 10/1/2015; 50 CFR 17.96(a)[CH].
*	*	*	*	*
Heritiera longipetiolata	Ufa halomtano, ufa halumtanu, ufa halomtano.	Wherever found	E	80 FR 59424, 10/1/2015; 50 CFR 17.96(a)[CH].
*	*	*	*	*
Maesa walkeri	No common name	Wherever found	T	80 FR 59424, 10/1/2015; 50 CFR 17.96(a)[CH].
*	*	*	*	*
Nervilia jacksoniae	No common name	Wherever found	T	80 FR 59424, 10/1/2015; 50 CFR 17.96(a)[CH].
*	*	*	*	*
Phyllanthus saffordii	Maigo lalo	Wherever found	E	80 FR 59424, 10/1/2015; 50 CFR 17.96(a)[CH].

Scientific name	Common name	Where listed	Status	Listing citations and applicable rules
* *	*	*	*	* *
Psychotria malaspinae	Aplohkateng palaoan, applok hatting palaoan, aplokkating palaoan.	Wherever found	E	80 FR 59424, 10/1/2015; 50 CFR 17.96(a)[CH].
* *	*	*	*	* *
Tabernaemontana ..... *rotensis*	No common name	Wherever found	T	80 FR 59424, 10/1/2015; 50 CFR 17.96(a)[CH].
* *	*	*	*	* *
Tinospora homosepala	No common name	Wherever found	E	80 FR 59424, 10/1/2015; 50 CFR 17.96(a)[CH].
* *	*	*	*	* *
Tuberolabium guamense	No common name	Wherever found	T	80 FR 59424, 10/1/2015; 50 CFR 17.96(a)[CH].
* *	*	*	*	* *
CONIFERS AND ALLIES				
* *	*	*	*	* *
Cycas micronesica	Fadang, faadang	Wherever found	T	80 FR 59424, 10/1/2015; 50 CFR 17.96(b)[CH].
* *	*	*	*	* *

■ 4. Amend § 17.95 by:
■ a. In paragraph (a), adding an entry for ''Pacific Sheath-Tailed Bat (*Emballonura semicaudata rotensis*)'' after the entry for ''Mariana Fruit Bat *(Pteropus mariannus mariannus)*'';
■ b. In paragraph (c), adding an entry for ''Slevin's Skink (*Emoia slevini*)'' after the entry for ''Leatherback Sea Turtle (*Dermochelys coriacea*)'';
■ c. In paragraph (f), adding entries for ''Fragile Tree Snail (*Samoana fragilis*)'', ''Guam Tree Snail (*Partula radiolata*)'', ''Humped Tree Snail (*Partula gibba*)'', and ''Langford's Tree Snail (*Partula langfordi*)'' after the entry for ''Interrupted Rocksnail (*Leptoxis foremani*)''; and
■ d. In paragraph (i), adding entries for:
■ i. ''Mariana Eight-Spot Butterfly (*Hypolimnas octocula marianensis*)'' and ''Mariana Wandering Butterfly (*Vagrans egistina*)'' after the entry for ''Island Marble Butterfly (*Euchloe ausonides insulanus*)''; and
■ ii. ''Rota Blue Damselfly (*Ischnura luta*)'' after the entry for ''Pacific Hawaiian Damselfly (*Megalagrion pacificum*)''.

These additions read as follows:

§ 17.95 Critical habitat—fish and wildlife.

(a) *Mammals.*

* * * * *

Pacific Sheath-Tailed Bat (*Emballonura semicaudata rotensis*)

(1) Critical habitat units are depicted for Aguiguan and Rota within the Commonwealth of the Northern Mariana Islands, on the maps in this entry.

(2) Within these areas, the physical or biological features essential to the conservation of the Pacific sheath-tailed bat (for the occupied unit) and for the conservation of the species (for the unoccupied unit) consist of the following components:

(i) Limestone caves, lava tubes, overhanging cliffs, and crevasses for roosting.

(ii) Intact, contiguous forests near and surrounding suitable roosting sites.

(iii) Prey insects such as ants, bees, wasps (Hymenoptera), moths (Lepidoptera), and beetles (Coleoptera) and vegetation to support them.

(3) Critical habitat does not include manmade structures (such as buildings or paved areas including aqueducts, runways, or roads) and the land on which they are located existing within the legal boundaries on the effective date of the final rule.

(4) Data layers defining map units were created using survey and distribution data provided by multiple local and regional sources as available (*e.g.,* reports, databases, and species experts' knowledge) and as maintained by universities, local governments, and nonprofit organizations across the Mariana Islands. Landcover data (*e.g.,* soil substrate, vegetation, and elevation) were obtained and compiled from multiple Federal and local government agencies. Temperature and precipitation data were obtained and compiled from journal publications. Landforms were primarily delineated based on the most currently available aerial maps and satellite imagery. The maps in this entry, as supplemented by any accompanying regulatory text, establish the boundaries of the critical habitat designation. The coordinates or plot points or both on which each map is based are available to the public at the Service's internet site at *https://www.fws.gov/project/critical-habitat-mariana-islands,* at *https://www.regulations.gov* at Docket No. FWS–R1–ES–2024–0194, and at the field office responsible for this designation. You may obtain field office location information by contacting one of the Service regional offices, the addresses of which are listed at 50 CFR 2.2.

(5) The index map shows the general locations of critical habitat units designated on each island, with each location/area on each island identified as a specific number.

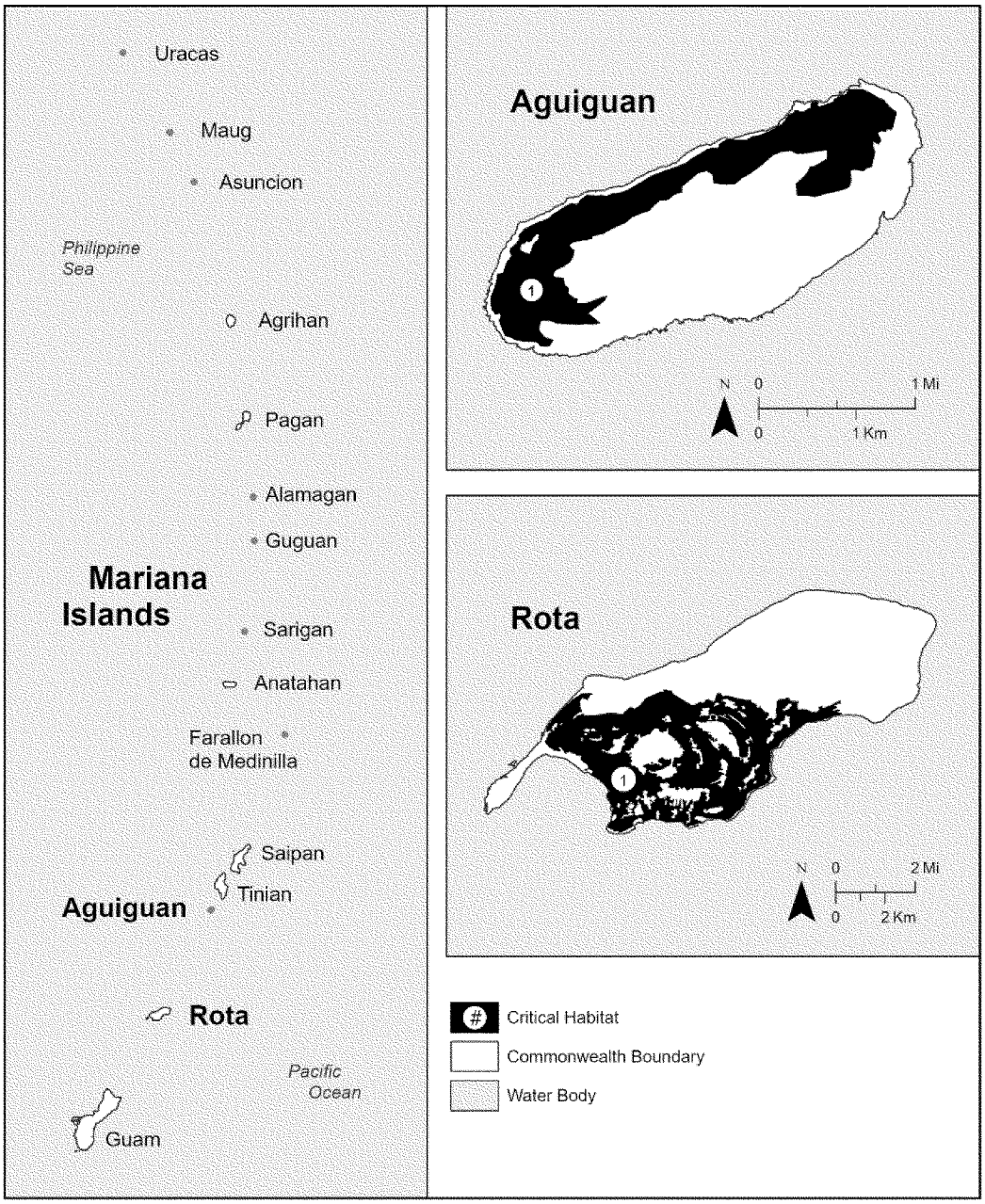
(i) Each critical habitat unit name comprises the species name, a numeral digit, and an island name. The numeral digit within a unit name corresponds with the number of critical habitat units present on a given island (*i.e.,* each island map with the species present has a unit number 1).

(ii) Index map follows:

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Figure 1 to the Pacific Sheath-Tailed Bat (*Emballonura semicaudata rotensis*) paragraph (5)(ii)

Critical Habitat for Pacific Sheath-tailed Bat (*Emballonura semicaudata rotensis*)
Index Map for the Islands of Aguiguan and Rota,
Commonwealth of the Northern Mariana Islands



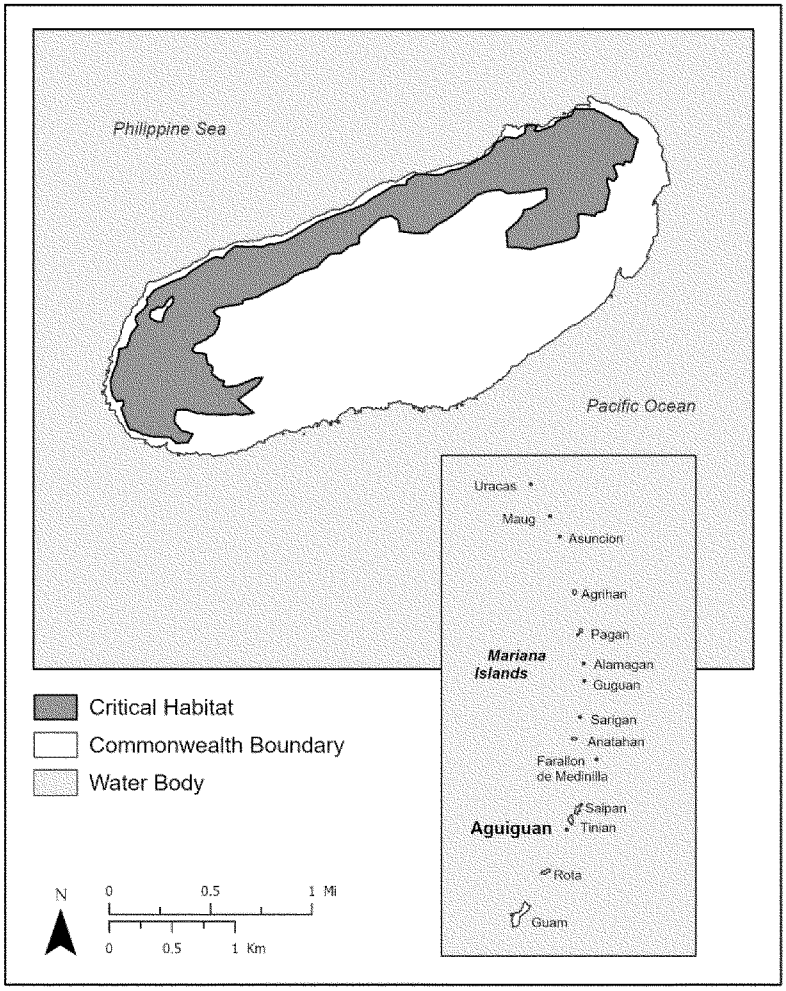
(6) Pacific Sheath-Tailed Bat–1, Aguiguan; Commonwealth of the Northern Mariana Islands.

(i) This unit consists of 589 ac (238 ha) on the uninhabited island of Aguiguan (also known as Goat Island or Aguijan). The unit includes limestones caves and secondary forests extending from the northeastern to the northwestern side of the island. All lands are owned by the Commonwealth government.

(ii) Map of Pacific Sheath-Tailed Bat–1, Aguiguan, follows:

Figure 2 to Pacific Sheath-Tailed Bat (*Emballonura semicaudata rotensis*) paragraph (6)(ii)

Critical Habitat for Pacific Sheath-tailed Bat (*Emballonura semicaudata rotensis*)
Pacific Sheath-tailed Bat–1, Aguiguan
Commonwealth of the Northern Mariana Islands



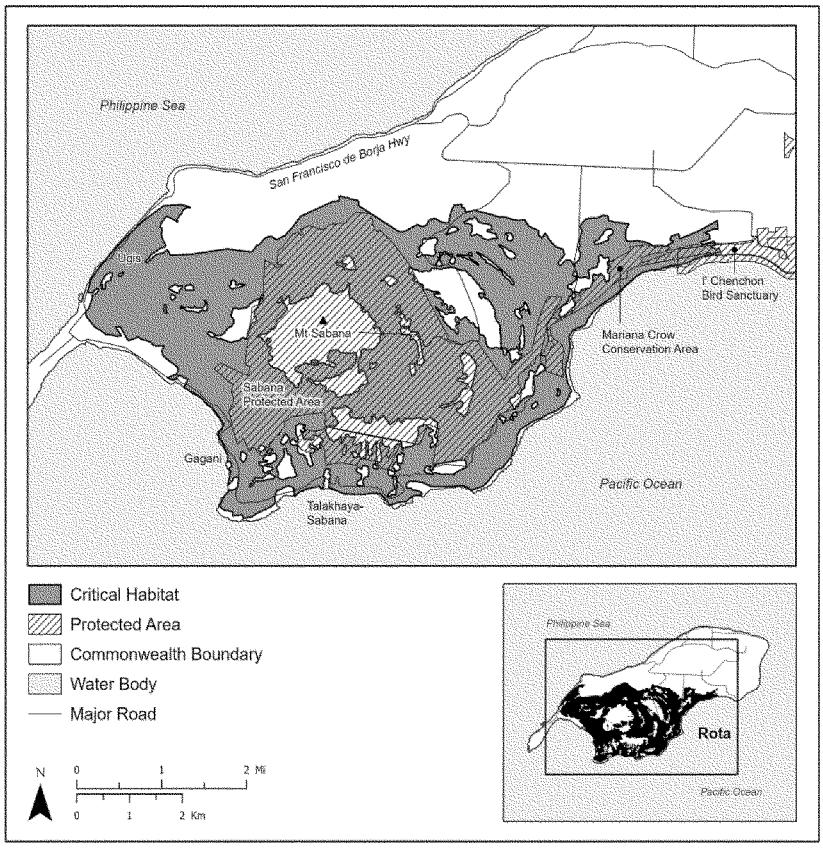
(7) Pacific Sheath-Tailed Bat–1, Rota; Commonwealth of the Northern Mariana Islands.

(i) This unit consists of 7,633 ac (3,089 ha) of limestone and secondary forested lands with limestone caves on the island of Rota. The unit is located on the southern section of Rota extending west towards I'Chenchon Bird Sanctuary, east towards Ugis, and south into the southern boundaries of the Talakhaya watershed, with the exception of developed areas, grasslands, and Mount Sabana. Landownership includes 6,178 ac (2,500 ha) of the Commonwealth government, 1,418 ac (574 ha) in private ownership, and 36 ac (15 ha) that are uncategorized. The southern portion of this unit overlaps the Talakhaya Conservation Area, the central portion overlaps the Sabana Protected Area, and the northeastern tip overlaps the western end of the I'Chenchon Bird Sanctuary Conservation Area.

(ii) Map of Pacific Sheath-Tailed Bat–1, Rota, follows:

Figure 3 to Pacific Sheath-Tailed Bat (*Emballonura semicaudata rotensis*) paragraph (7)(ii)

Critical Habitat for Pacific Sheath-tailed Bat (*Emballonura semicaudata rotensis*)
Pacific Sheath-tailed Bat–1, Rota
Commonwealth of the Northern Mariana Islands



* * * * *

(c) *Reptiles.*

* * * * *

Slevin's Skink (*Emoia slevini*)

(1) Critical habitat units are depicted for Alamagan, Asuncion, Pagan, and Sarigan within the Commonwealth of the Northern Mariana Islands, and Cocos Island within the Territory of Guam on the maps in this entry.

(2) Within these areas, the physical or biological features essential to the conservation of Slevin's skink consist of the following components:

(i) Forests such as native limestone forests, volcanic forests, mixed-nonnative forests, or *Casuarina equisetifolia* (gagu, gago, weighu, beach sheoak, or common ironwood) and *Cocos nucifera* (niyok, coconut) dominant forests.

(ii) Forest understory and leaf litter and debris.

(iii) Invertebrate prey and vegetation to support them.

(3) Critical habitat does not include manmade structures (such as buildings or paved areas including aqueducts, runways, or roads) and the land on which they are located existing within the legal boundaries on the effective date of the final rule.

(4) Data layers defining map units were created using survey and distribution data provided by multiple local and regional sources as available (*e.g.,* reports, databases, and species experts' knowledge) and as maintained by universities, local governments, and nonprofit organizations across the Mariana Islands. Landcover data (*e.g.,* soil substrate, vegetation, and elevation) were obtained and compiled from multiple Federal and local government agencies. Temperature and precipitation data were obtained and compiled from journal publications. Landforms were primarily delineated based on the most currently available aerial maps and satellite imagery. The maps in this entry, as supplemented by any accompanying regulatory text, establish the boundaries of the critical habitat designation. The coordinates or plot points or both on which each map is based are available to the public at the Service's internet site at *https://www.fws.gov/project/critical-habitat-mariana-islands,* at *https://www.regulations.gov* at Docket No. FWS–R1–ES–2024–0194, and at the field office responsible for this designation. You may obtain field office location information by contacting one of the Service regional offices, the addresses of which are listed at 50 CFR 2.2.

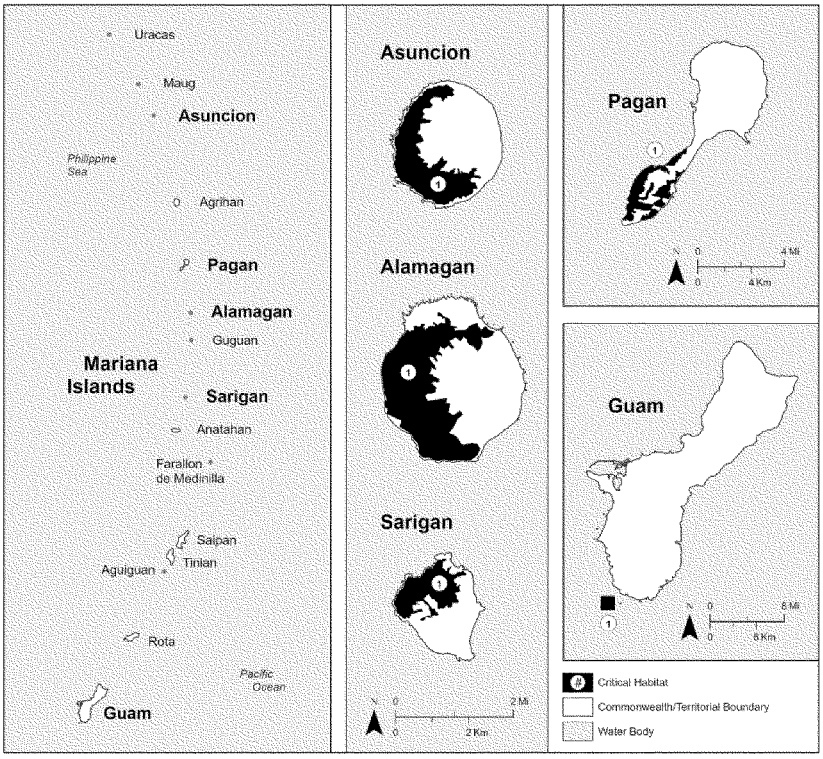
(5) The index map shows the general locations of critical habitat units designated on five islands, with each location/area on each island identified as a specific number.

(i) Each critical habitat unit name comprises the species name, a numeral digit, and an island name. The numeral digit within a unit name corresponds with the number of critical habitat units present on a given island. Therefore, each island map with the species present has a Unit 1, with a single unit on each island totaling five units for this species.

(ii) Index map follows:

Figure 1 to the Slevin's Skink (*Emoia slevini*) paragraph (5)(ii)

Critical Habitat for Slevin's Skink (*Emoia slevini*)
Index Map for the Islands of Asuncion, Pagan, Alamagan, and Sarigan, Commonwealth of the Northern Mariana Islands; and Cocos Island, Territory of Guam

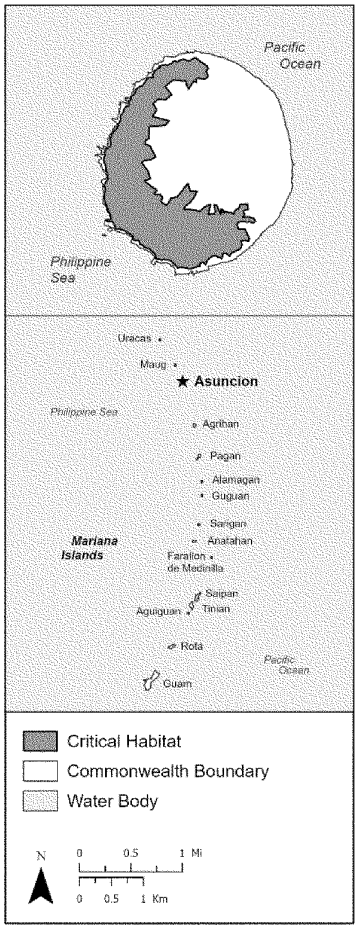


(6) Slevin's Skink–1, Asuncion; Commonwealth of the Northern Mariana Islands.

(i) This unit consists of 750 ac (304 ha) of secondary forests on the island of Asuncion (an uninhabited volcano). The unit extends from the north to the south along the western side of the island. All lands are owned by the Commonwealth government.

(ii) Map of Slevin's Skink–1, Asuncion, follows:

Figure 2 to Slevin's Skink (*Emoia slevini*) paragraph (6)(ii)



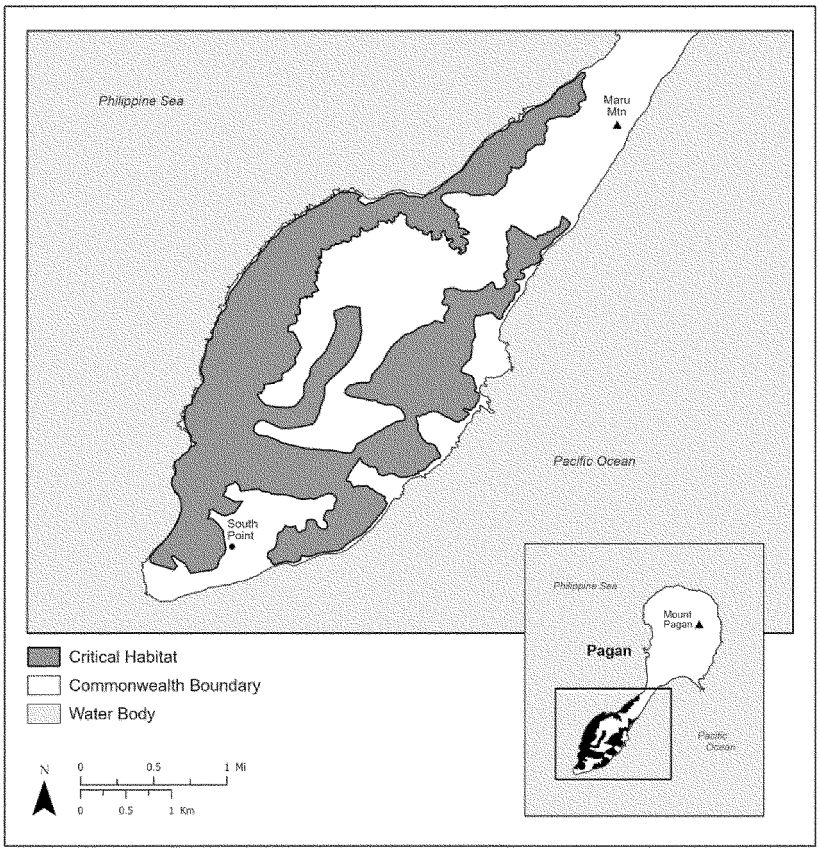
(7) Slevin's Skink–1, Pagan; Commonwealth of the Northern Mariana Islands.

(i) This unit consists of 1,846 ac (747 ha) of secondary forests from the isthmus to the southern portion of Pagan. The unit extends from the South Point up towards the land bridge connecting the southern and northern sections of Pagan. All lands are owned by the Commonwealth government.

(ii) Map of Slevin's Skink–1, Pagan, follows:

Figure 3 to Slevin's Skink (*Emoia slevini*) paragraph (7)(ii)

Critical Habitat for Slevin's Skink (*Emoia slevini*)
Slevin's Skink–1, Pagan
Commonwealth of the Northern Mariana Islands



(8) Slevin's Skink–1, Alamagan; Commonwealth of the Northern Mariana Islands.

(i) This unit consists of 1,420 ac (574 ha) of secondary forests on the island of Alamagan (an uninhabited volcano), extending roughly along the northern, the entire western, and the southern slopes of the volcano. All lands are owned by the Commonwealth government.

(ii) Map of Slevin's Skink–1, Alamagan, follows:

Figure 4 to Slevin's Skink (*Emoia slevini*) paragraph (8)(ii)

Critical Habitat for Slevin's Skink
(*Emoia slevini*)
Slevin's Skink–1, Alamagan
Commonwealth of the
Northern Mariana Islands



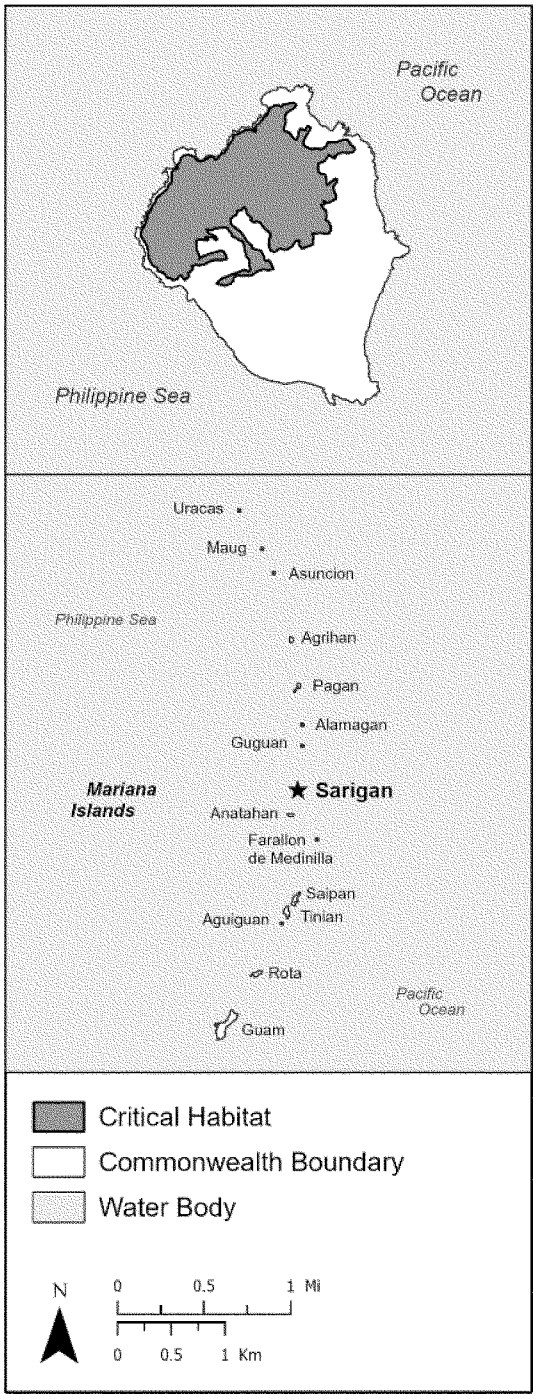
(9) Slevin's Skink–1, Sarigan; Commonwealth of the Northern Mariana Islands.

(i) This unit consists of 402 ac (163 ha) of secondary forests on the island of Sarigan, an uninhabited island due to volcanic activity. The unit extends from the northeastern side to the northwestern side of the island. All lands are owned by the Commonwealth government.

(ii) Map of Slevin's Skink–1, Sarigan, follows:

Figure 5 to Slevin's Skink (*Emoia slevini*) paragraph (9)(ii)

Critical Habitat for Slevin's Skink
(*Emoia slevini*)
Slevin's Skink–1, Sarigan
Commonwealth of the
Northern Mariana Islands



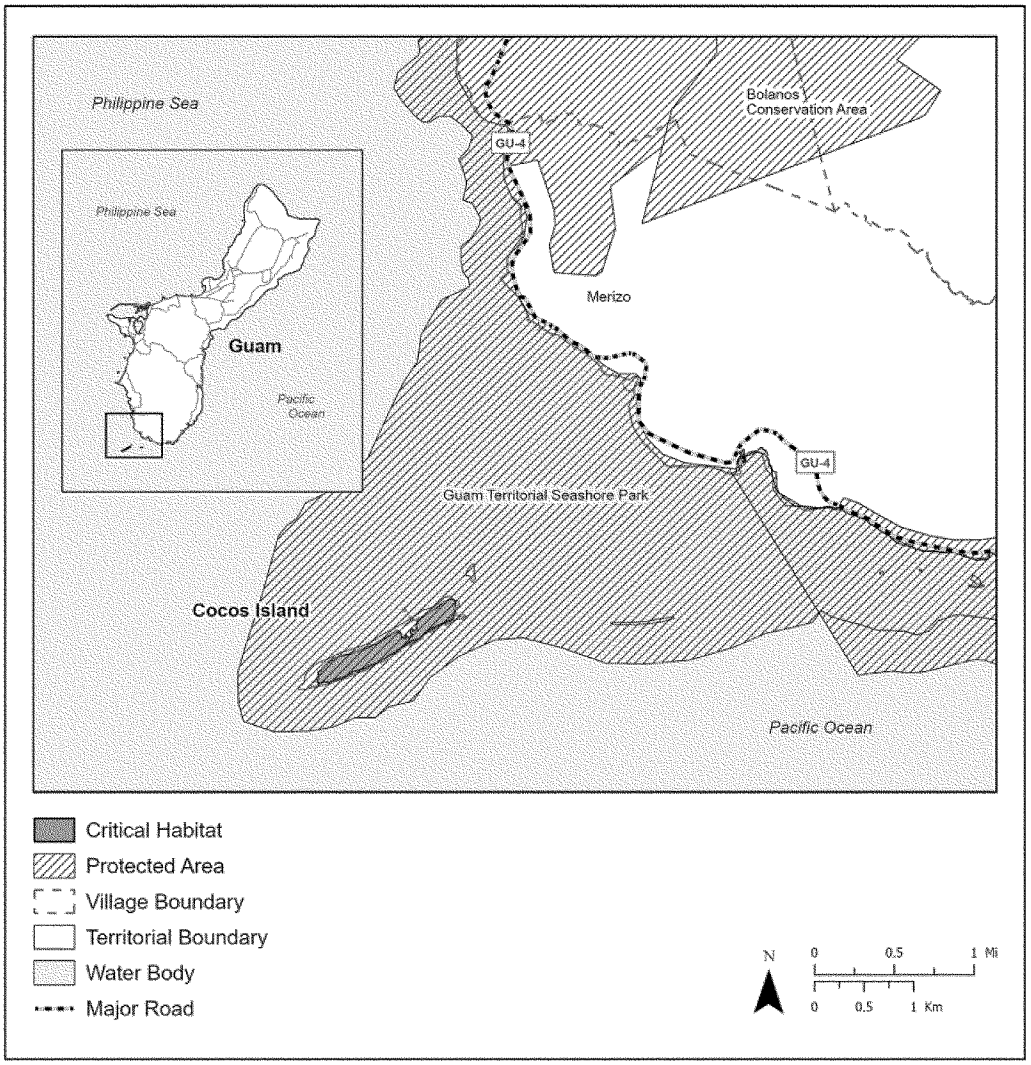
(10) Slevin's Skink–1, Guam; Cocos Island, Territory of Guam.

(i) This unit consists of 63 ac (25 ha) of secondary forests on Cocos Island, which is an island off the southern end of Guam. The unit extends across the majority of the island with the exception of developed areas and bare rock along the coastline and includes 30 ac (12 ha) under private ownership and 33 ac (13 ha) that are uncategorized. The island resides within the jurisdiction of the Guam Territorial Seashore Park.

(ii) Map of Slevin's Skink–1, Guam, follows:

Figure 6 to Slevin's Skink (*Emoia slevini*) paragraph (10)(ii)

Critical Habitat for Slevin's Skink (*Emoia slevini*)
Slevin's Skink–1, Cocos Island
Territory of Guam



* * * * *

(f) *Clams and snails.*

* * * * *

Fragile Tree Snail (*Samoana fragilis*)

(1) Critical habitat units are depicted for Rota within the Commonwealth of the Northern Mariana Islands and Guam within the Territory of Guam, on the maps in this entry.

(2) Within these areas, the physical or biological features essential to the conservation of the fragile tree snail consist of the following components:

(i) Contiguous closed-canopy limestone, volcanic, riverine, riparian, ravine, or secondary/mixed forests, or backstrand beach vegetation, providing relatively stable climatic conditions such as shade, moisture, high humidity, and low air movement.

(ii) Dense mid-canopy vegetation such as large leaves, branches, vines, or other structures.

(iii) Understory such as ground cover composed of short herbs, shrubs, ferns, or small trees.

(iv) Food sources such as dead and decaying plant material, leaf litter, and tree debris.

(3) Critical habitat does not include manmade structures (such as buildings or paved areas including aqueducts, runways, or roads) and the land on which they are located existing within the legal boundaries on the effective date of the final rule.

(4) Data layers defining map units were created using survey and distribution data provided by multiple local and regional sources as available (*e.g.,* reports, databases, and species experts' knowledge) and as maintained by universities, local governments, and nonprofit organizations across the Mariana Islands. Landcover data (*e.g.,* soil substrate, vegetation, and elevation) were obtained and compiled from multiple Federal and local government agencies. Temperature and precipitation data were obtained and compiled from journal publications. Landforms were primarily delineated based on the most currently available aerial maps and satellite imagery. The maps in this entry, as modified by any accompanying regulatory text, establish the boundaries of the critical habitat designation. The coordinates or plot points or both on which each map is based are available to the public at the Service's internet site at *https://www.fws.gov/project/critical-habitat-mariana-islands,* at *https://www.regulations.gov* at Docket No. FWS–R1–ES–2024–0194, and at the field office responsible for this

designation. You may obtain field office location information by contacting one of the Service regional offices, the addresses of which are listed at 50 CFR 2.2.

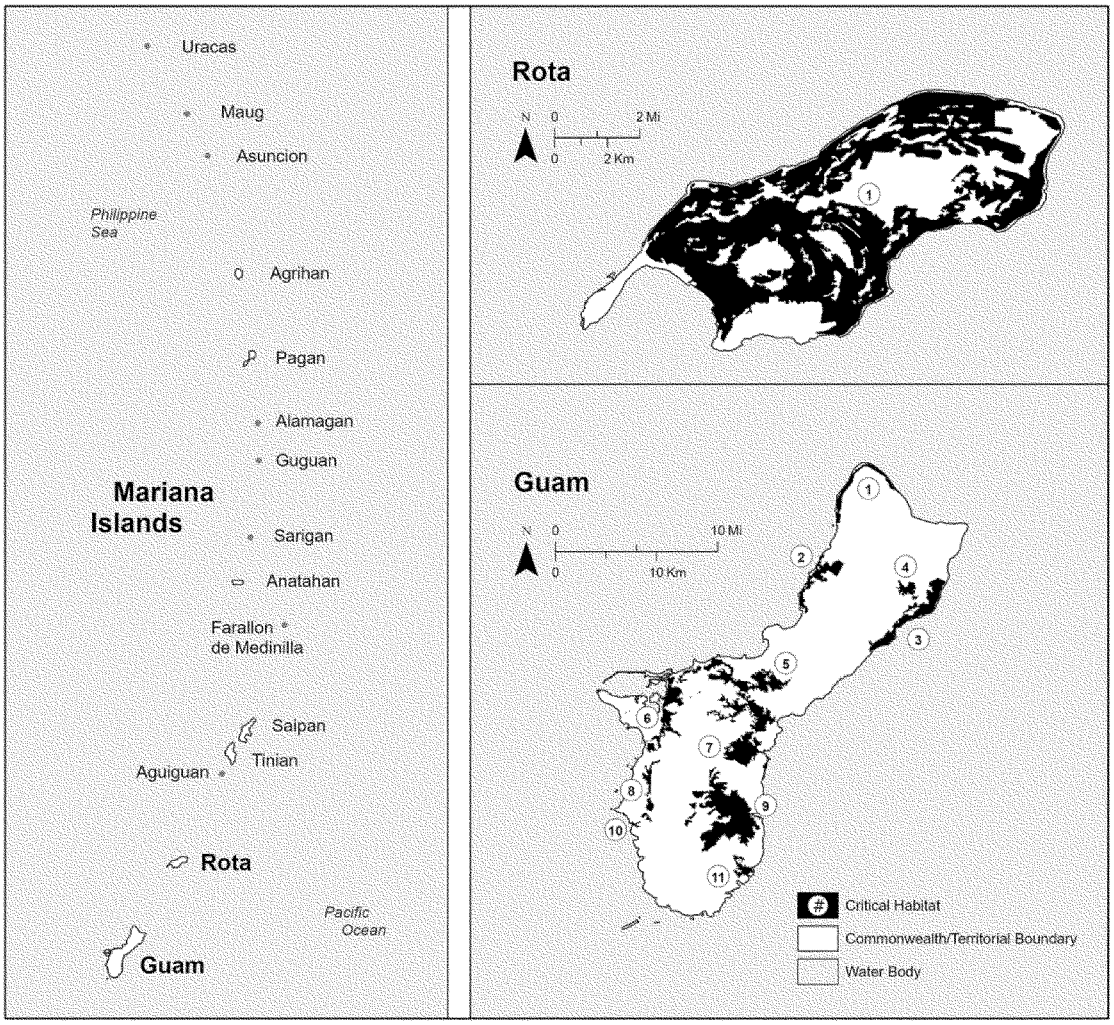
(5) The following index map shows the general locations of critical habitat units designated on two islands, with each location/area on each island identified as a specific number.

(i) Each critical habitat unit name comprises the species name, a numeral digit, and an island name. The numeral digit within a unit name corresponds with the number of the critical habitat unit on a given island. Therefore, each island map with the species present has a Unit 1, with unit numbers for the island of Guam ranging from 1 to 11 units, and a total of 12 units across both islands for this species.

(ii) Index map follows:

Figure 1 to the Fragile Tree Snail (*Samoana fragilis*) paragraph (5)

Critical Habitat for Fragile Tree Snail (*Samoana fragilis*)
Index Map for the Island of Rota, Commonwealth of the Northern Mariana Islands and the Island of Guam, Territory of Guam



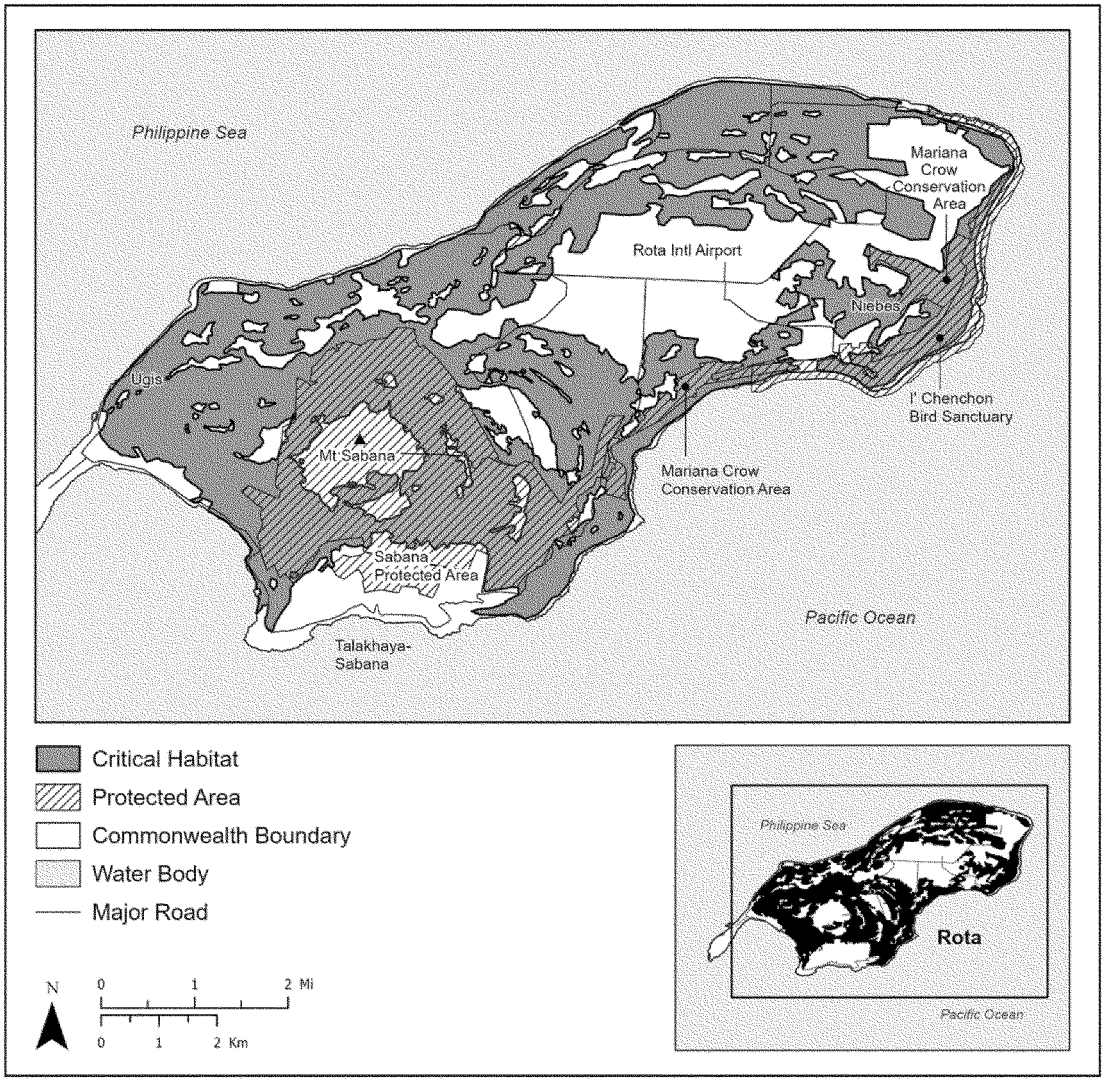
(6) Fragile Tree Snail–1, Rota; Commonwealth of the Northern Mariana Islands.

(i) This single critical habitat unit on the island of Rota consists of 12,282 ac (4,970 ha) and is composed of forested lands across the majority of the island with the exception of developed areas, Mount Sabana, and the watersheds at the southern end. Landownership includes 9,294 ac (3,761 ha) of the Commonwealth government, 2,954 ac (1,195 ha) in private ownership, and 34 ac (14 ha) that are uncategorized. The northeastern coastal portion of the unit overlaps the I'Chenchon Bird Sanctuary Conservation Area, and the southcentral area overlaps the Sabana Protected Area.

(ii) Map of Fragile Tree Snail–1, Rota, follows:

Figure 2 to Fragile Tree Snail (*Samoana fragilis*) paragraph (6)(ii)

Critical Habitat for Fragile Tree Snail (*Samoana fragilis*)
Fragile Tree Snail–1, Rota
Commonwealth of the Northern Mariana Islands



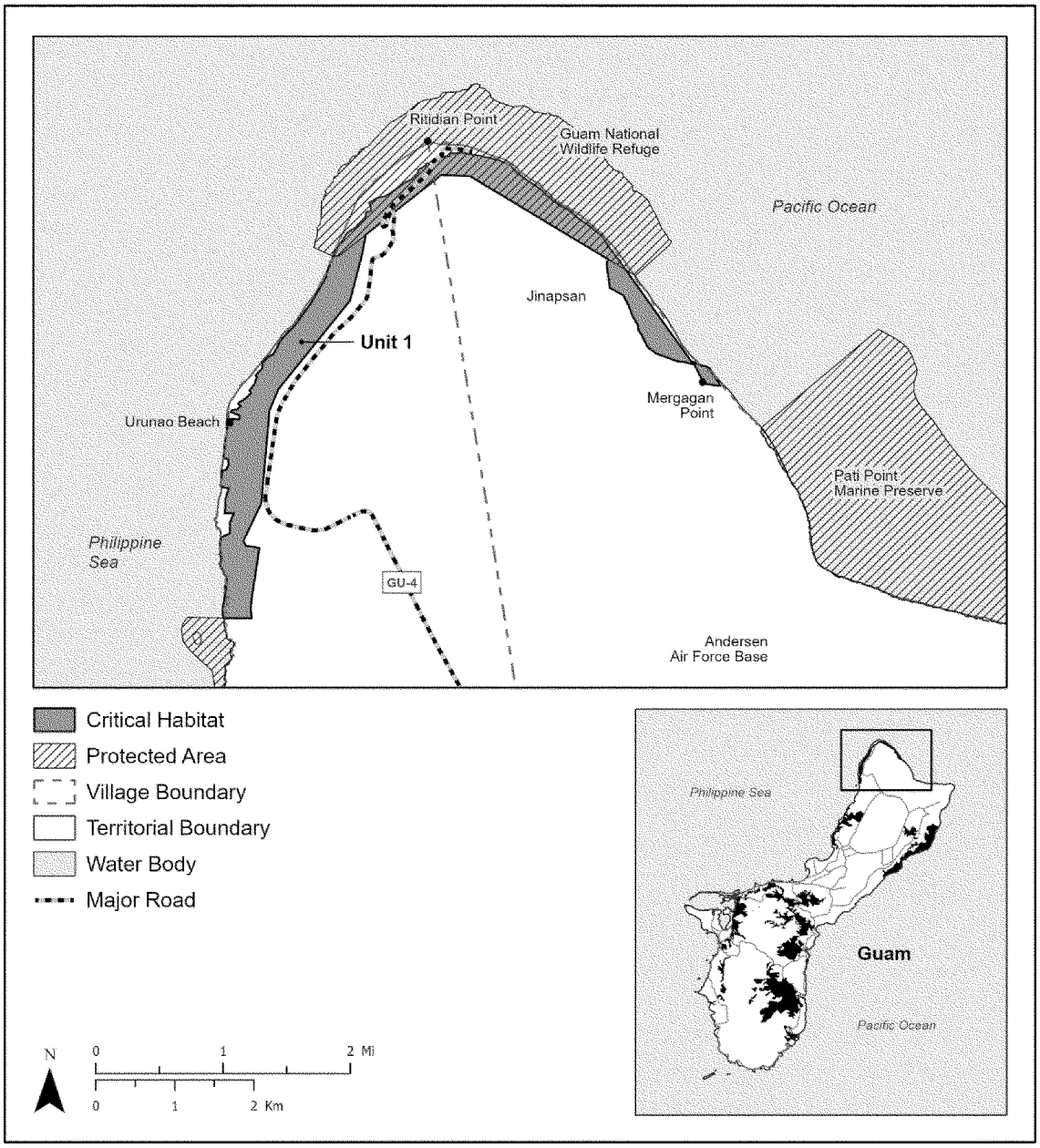
(7) Fragile Tree Snail–1, Guam; Territory of Guam.

(i) Unit 1 on the Island of Guam consists of 856 ac (346 ha) and is composed of a band of secondary limestone forest in a horseshoe-shape on the northwestern point of Guam (Ritidian Point). The unit extends from the southwestern boundary south of Urunao Beach and runs north along the cliffline towards Jinapsan ending at Mergagan Point. Landownership includes 262 ac (106 ha) of Federal ownership (Guam NWR), 68 ac (27 ha) of Territory government land, 408 ac (165 ha) in private ownership, and 118 ac (48 ha) that are uncategorized.

(ii) Map of Fragile Tree Snail–1, Guam, follows:

Figure 3 to Fragile Tree Snail (*Samoana fragilis*) paragraph (7)(ii)

Critical Habitat for Fragile Tree Snail *(Samoana fragilis)*
Fragile Tree Snail–1, Guam
Territory of Guam



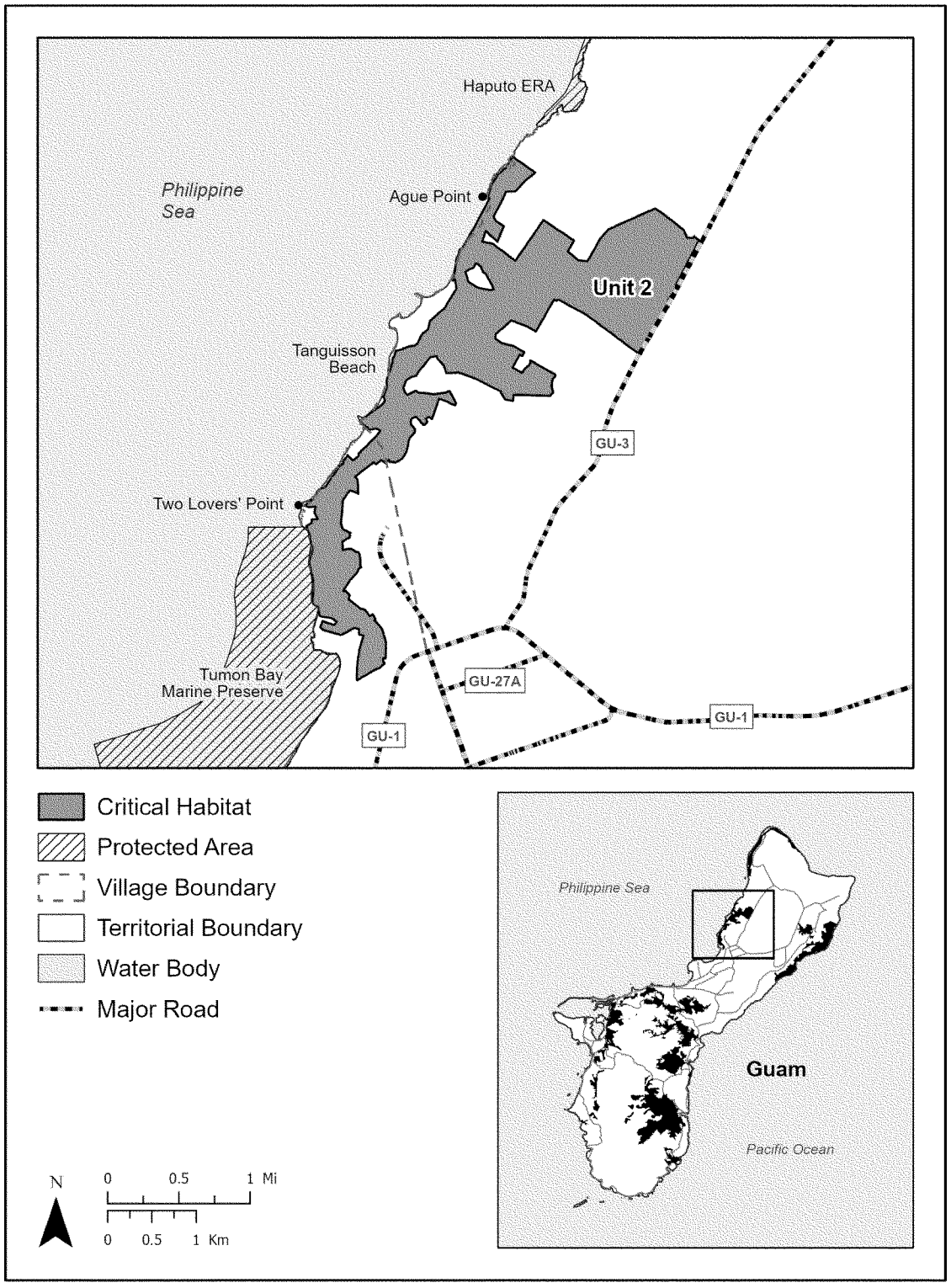
(8) Fragile Tree Snail–2, Guam; Territory of Guam.

(i) Unit 2 on the Island of Guam consists of 1,245 ac (504 ha) and is composed of limestone forests along the northwestern edge of the island. The unit lies west of Route 3 and extends from the clifflines overlooking Tumon Bay west of Route 1 and runs north to Ague Point. Landownership includes 1,081 ac (437 ha) of Territory government land, 108 ac (44 ha) in private ownership, and 56 ac (23 ha) that are uncategorized.

(ii) Map of Fragile Tree Snail–2, Guam, follows:

Figure 4 to Fragile Tree Snail (*Samoana fragilis*) paragraph (8)(ii)

Critical Habitat for Fragile Tree Snail *(Samoana fragilis)*
Fragile Tree Snail–2, Guam
Territory of Guam



(9) Fragile Tree Snail–3, Guam; Territory of Guam.

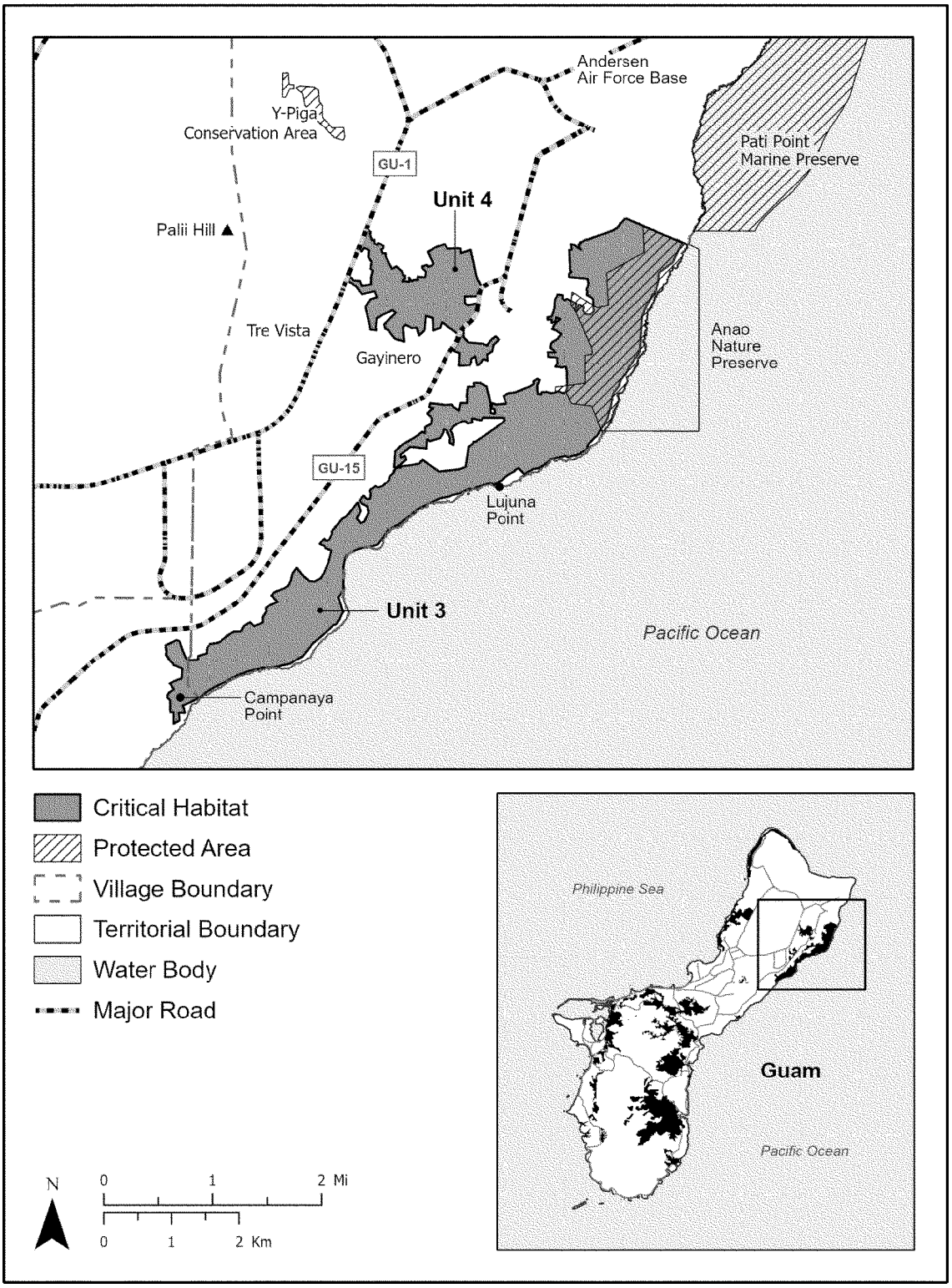
(i) Unit 3 on the Island of Guam consists of 2,166 ac (877 ha) and is composed of limestone forests along the northeast coastal edge of the island. The unit begins at the boundary of the Anao Nature Preserve (which is immediately adjacent to the southern end of the Guam NWR boundary) and extends

southwest along the coast to Campanaya Point. Landownership includes 1,549 ac (627 ha) of Territory government land, 270 ac (109 ha) in private ownership, and 347 ac (141 ha) that are uncategorized. The northeastern portion of this unit overlaps the Anao Nature Preserve.

(ii) Map of Fragile Tree Snail–3, Guam, follows:

Figure 5 to Fragile Tree Snail (*Samoana fragilis*) paragraph (9)(ii)

Critical Habitat for Fragile Tree Snail *(Samoana fragilis)*
Fragile Tree Snail–3, Guam
Fragile Tree Snail–4, Guam
Territory of Guam



(10) Fragile Tree Snail–4, Guam; Territory of Guam.

(i) Unit 4 on the Island of Guam consists of 445 ac (180 ha) and is composed of secondary forests in northeastern Guam. The unit is east of

Route 1 to Route 15 in the Gayinero area, ending east of Route 15. Landownership includes 361 ac (146 ha) in private ownership and 84 ac (34 ha) that are uncategorized.

(ii) Map of Fragile Tree Snail–4, Guam, is provided at paragraph (9)(ii) of this entry.

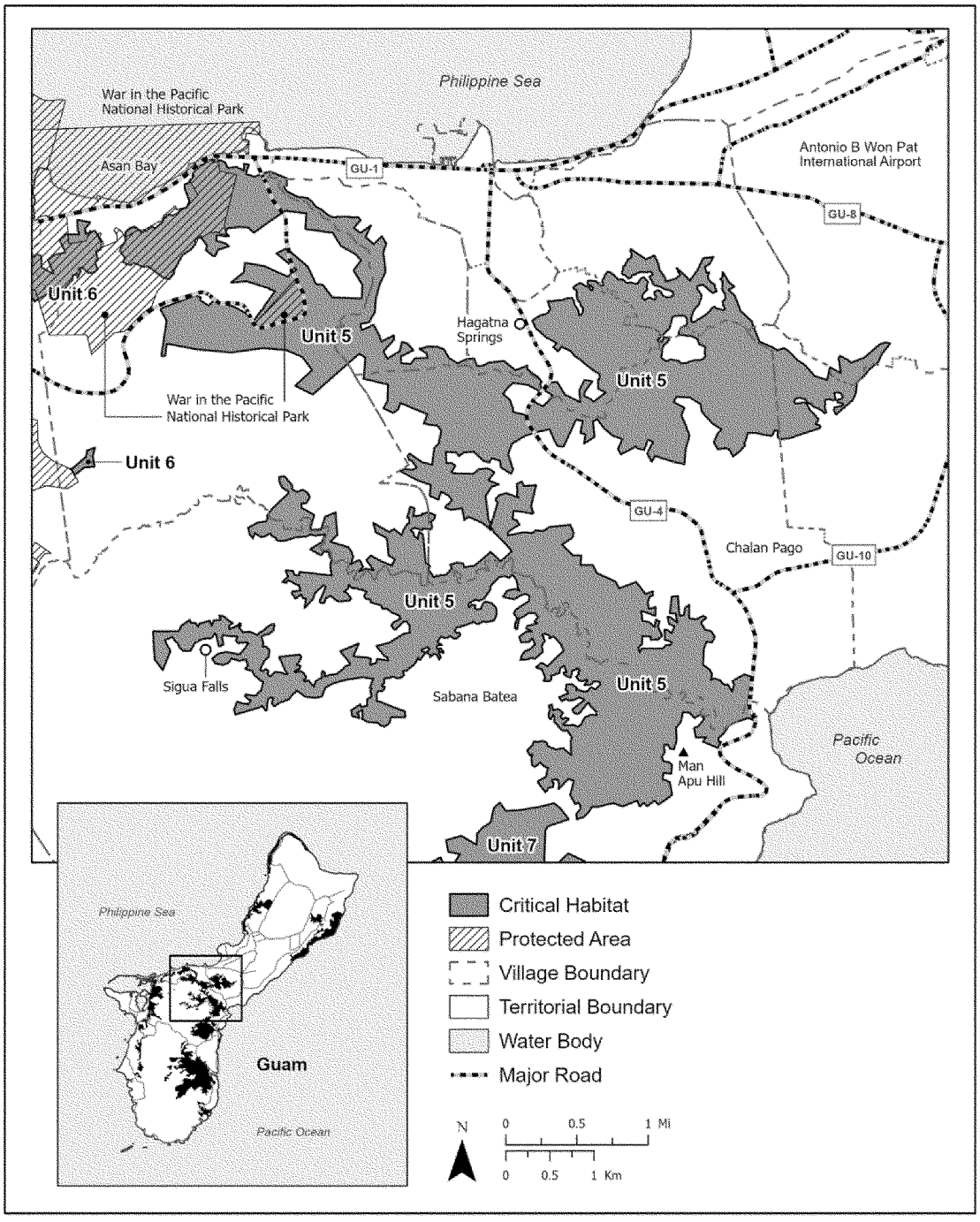
(11) Fragile Tree Snail–5, Guam; Territory of Guam.

(i) Unit 5 on the island of Guam consists of 4,313 ac (1,745 ha) and is composed of secondary forests extending in elongated patches spread across the central portion of the island on both the east and west sides of Route 4, north to Asan Bay, west to Sigua Falls, and southeast to Man Apu Hill. Landownership includes 210 ac (85 ha) of Federal lands, 1,954 ac (791 ha) in private ownership, and 2,149 ac (869 ha) that are uncategorized. The unit overlaps portions of the Fonte Plateau Unit and the Asan Inland Unit of War in the Pacific National Historical Park.

(ii) Map of Fragile Tree Snail–5, Guam, follows:

Figure 6 to Fragile Tree Snail (*Samoana fragilis*) paragraph (11)(ii)

Critical Habitat for Fragile Tree Snail (*Samoana fragilis*)
Fragile Tree Snail–5, Guam
Territory of Guam



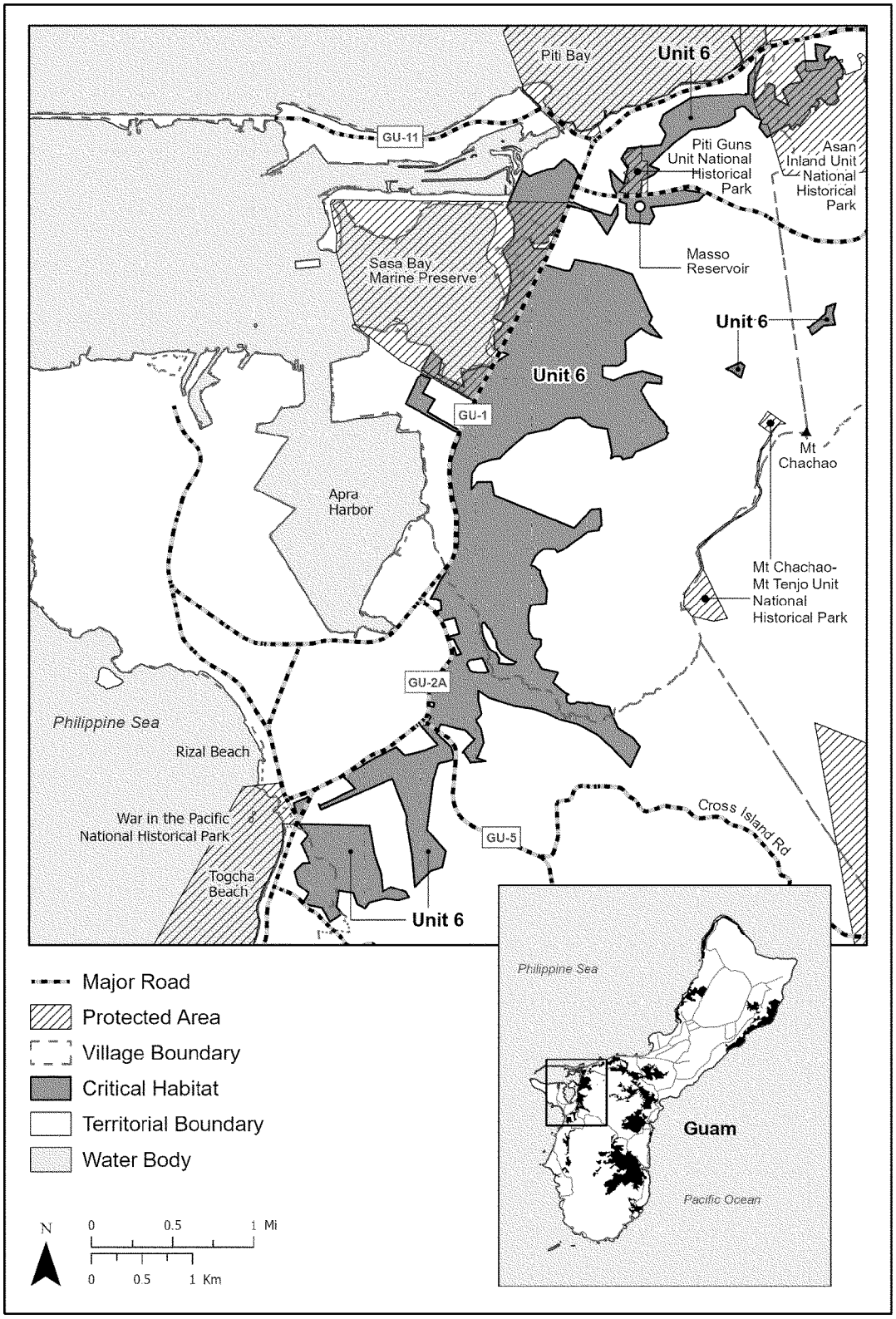
(12) Fragile Tree Snail–6, Guam; Territory of Guam.

(i) Unit 6 on the island of Guam consists of 1,965 ac (795 ha) within six segments and is composed of secondary forests in the westernmost region of the island. The unit roughly extends within portions of the Asan Inland and Piti Guns Units of the War in the Pacific National Historical Park, along Route 1 (GU–1) south to Guam NWR lands, extending inland from Route 2A to east of Togcha Beach. Landownership includes 102 ac (41 ha) of Federal lands, 756 ac (306 ha) in private ownership, and 1,107 ac (448 ha) that are uncategorized. This unit overlaps portions of Asan Inland and Piti Guns Units of the War in the Pacific National Historical Park, Sasa Bay Marine Preserve, and Guam NWR.

(ii) Map of Fragile Tree Snail–6, Guam, follows:

Figure 7 to Fragile Tree Snail (*Samoana fragilis*) paragraph (12)(ii)

Critical Habitat for Fragile Tree Snail *(Samoana fragilis)*
Fragile Tree Snail–6, Guam
Territory of Guam



(13) Fragile Tree Snail–7, Guam; Territory of Guam.

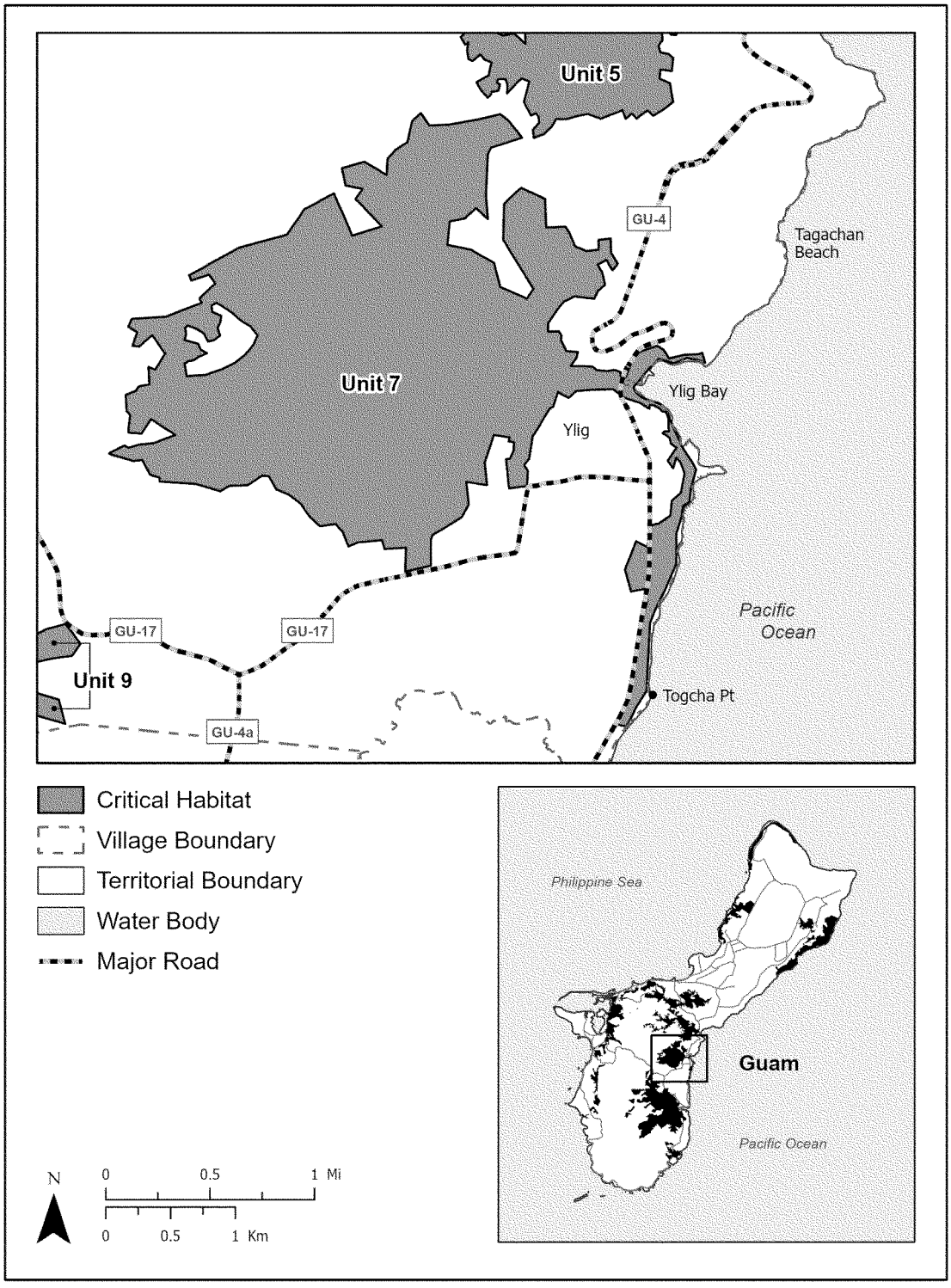
(i) Unit 7 on the island of Guam consists of 1,863 ac (754 ha) and is composed of secondary forests on the southeast side of the island. The

majority of the unit extends west of Routes 4 and 17 surrounding the Ylig River. Part of the unit also surrounds Ylig Bay and extends along the coastline south along Route 4 and ends south of Togcha Point. Landownership includes 983 ac (398 ha) in private ownership and 880 ac (356 ha) that are uncategorized.

(ii) Fragile Tree Snail–7, Guam, follows:

Figure 8 to Fragile Tree Snail (*Samoana fragilis*) paragraph (13)(ii)

Critical Habitat for Fragile Tree Snail (*Samoana fragilis*)
Fragile Tree Snail–7, Guam
Territory of Guam



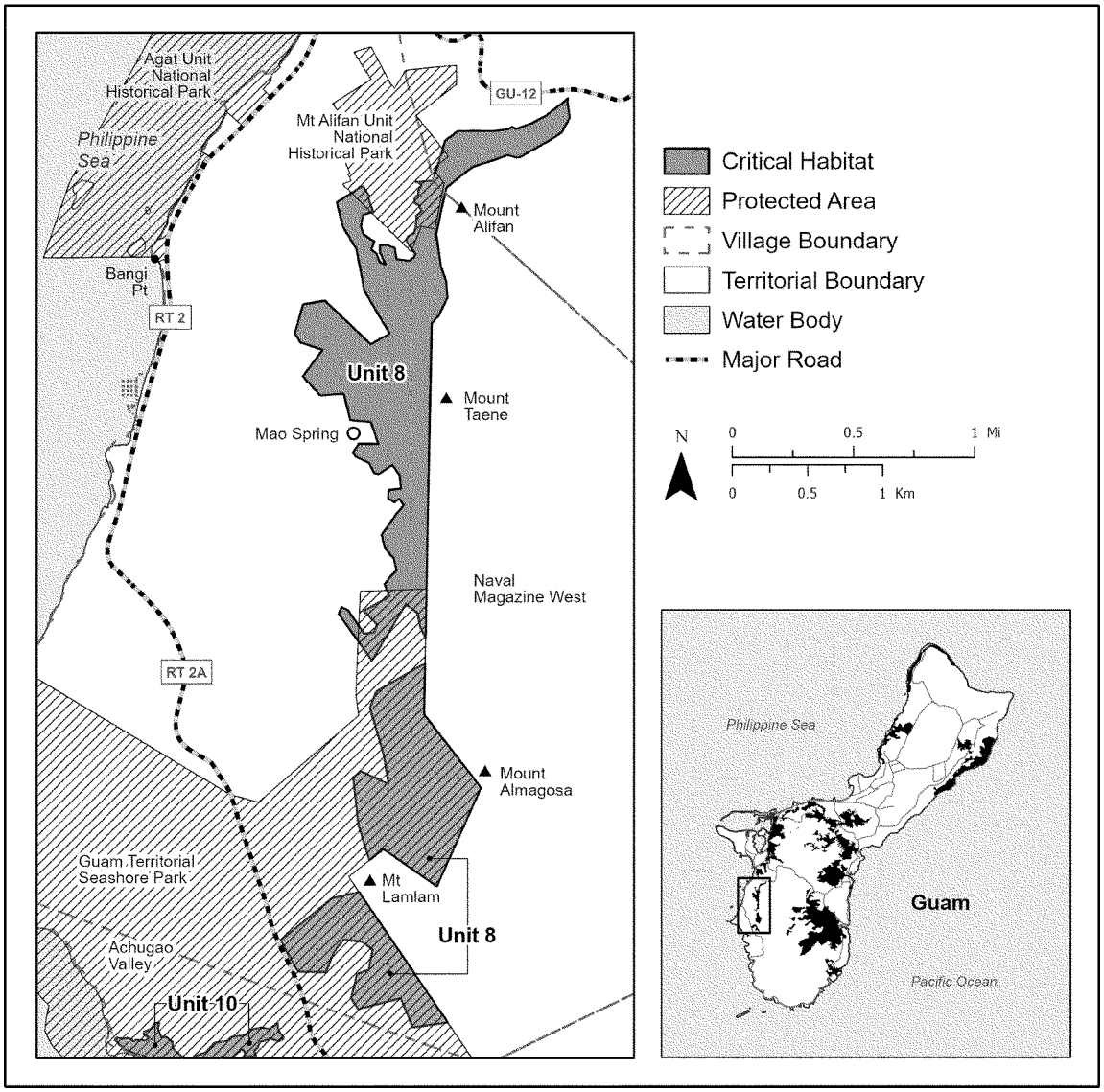
(14) Fragile Tree Snail–8, Guam; Territory of Guam.

(i) Unit 8 on the island of Guam consists of 629 ac (254 ha) in three segments and is composed of secondary limestone forests on the southwest side of the island. In the north, the unit extends from Route 12, north of Mount Alifan, and wraps south to Mount Lamlam along Route 2A. Landownership includes 16 ac (6 ha) of Federal Government land, 84 ac (34 ha) of Territory government lands, 344 ac (139 ha) in private ownership, and 185 ac (75 ha) that are uncategorized. The southern tip of the first/long segment and the other two segments of this unit overlap portions of the Guam Territorial Seashore Park.

(ii) Map of Fragile Tree Snail–8, Guam, follows:

Figure 9 to Fragile Tree Snail (*Samoana fragilis*) paragraph (14)(ii)

Critical Habitat for Fragile Tree Snail *(Samoana fragilis)*
Fragile Tree Snail–8, Guam
Territory of Guam



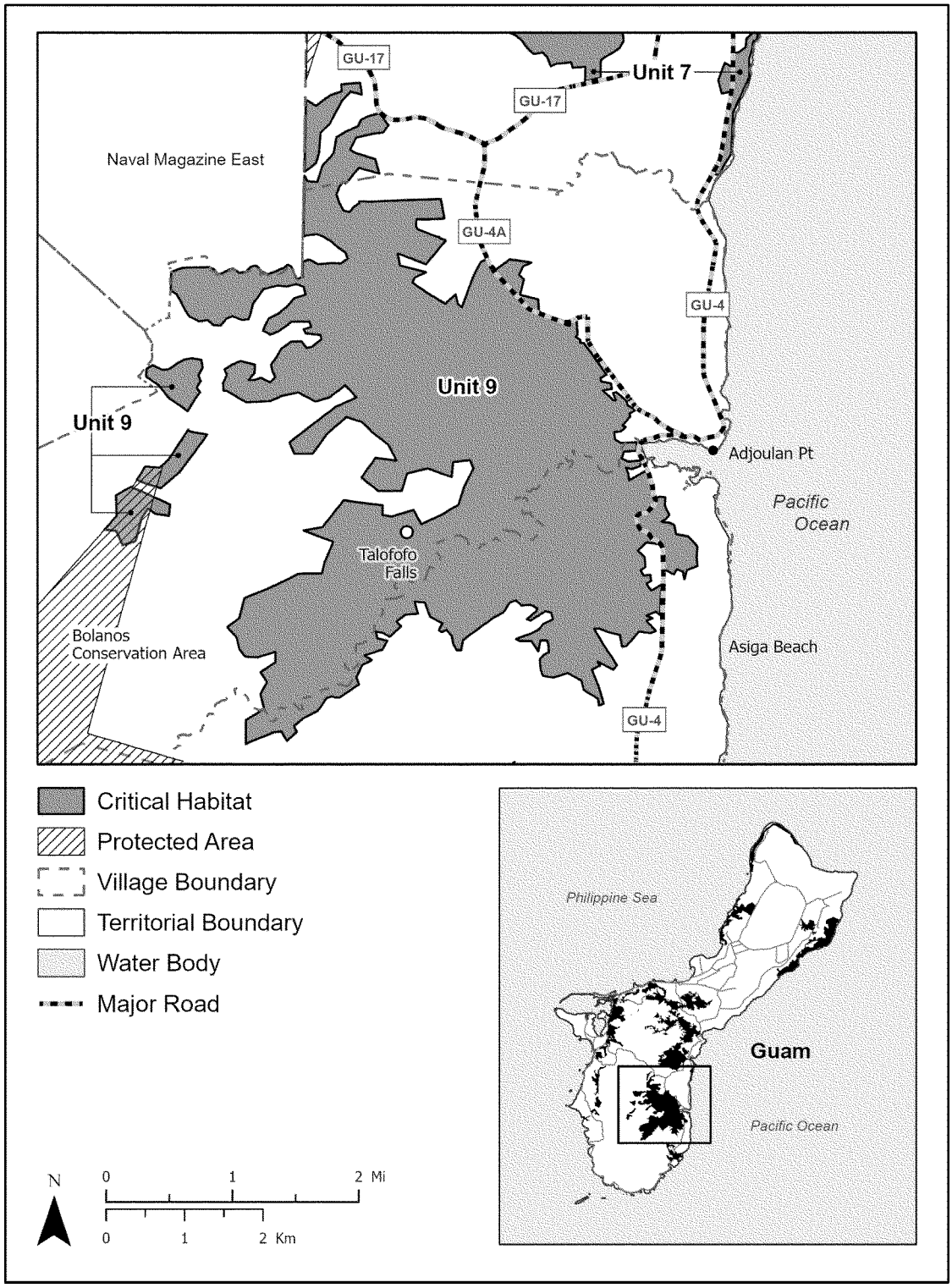
(15) Fragile Tree Snail–9, Guam; Territory of Guam.

(i) Unit 9 on the island of Guam consists of 5,697 ac (2,306 ha) in four segments and is composed of secondary volcanic forests on the southeastern end of the island. The largest segment extends almost entirely south of Route 17 and east of the Guam NWR/Naval Magazine East lands. The unit runs south and west of Route 4A and Route 4. Additionally, three small segments occur to the west of the largest segment along the east edge of the Bolanos Conservation Area. Landownership includes 142 ac (57 ha) of Territory government lands, 3,915 ac (1,584 ha) in private ownership, and 1,640 ac (665 ha) that are uncategorized. This unit overlaps portions of the Bolanos Conservation Area.

(ii) Map of Fragile Tree Snail–9, Guam, follows:

Figure 10 to Fragile Tree Snail (*Samoana fragilis*) paragraph (15)(ii)

Critical Habitat for Fragile Tree Snail *(Samoana fragilis)*
Fragile Tree Snail–9, Guam
Territory of Guam



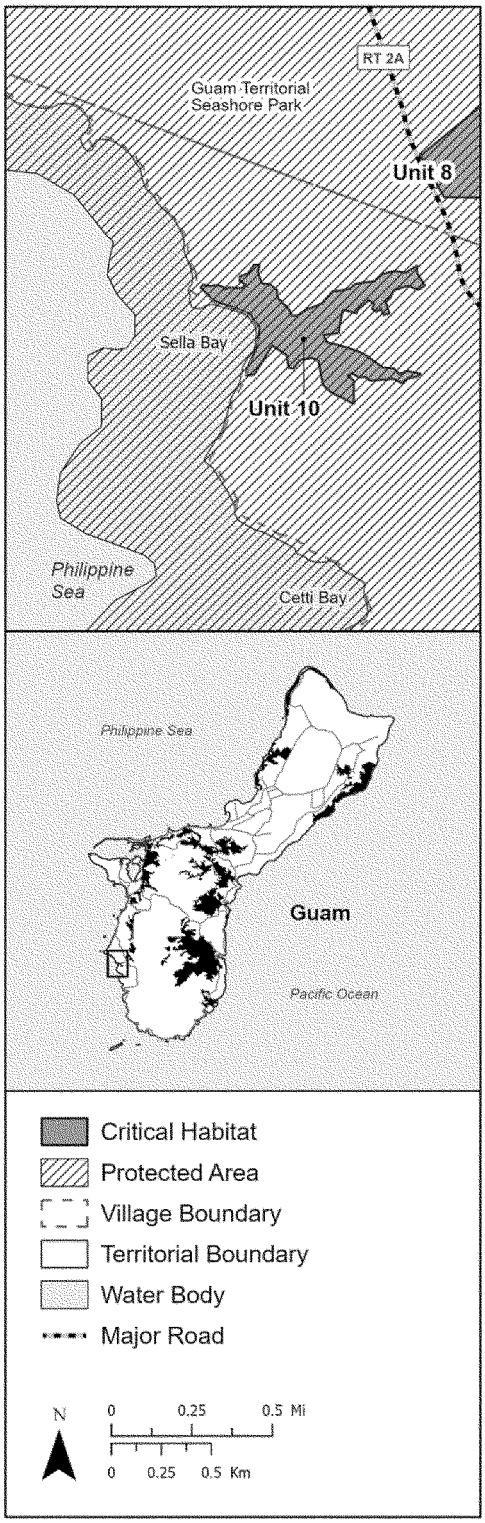
(16) Fragile Tree Snail–10, Guam; Territory of Guam.

(i) Unit 10 on the island of Guam consists of 64 ac (26 ha) and is composed of secondary forests inland from Sella Bay on the southwest side of the island and west of Guam Route 2A. Landownership includes 57 ac (23 ha) in private ownership and 7 ac (3 ha) that are uncategorized. This unit overlaps portions of the Guam Territorial Seashore Park.

(ii) Map of Fragile Tree Snail–10, Guam, follows:

Figure 11 to Fragile Tree Snail (*Samoana fragilis*) paragraph (16)(ii)

Critical Habitat for Fragile Tree Snail
(*Samoana fragilis*)
Fragile Tree Snail–10, Guam
Territory of Guam



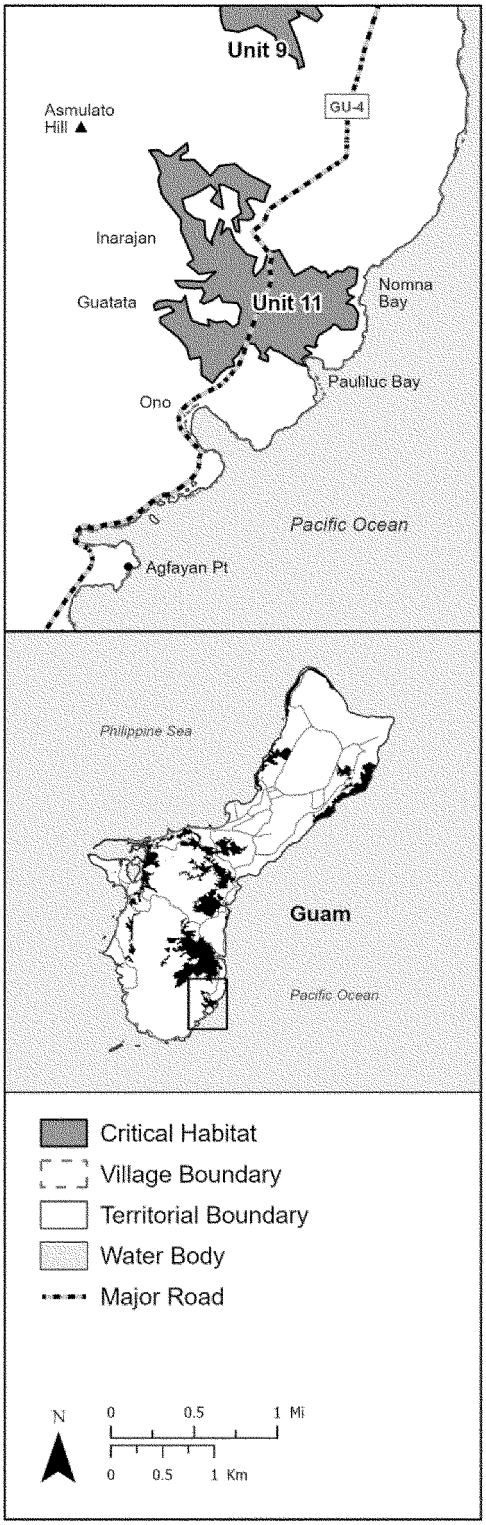
(17) Fragile Tree Snail–11, Guam; Territory of Guam.

(i) Unit 11 on the island of Guam consists of 457 ac (185 ha) and is composed of secondary forests near the southeastern coast, from Asmulato Hill extending across Route 4 towards the coastline from Nomna Bay south to Paulilus Bay. Landownership includes 154 ac (62 ha) in private ownership and 303 ac (123 ha) that are uncategorized.

(ii) Map of Fragile Tree Snail–11, Guam, follows:

Figure 12 to Fragile Tree Snail (*Samoana fragilis*) paragraph (17)(ii)

Critical Habitat for Fragile Tree Snail
(*Samoana fragilis*)
Fragile Tree Snail–11, Guam
Territory of Guam



Guam Tree Snail (Partula radiolata)

(1) Critical habitat units are depicted for Guam within the Territory of Guam on the maps in this entry.

(2) Within these areas, the physical or biological features essential to the conservation of Guam tree snail consist of the following components:

(i) Contiguous closed-canopy limestone, volcanic, riverine, riparian, ravine, or secondary/mixed forests, or backstrand beach vegetation, providing relatively stable climatic conditions such as shade, moisture, high humidity, and low air movement.

(ii) Dense mid-canopy vegetation such as large leaves, branches, vines, or other structures.

(iii) Understory such as ground cover composed of short herbs, shrubs, ferns, or small trees.

(iv) Food sources such as dead and decaying plant material, leaf litter, and tree debris.

(3) Critical habitat does not include manmade structures (such as buildings or paved areas including aqueducts, runways, or roads) and the land on which they are located existing within the legal boundaries on the effective date of the final rule.

(4) Data layers defining map units were created using survey and distribution data provided by multiple local and regional sources as available (*e.g.,* reports, databases, and species experts' knowledge) and as maintained by universities, local governments, and nonprofit organizations across the Mariana Islands. Landcover data (*e.g.,* soil substrate, vegetation, and elevation) were obtained and compiled from multiple Federal and local government agencies. Temperature and precipitation data were obtained and compiled from journal publications. Landforms were primarily delineated based on the most currently available aerial maps and satellite imagery. The maps in this entry, as modified by any accompanying regulatory text, establish the boundaries of the critical habitat designation. The coordinates or plot points or both on which each map is based are available to the public at the Service's internet site at *https://www.fws.gov/project/critical-habitat-mariana-islands,* at *https://www.regulations.gov* at Docket No. FWS–R1–ES–2024–0194, and at the field office responsible for this designation. You may obtain field office location information by contacting one of the Service regional offices, the addresses of which are listed at 50 CFR 2.2.

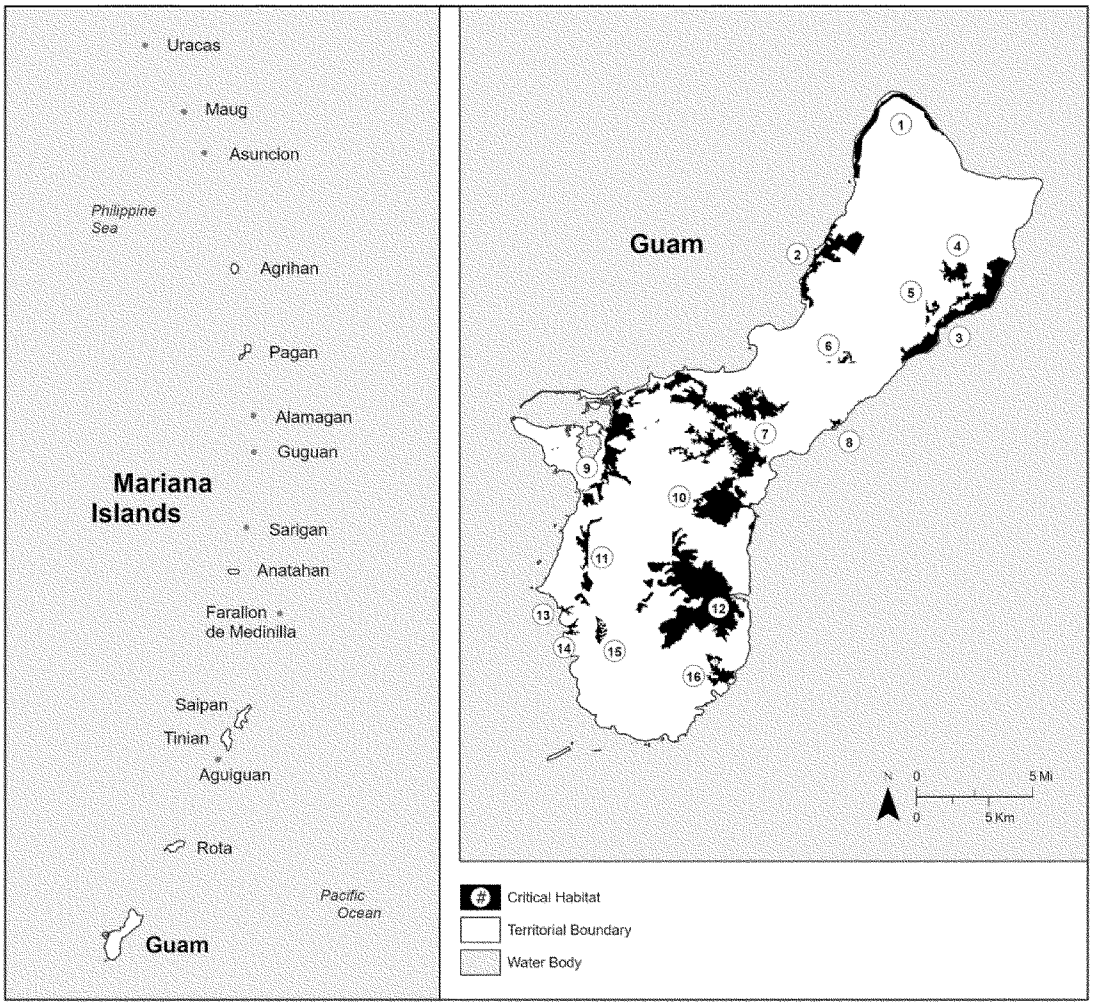
(5) The following index map shows the general locations of critical habitat units designated on the island of Guam, with each location/area identified as a specific number.

(i) Each critical habitat unit name comprises the species name, a numeral digit, and the island name. The numeral digit within a unit name corresponds with the number of the critical habitat unit on the island, totaling 16 units for this species.

(ii) Index map follows:

Figure 1 to the Guam Tree Snail (*Partula radiolata*) paragraph (5)

Critical Habitat for Guam Tree Snail (*Partula radiolata*)
Index Map for the Island of Guam, Territory of Guam



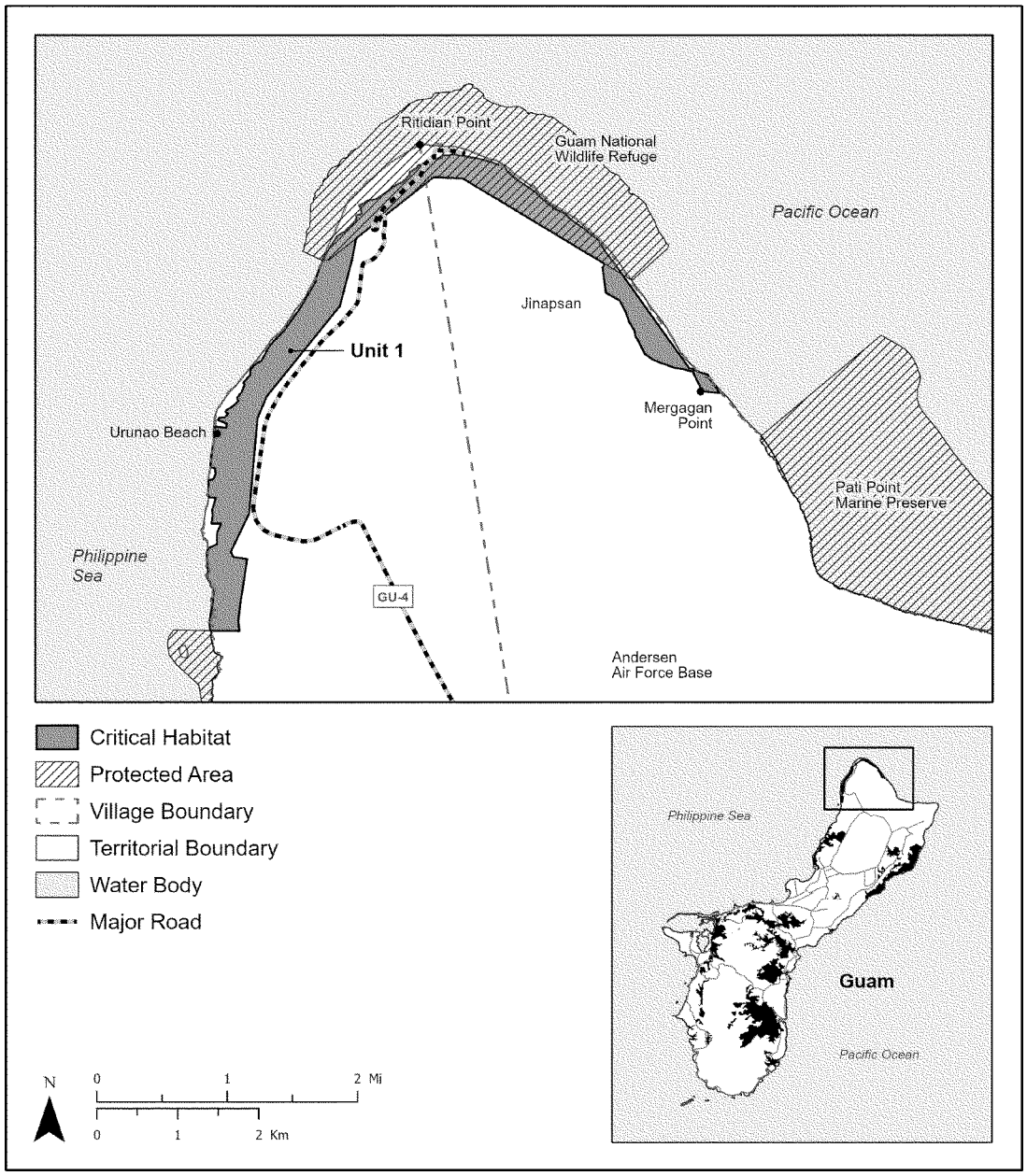
(6) Guam Tree Snail–1, Guam; Territory of Guam.

(i) Unit 1 on the island of Guam consists of 856 ac (346 ha) and is composed of a band of secondary limestone forest in a horseshoe-shape on the northwestern point of Guam (Ritidian Point). The unit extends from the southwestern boundary south of Urunao Beach and runs north along the cliffline towards Jinapsan ending at Mergagan Point. Landownership includes 262 ac (106 ha) of Federal lands (Guam NWR), 68 ac (27 ha) of Territory government lands, 408 ac (165 ha) in private ownership, and 118 ac (48 ha) that are uncategorized.

(ii) Map of Guam Tree Snail–1, Guam, follows:

Figure 2 to Guam tree snail (*Partula radiolata*) paragraph (6)(ii)

Critical Habitat for Guam Tree Snail *(Partula radiolata)*
Guam Tree Snail–1, Guam
Territory of Guam



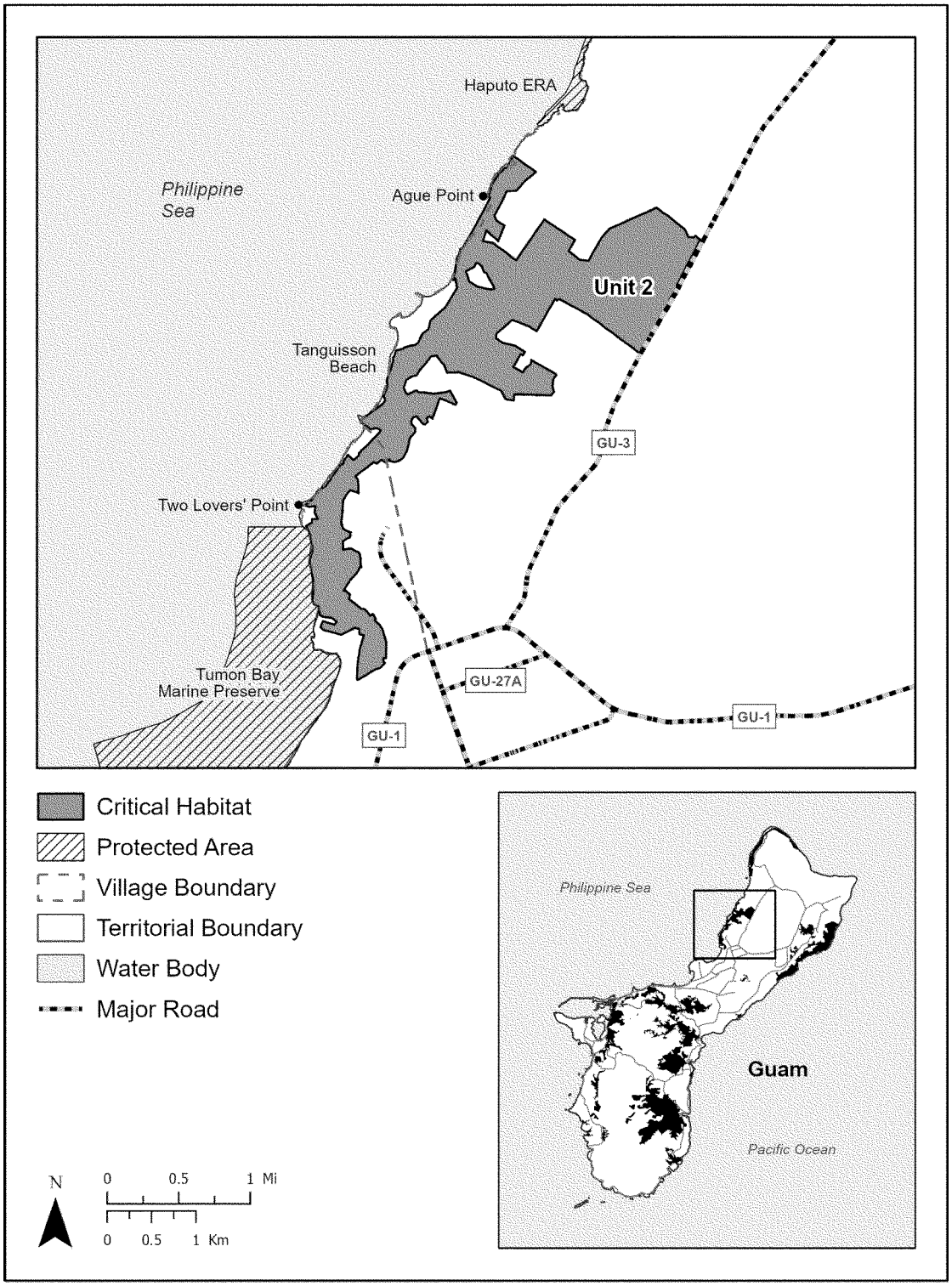
(7) Guam Tree Snail–2, Guam; Territory of Guam.

(i) Unit 2 on the island of Guam consists of 1,245 ac (504 ha) and is composed of limestone forests along the northwestern edge of the island. The unit lies west of Route 3 and extends from the clifflines overlooking Tumon Bay west of Route 1 and runs north to Ague Point. Landownership includes 1,081 ac (437 ha) of Territory government lands, 108 ac (44 ha) in private ownership, and 56 ac (23 ha) that are uncategorized.

(ii) Map of Guam Tree Snail–2, Guam, follows:

Figure 3 to Guam Tree Snail (*Partula radiolata*) paragraph (7)(ii)

Critical Habitat for Guam Tree Snail *(Partula radiolata)*
Guam Tree Snail–2, Guam
Territory of Guam



(8) Guam Tree Snail–3, Guam; Territory of Guam.

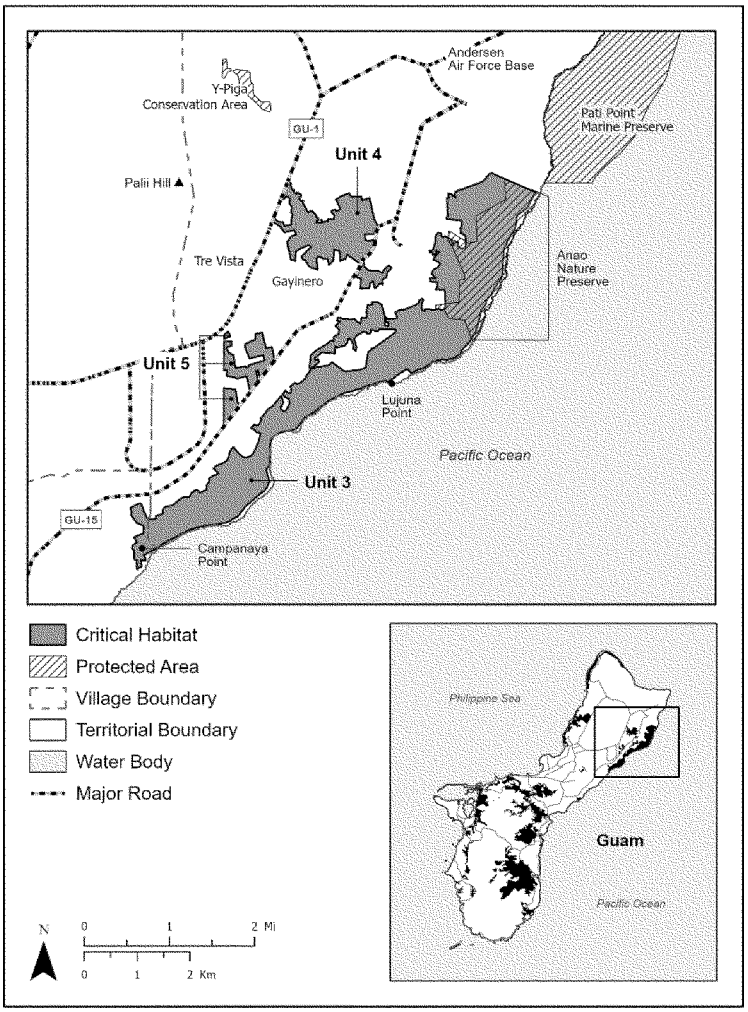
(i) Unit 3 on the island of Guam consists of 2,166 ac (877 ha) and is composed of limestone forests along the northeastern coastal edge of the island. The unit begins at the boundary of the Anao Nature Preserve, immediately adjacent to the southern end of the Guam NWR boundary and extends southwest along the coast to Campanaya Point. Landownership includes 1,549 ac

(627 ha) of Territory government lands, 270 ac (109 ha) in private ownership, and 347 ac (141 ha) that are uncategorized. The northeastern portion of this unit overlaps the Anao Nature Preserve.

(ii) Map of Guam Tree Snail–3, Guam Tree Snail–4, and Guam Tree Snail–5, Guam, follows:

Figure 4 to Guam Tree Snail (*Partula radiolata*) paragraph (8)(ii)

Critical Habitat for Guam Tree Snail *(Partula radiolata)*
Guam Tree Snail–3, Guam
Guam Tree Snail–4, Guam
Guam Tree Snail–5, Guam
Territory of Guam



(9) Guam Tree Snail–4, Guam; Territory of Guam.

(i) Unit 4 on the island of Guam consists of 445 ac (180 ha) and is composed of secondary forests in the northeastern portion of the island. Unit 4 is east of Route 1 to Route 15 in the Gayinero area, ending east of Route 15. Landownership includes 361 ac (146 ha) in private ownership and 84 ac (34 ha) that are uncategorized.

(ii) Map of Guam Tree Snail–4, Guam, is provided at paragraph (8)(ii) of this entry.

(10) Guam Tree Snail–5, Guam; Territory of Guam.

(i) Unit 5 on the island of Guam consists of 147 ac (59 ha) and is composed of secondary forests and a limestone substrate with intrusions of exposed volcanic ridges and slopes in the northeastern part of the island. Unit 5 extends from the east of Route 1 in the village of Yigo to Route 15 south of the Gayeniero area. Landownership includes 110 ac (44 ha) in private ownership and 37 ac (15 ha) that are uncategorized.

(ii) Map of Guam Tree Snail–5, Guam, is provided at paragraph (8)(ii) of this entry.

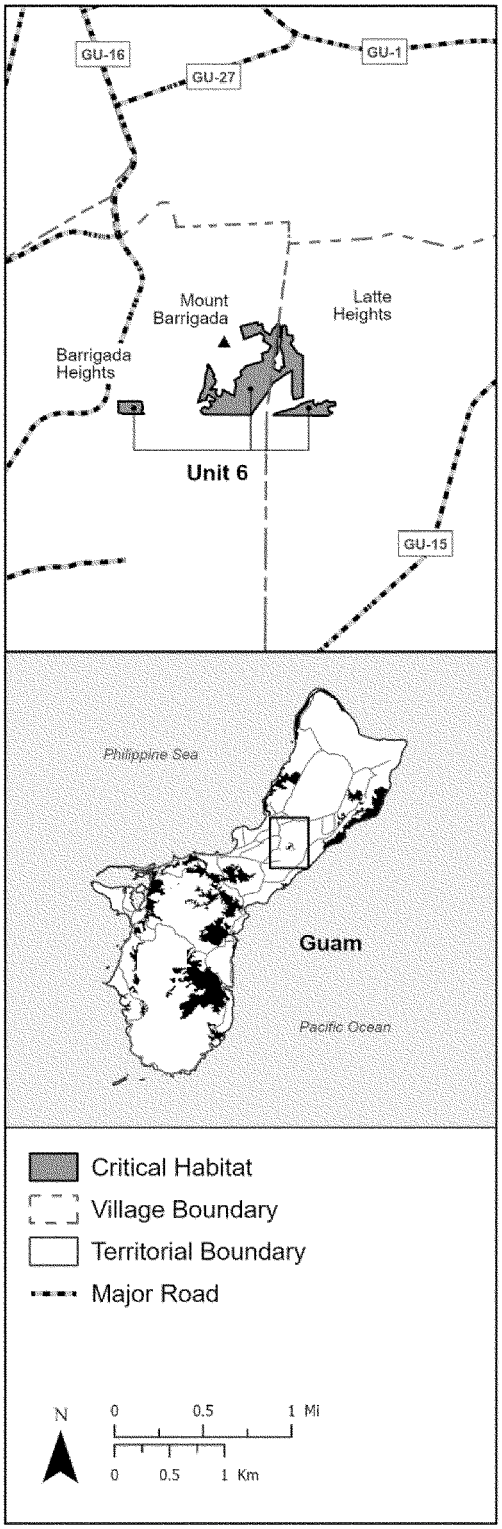
(11) Guam Tree Snail–6, Guam; Territory of Guam.

(i) Unit 6 on the island of Guam consists of 99 ac (40 ha) and is composed of three segments of secondary forests in the central part of the island. Unit 6 extends from east of Route 16 in Barrigada Heights towards Latte Heights. Landownership includes 44 ac (18 ha) in private ownership and 55 ac (22 ha) that are uncategorized.

(ii) Map of Guam Tree Snail–6, Guam, follows:

Figure 5 to Guam Tree Snail (*Partula radiolata*) paragraph (11)(ii)

Critical Habitat for Guam Tree Snail
(*Partula radiolata*)
Guam Tree Snail–6, Guam
Territory of Guam



(12) Guam Tree Snail–7, Guam; Territory of Guam.

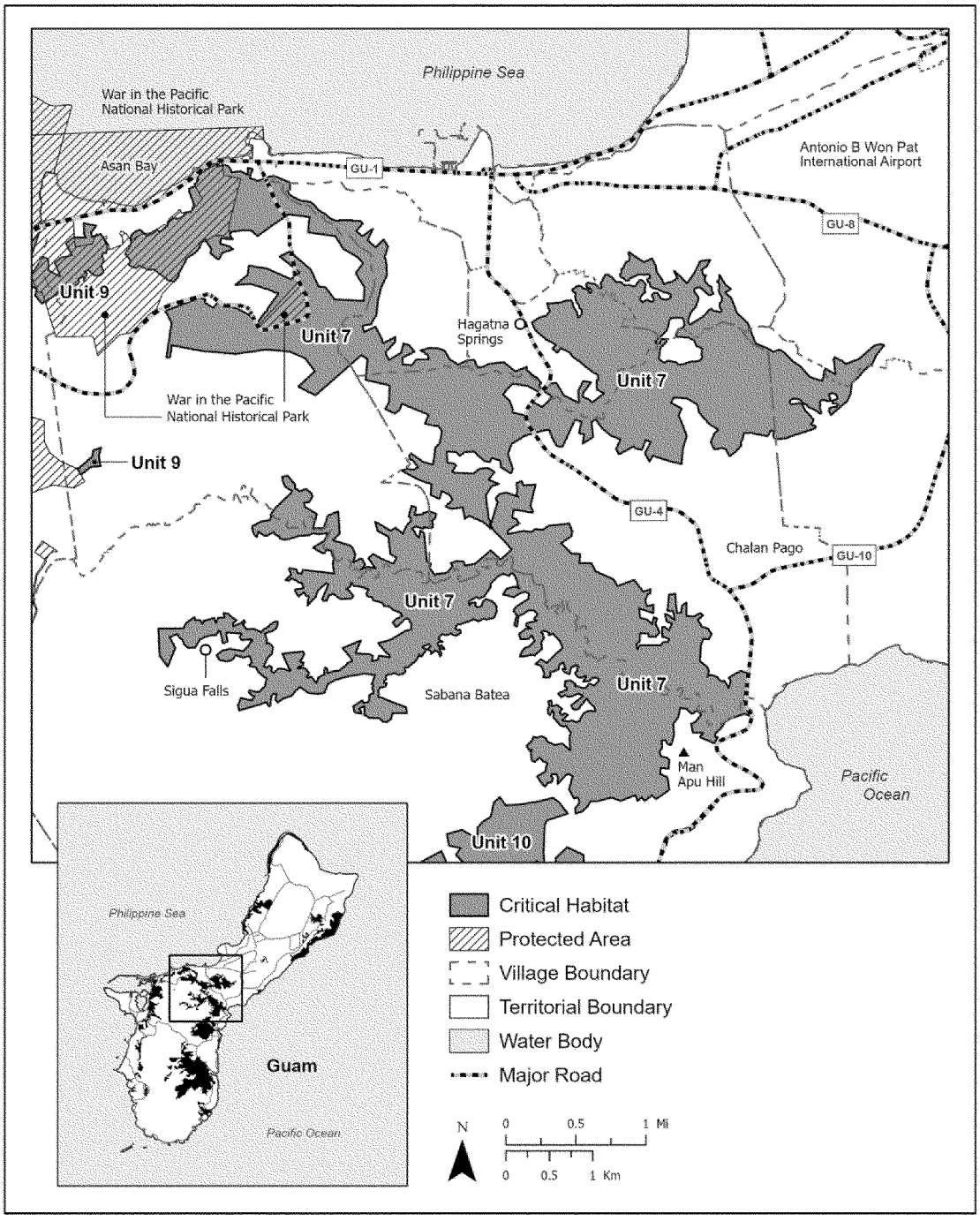
(i) Unit 7 on the island of Guam consists of 4,313 ac (1,745 ha) and is composed of secondary forests extending in elongated patches spread across the central portion of the island on both the east and west sides of Route

4, north to Asan Bay, west to Sigua Falls, and southeast to Man Apu Hill. Landownership includes 210 ac (85 ha) of Federal lands, 1,954 ac (791 ha) in private ownership, and 2,149 ac (869 ha) that are uncategorized. The unit overlaps portions of Fonte Plateau National Historical Park and the Asan Inland Unit National Historical Park.

(ii) Map of Guam Tree Snail–7, Guam, follows:

Figure 6 to Guam tree snail (*Partula radiolata*) paragraph (12)(ii)

Critical Habitat for Guam Tree Snail (*Partula radiolata*)
Guam Tree Snail–7, Guam
Territory of Guam



(13) Guam Tree Snail–8, Guam; Territory of Guam.

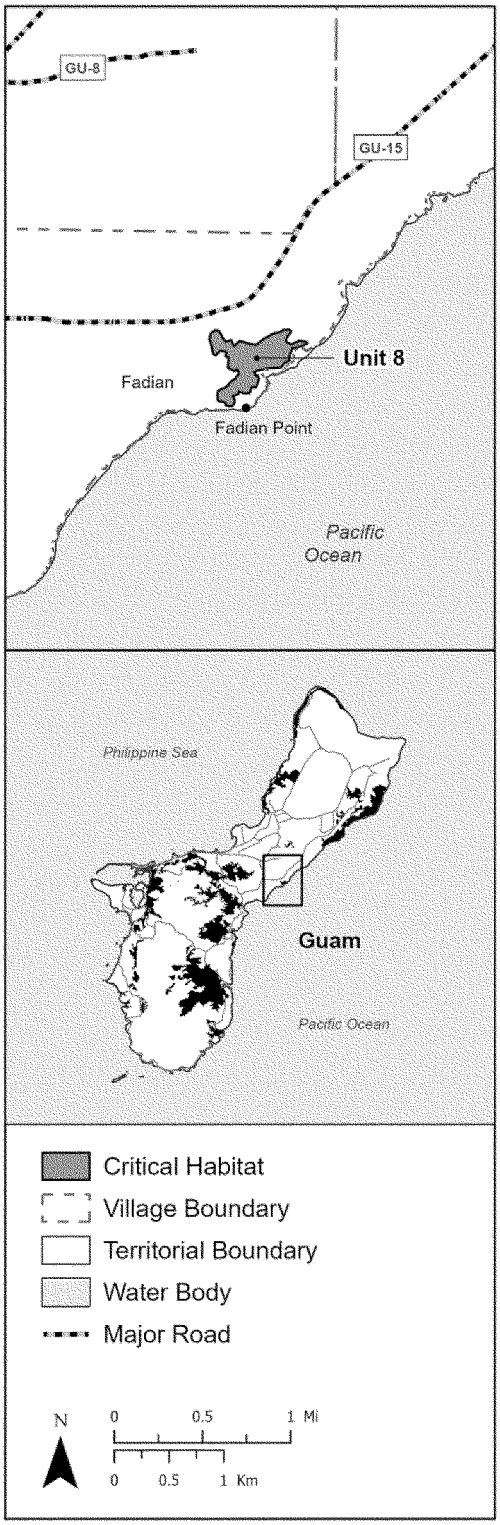
(i) Unit 8 on the island of Guam consists of 61 ac (25 ha) and is composed of limestone and secondary forests on the eastern part of the island and is located inland of Fadian Point

and south of Route 15. All lands are under private ownership.

(ii) Map of Guam Tree Snail–8, Guam, follows:

Figure 7 to Guam Tree Snail (*Partula radiolata*) paragraph (13)(ii)

Critical Habitat for Guam Tree Snail
(*Partula radiolata*)
Guam Tree Snail–8, Guam
Territory of Guam



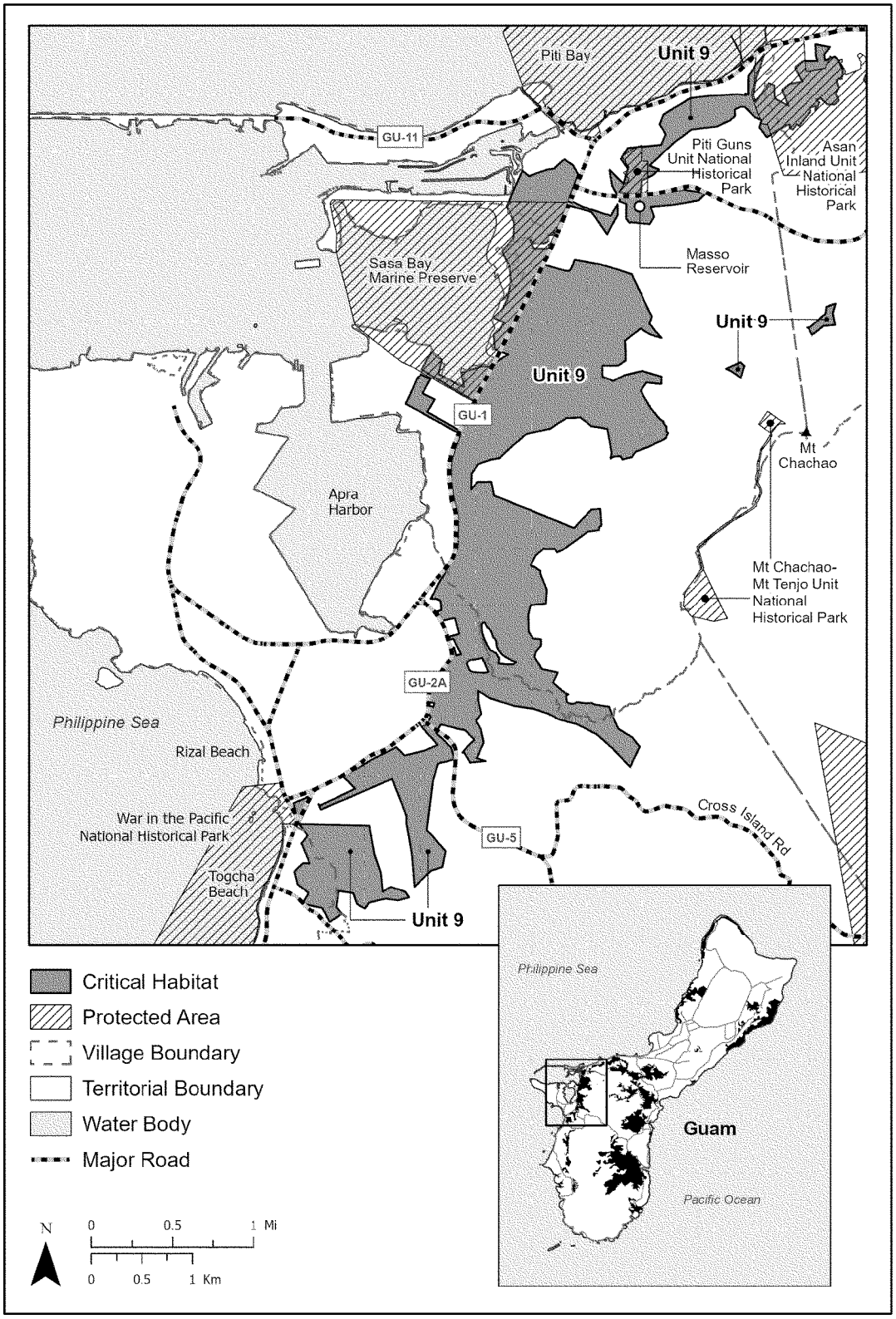
(14) Guam Tree Snail–9, Guam; Territory of Guam.

(i) Unit 9 on the island of Guam consists of six segments totaling 1,965 ac (795 ha) and is composed of secondary forests in the westernmost region of the island. The unit roughly extends within portions of the Aan Inland and Piti Guns Units of the War in the Pacific National Historical Park, along Route 1 (GU–1) south to Guam NWR lands, extending inland from Route 2A to east of Togcha Beach. Landownership includes 102 ac (41 ha) of Federal lands, 756 ac (306 ha) in private ownership, and 1,107 ac (448 ha) that are uncategorized. This unit overlaps portions of the Asan Inland and Piti Guns Units of the War in the Pacific National Historical Park, Sasa Bay Marine Preserve, and Guam NWR.

(ii) Map of Guam Tree Snail–9, Guam, follows:

Figure 8 to Guam Tree Snail (*Partula radiolata*) paragraph (14)(ii)

Critical Habitat for Guam Tree Snail *(Partula radiolata)*
Guam Tree Snail–9, Guam
Territory of Guam



(15) Guam Tree Snail–10, Guam; Territory of Guam.

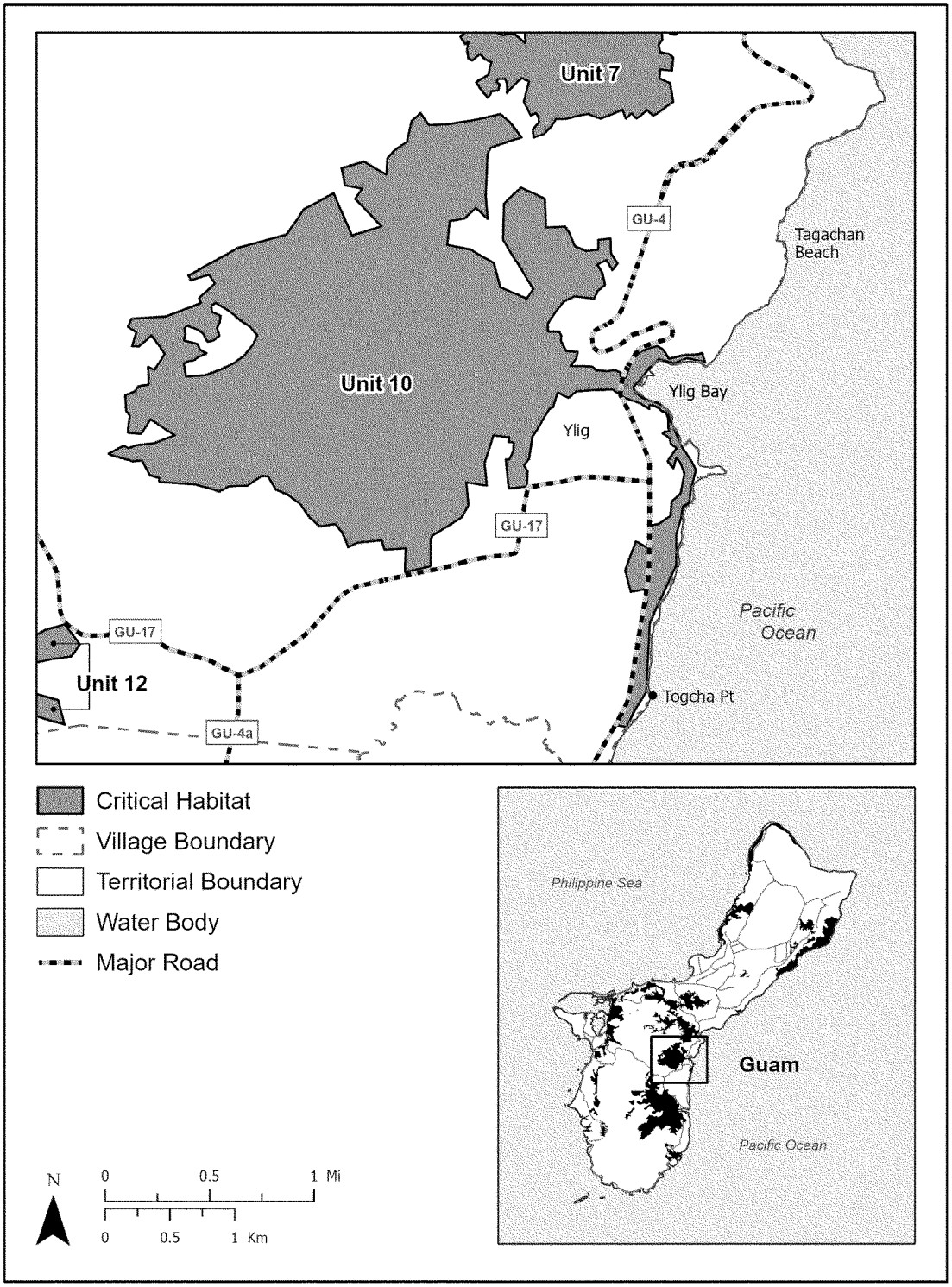
(i) Unit 10 on the island of Guam consists of 1,863 ac (754 ha) and is composed of secondary forests on the southeastern side of the island. The

majority of the unit extends west of Routes 4 and 17 surrounding the Ylig River. Part of the unit also surrounds Ylig Bay and extends along the coastline south along Route 4 and ends south of Togcha Point. Landownership includes 983 ac (398 ha) in private ownership and 880 ac (356 ha) that are uncategorized.

(ii) Map of Guam Tree Snail–10, Guam, follows:

Figure 9 to Guam Tree Snail (*Partula radiolata*) paragraph (15)(ii)

Critical Habitat for Guam Tree Snail (*Partula radiolata*)
Guam Tree Snail–10, Guam
Territory of Guam



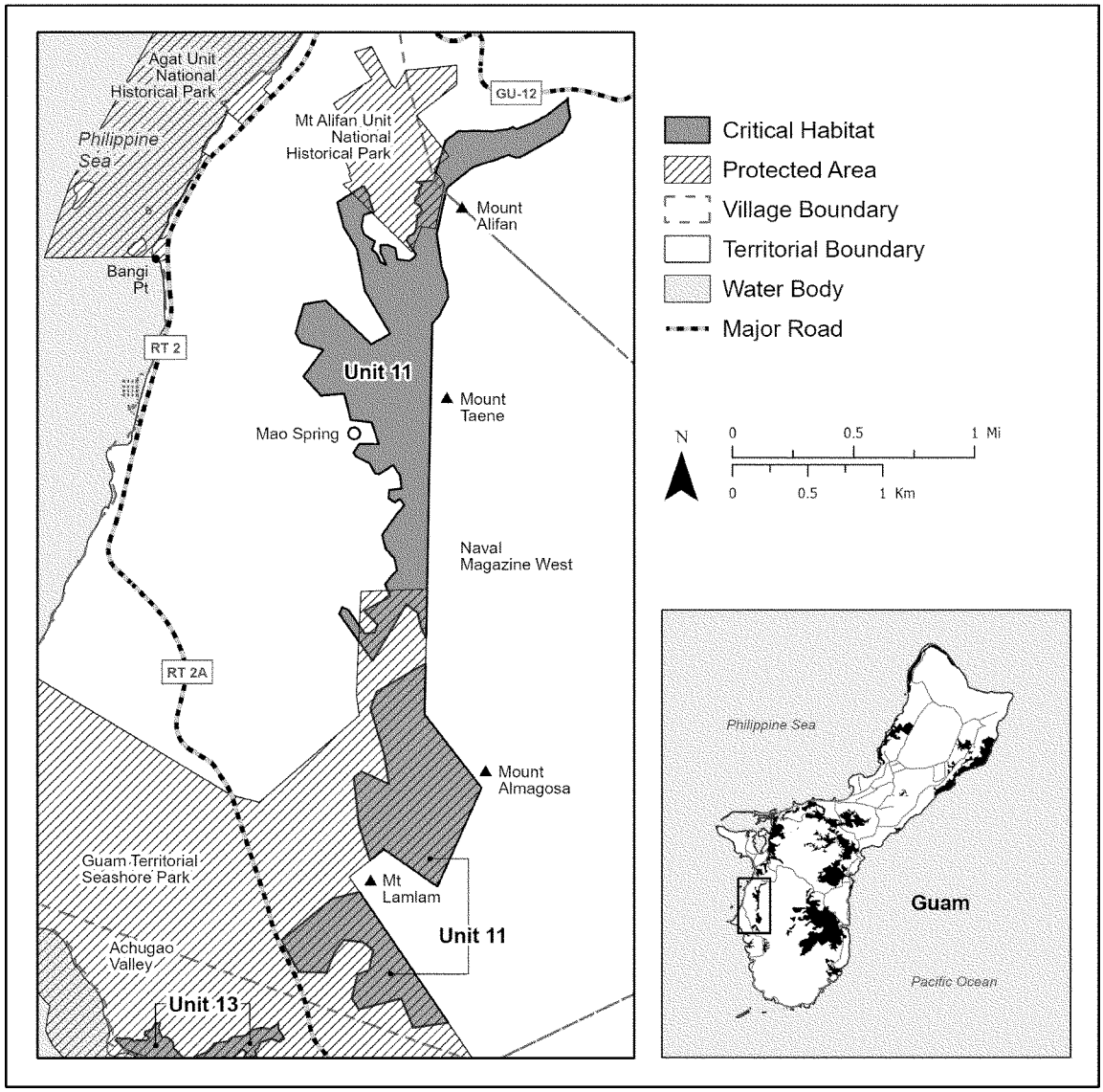
(16) Guam Tree Snail–11, Guam; Territory of Guam.

(i) Unit 11 on the island of Guam consists of 629 ac (254 ha) and is composed of three segments of limestone forests on the southwestern side of the island. The unit extends from Route 12 and Mt. Alifan in the north, running along the border of Naval Magazine West, and ending south of Mt. Lamlam at Route 2A. Landownership includes 16 ac (6 ha) of Federal lands (War in the Pacific National Historical Park), 84 ac (34 ha) of Territory government lands, 344 ac (139 ha) in private ownership, and 185 ac (75 ha) that are uncategorized. The northern portion of the unit overlaps the Mt. Alifan Unit of War in the Pacific National Historical Park. The southern portion of the unit overlaps the Guam Territorial Seashore Park.

(ii) Map of Guam Tree Snail–11, Guam, follows:

Figure 10 to Guam Tree Snail (*Partula radiolata*) paragraph (16)(ii)

Critical Habitat for Guam Tree Snail *(Partula radiolata)*
Guam Tree Snail–11, Guam
Territory of Guam



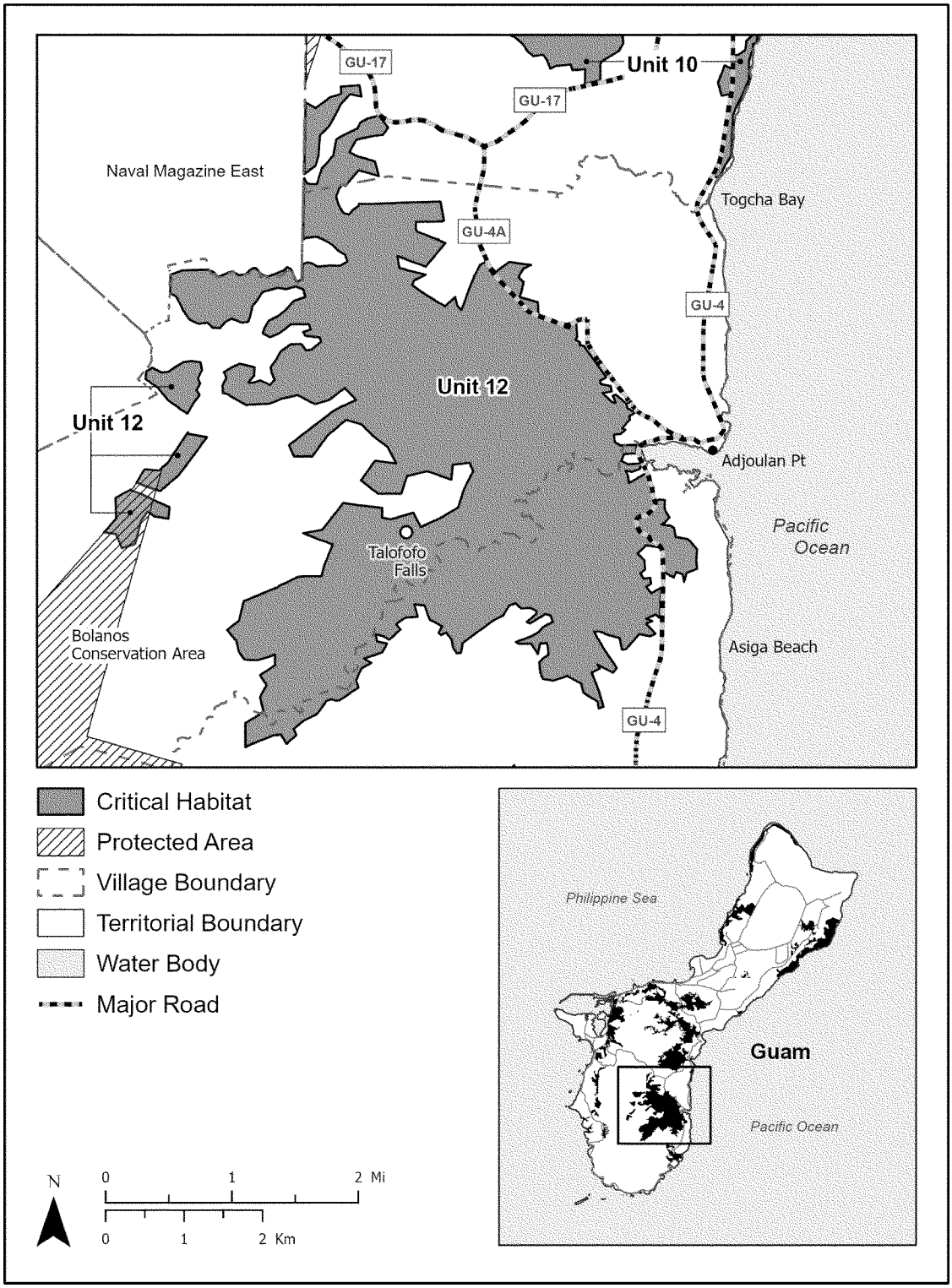
(17) Guam Tree Snail–12, Guam; Territory of Guam.

(i) Unit 12 on the island of Guam consists of four segments totaling 5,697 ac (2,306 ha) and is composed of secondary volcanic forests on the southeastern end of the island. The largest segment extends almost entirely south of Route 17 and east of the Guam NWR/Naval Magazine East lands. The unit runs south and west of Route 4A and Route 4. Additionally, three small segments occur to the west of the largest segment along the eastern edge of the Bolanos Conservation Area. Landownership includes 142 ac (57 ha) of Territory government lands, 3,915 ac (1,584 ha) in private ownership, and 1,640 ac (665 ha) that are uncategorized. This unit overlaps portions of the Bolanos Conservation Area.

(ii) Map of Guam Tree Snail–12, Guam, follows:

Figure 11 to Guam Tree Snail (*Partula radiolata*) paragraph (17)(ii)

Critical Habitat for Guam Tree Snail *(Partula radiolata)*
Guam Tree Snail–12, Guam
Territory of Guam



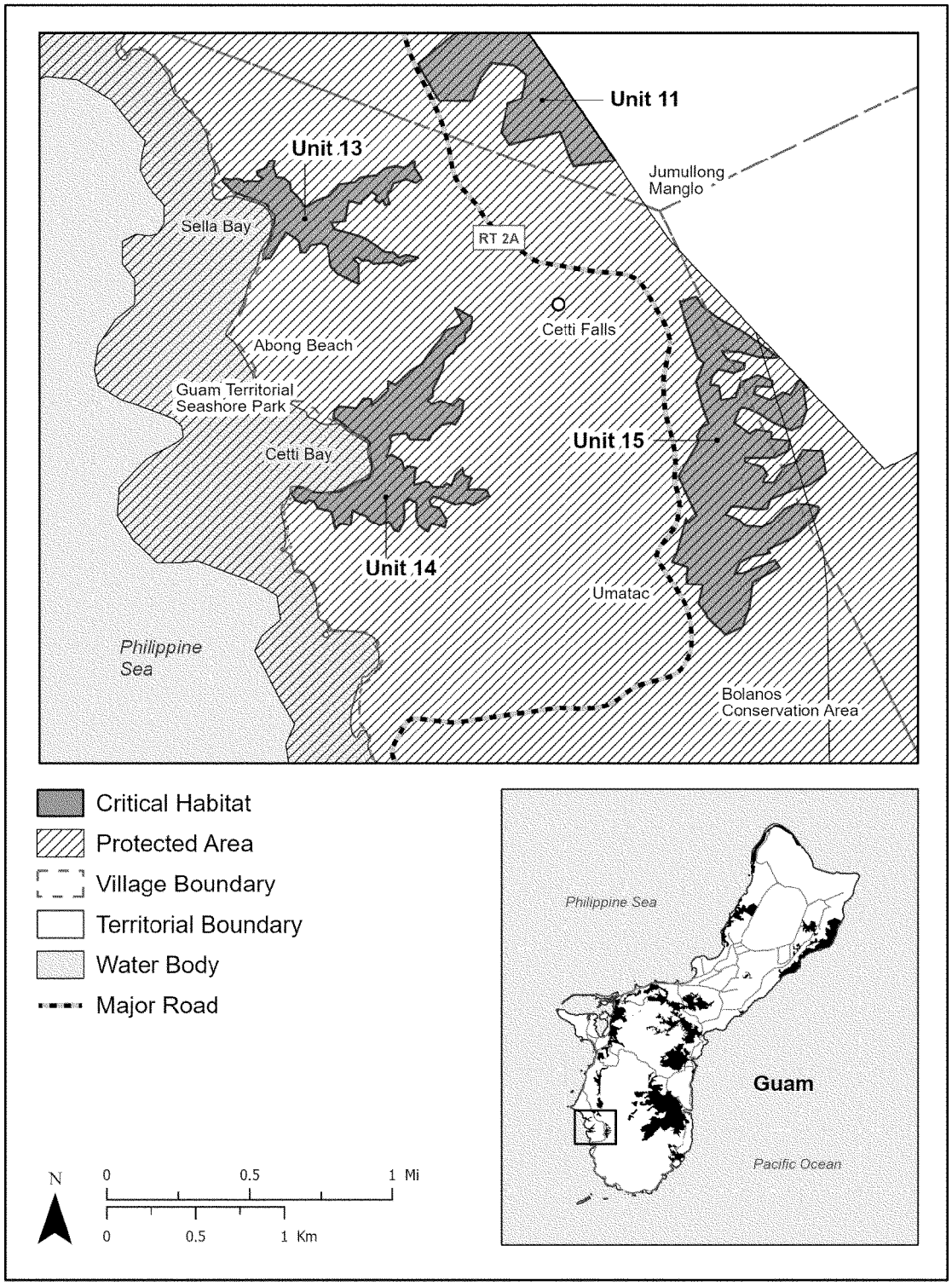
(18) Guam Tree Snail–13, Guam; Territory of Guam.

(i) Unit 13 on the island of Guam consists of 64 ac (26 ha) and is composed of secondary forests inland from Sella Bay on the southwestern side of the island and west of Route 2A. Landownership includes 57 ac (23 ha) in private ownership and 7 ac (3 ha) that are uncategorized. This unit overlaps portions of the Guam Territorial Seashore Park.

(ii) Map of Guam Tree Snail–13, Guam, follows:

Figure 12 to Guam Tree Snail (*Partula radiolata*) paragraph (18)(ii)

Critical Habitat for Guam Tree Snail *(Partula radiolata)*
Guam Tree Snail–13, Guam
Guam Tree Snail–14, Guam
Guam Tree Snail–15, Guam
Territory of Guam



(19) Guam Tree Snail–14, Guam; Territory of Guam.

(i) Unit 14 on the island of Guam consists of 102 ac (41 ha) and is composed of secondary forests and a limestone substrate with intrusions of

exposed volcanic ridges and slopes on the southwestern part of the island. This unit extends from Cetti Bay east towards Cetti Falls and Route 2A. Landownership includes 27 ac (11 ha) in private ownership and 75 ac (30 ha) that are uncategorized.

(ii) Map of Guam Tree Snail–14, Guam, is provided at paragraph (18)(ii) of this entry.

(20) Guam Tree Snail–15, Guam; Territory of Guam.

(i) Unit 15 on the island of Guam consists of 184 ac (74 ha) and is composed of limestone and secondary forests on the southwestern side of the island. This unit extends inland from the east of Route 2A towards and into the Bolanos Conservation Area. Landownership includes 19 ac (8 ha) of Territory government lands, 31 ac (13 ha) under private ownership, and 134 ac (53 ha) that are uncategorized. This unit overlaps the Bolanos Conservation Area.

(ii) Map of Guam Tree Snail–15, Guam, is provided at paragraph (18)(ii) of this entry.

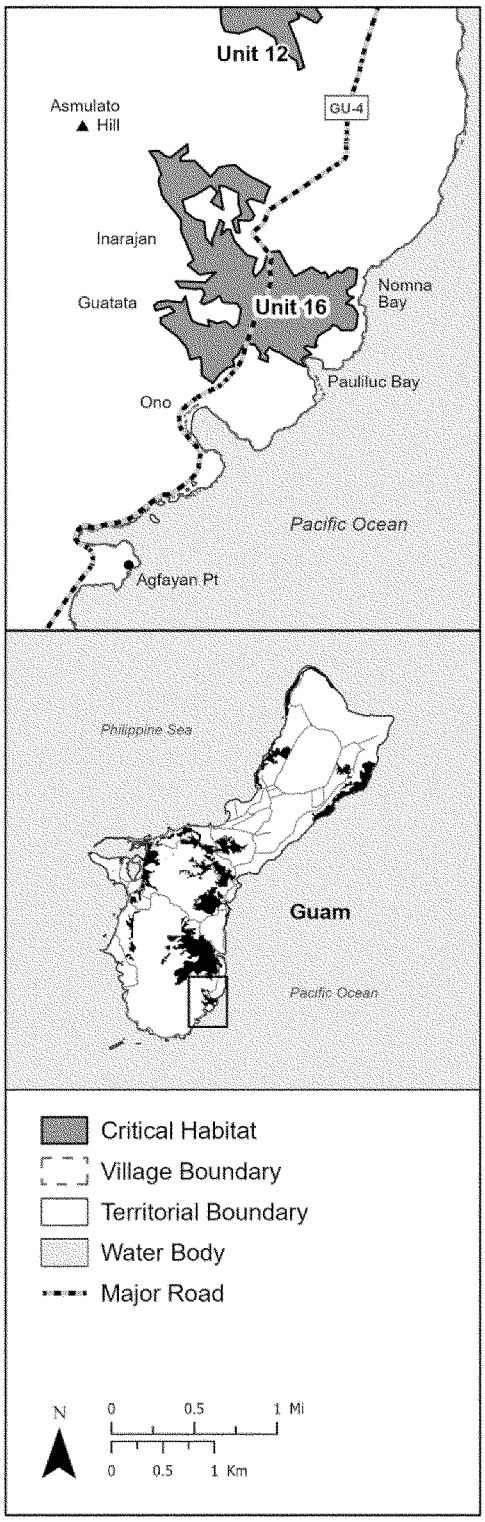
(21) Guam Tree Snail–16, Guam; Territory of Guam.

(i) Unit 16 on the island of Guam consists of 457 ac (185 ha) and is composed of secondary forests near the southeastern coast, from Asmulato Hill extending across Route 4 towards the coastline from Nomna Bay south to Paulilus Bay. Landownership includes 154 ac (62 ha) in private ownership and 303 ac (123 ha) that are uncategorized.

(ii) Map of Guam Tree Snail–16, Guam, follows:

Figure 13 to Guam Tree Snail (*Partula radiolata*) paragraph (21)(ii)

Critical Habitat for Guam Tree Snail
(*Partula radiolata*)
Guam Tree Snail–16, Guam
Territory of Guam



Humped Tree Snail (Partula gibba)

(1) Critical habitat units are depicted for Pagan, Alamagan, Sarigan, Saipan, and Rota within the Commonwealth of the Northern Mariana Islands, and Guam within the Territory of Guam, on the maps in this entry.

(2) Within these areas, the physical or biological features essential to the conservation of the humped tree snail consist of the following components:

(i) Contiguous closed-canopy limestone, volcanic, riverine, riparian, ravine, or secondary/mixed forests, or backstrand beach vegetation, providing relatively stable climatic conditions such as shade, moisture, high humidity, and low air movement.

(ii) Dense mid-canopy vegetation such as large leaves, branches, vines, or other structures.

(iii) Understory such as ground cover composed of short herbs, shrubs, ferns, or small trees.

(iv) Food sources such as dead and decaying plant material, leaf litter, and tree debris.

(3) Critical habitat does not include manmade structures (such as buildings or paved areas including aqueducts, runways, or roads) and the land on which they are located existing within the legal boundaries on the effective date of the final rule.

(4) Data layers defining map units were created using survey and distribution data provided by multiple local and regional sources as available (*e.g.,* reports, databases, and species experts' knowledge) and as maintained by universities, local governments, and nonprofit organizations across the Mariana Islands. Landcover data (*e.g.,* soil substrate, vegetation, and elevation) were obtained and compiled from multiple Federal and local government agencies. Temperature and precipitation data were obtained and compiled from journal publications. Landforms were primarily delineated based on the most currently available aerial maps and satellite imagery. The maps in this entry, as modified by any accompanying regulatory text, establish the boundaries of the critical habitat designation. The coordinates or plot points or both on which each map is based are available to the public at the Service's internet site at *https://www.fws.gov/project/critical-habitat-mariana-islands,* at *https://www.regulations.gov* at Docket No. FWS–R1–ES–2024–0194, and at the field office responsible for this designation. You may obtain field office location information by contacting one of the Service regional offices, the addresses of which are listed at 50 CFR 2.2.

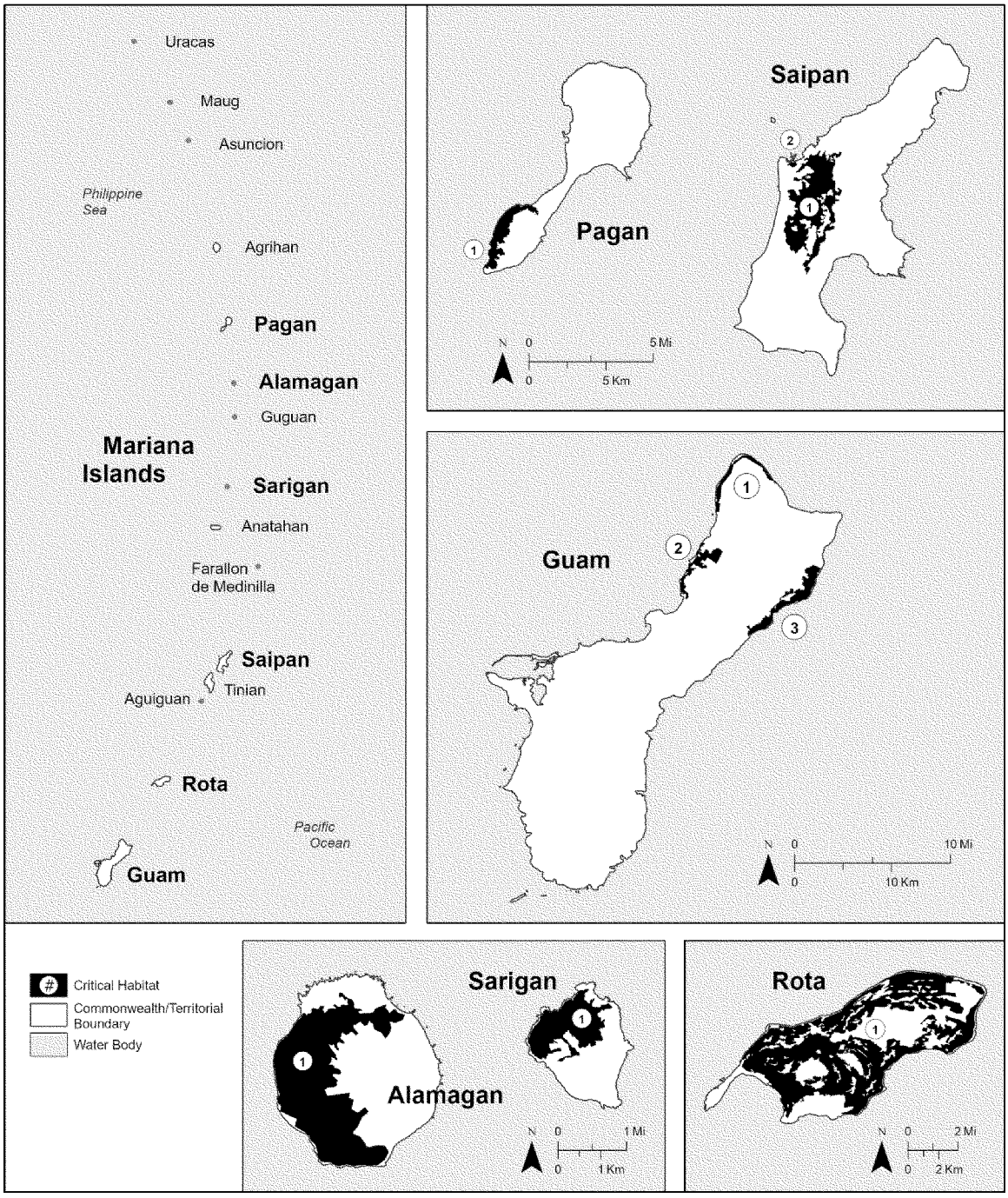
(5) The following index map shows the general locations of critical habitat units designated on seven islands, with each location/area on each island identified as a specific number.

(i) Each critical habitat unit name comprises the species name, a numeral digit, and an island name. The numeral digit within a unit name corresponds with the number of the critical habitat units on a given island. Therefore, each island map with the species present will have a Unit 1. This species has a total of 10 units across the seven islands.

(ii) Index map follows:

Figure 1 to the Humped Tree Snail (*Partula gibba*) paragraph (5)

Critical Habitat for Humped Tree Snail *(Partula gibba)*
Index Map for the Islands of Pagan, Alamagan, Sarigan, Saipan, and Rota, Commonwealth of the Northern Mariana Islands; and the Island of Guam, Territory of Guam



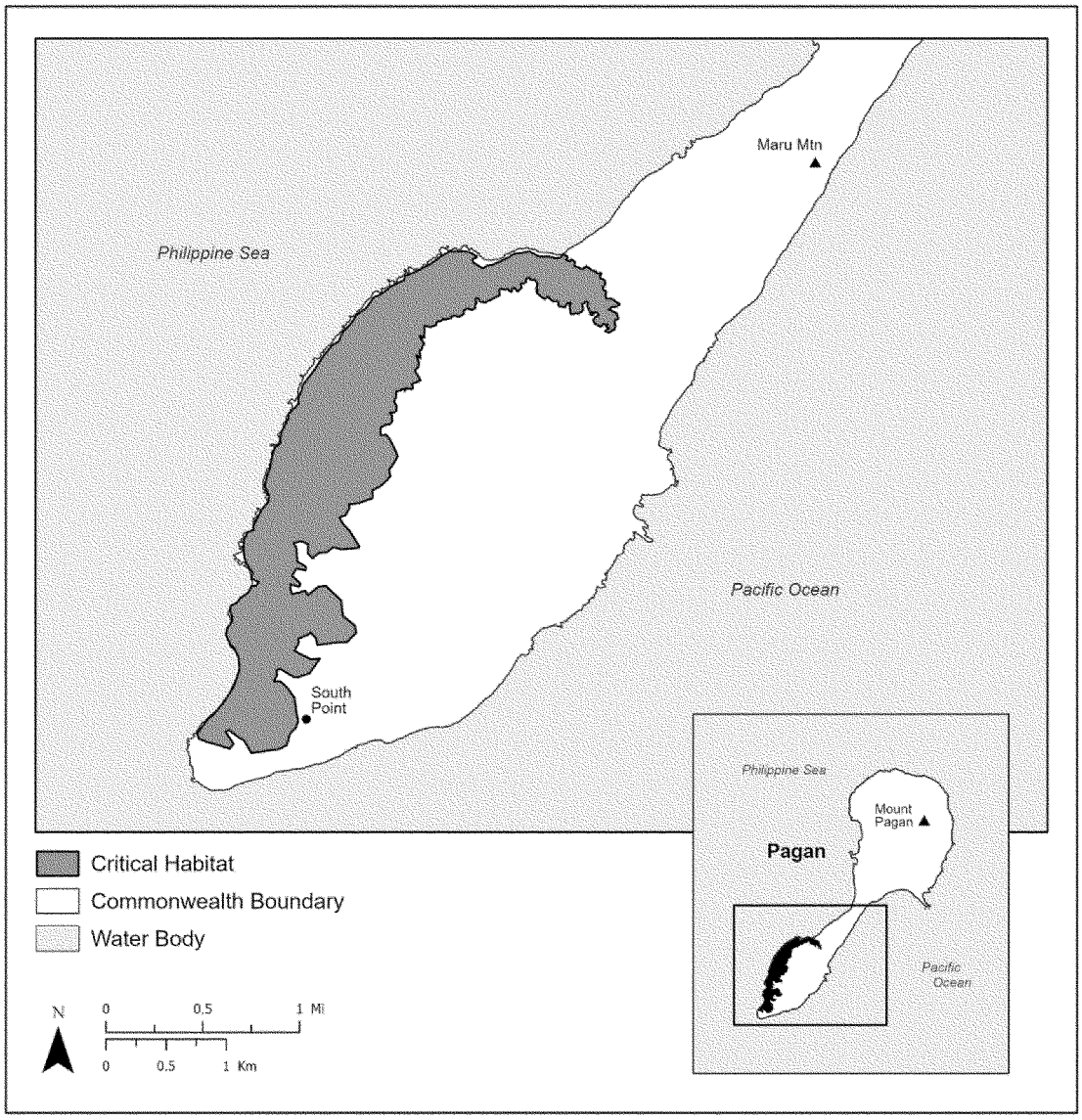
(6) Humped Tree Snail–1, Pagan; Commonwealth of the Northern Mariana Islands.

(i) This single critical habitat unit on the island of Pagan consists of 843 ac (341 ha) and is composed of secondary forests located on the western side of the southern portion on the island of Pagan. The unit extends from South Point up the western side ending at the island's isthmus (the natural land bridge connecting to the northern sections of Pagan). All lands are owned by the Commonwealth government.

(ii) Map of Humped Tree Snail–1, Pagan, follows:

Figure 2 to Humped Tree Snail (*Partula gibba*) paragraph (6)(ii)

Critical Habitat for Humped Tree Snail (*Partula gibba*)
Humped Tree Snail–1, Pagan
Commonwealth of the Northern Mariana Islands



(7) Humped Tree Snail–1, Alamagan; Commonwealth of the Northern Mariana Islands.

(i) This single critical habitat unit on the island of Alamagan consists of 1,420 ac (574 ha) and is composed of secondary forests extending along the northern, the entire western, and the southern slopes of the volcano. All lands are owned by the Commonwealth government.

(ii) Map of Humped Tree Snail–1, Alamagan, follows:

Figure 3 to Humped Tree Snail (*Partula gibba*) paragraph (7)(ii)

Critical Habitat for Humped Tree Snail
(*Partula gibba*)
Humped Tree Snail–1, Alamagan
Commonwealth of the
Northern Mariana Islands



(8) Humped Tree Snail–1, Sarigan; Commonwealth of the Northern Mariana Islands.

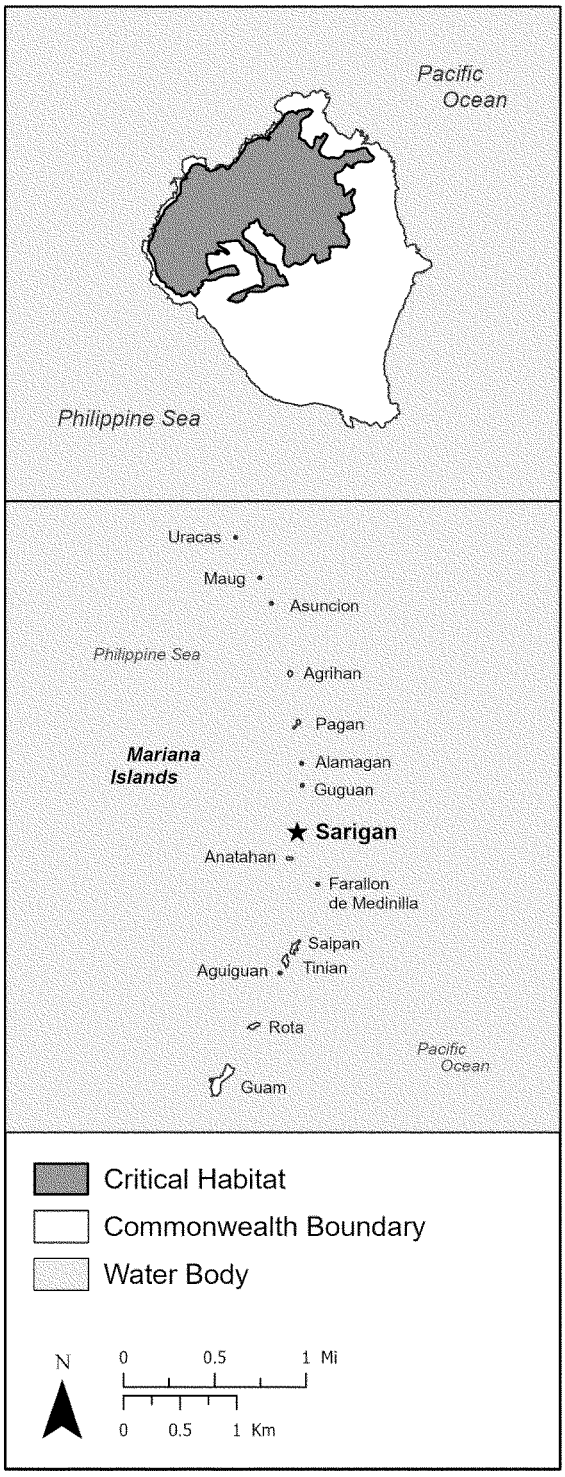
(i) This single critical habitat unit on the uninhabited (due to volcanic activity) island of Sarigan consists of 402 ac (163 ha) and is composed of secondary forests. The unit extends from the northwestern to the

northeastern side of the island. All lands are owned by the Commonwealth government.

(ii) Map of Humped Tree Snail–1, Sarigan, follows:

Figure 4 to Humped Tree Snail (*Partula gibba*) paragraph (8)(ii)

Critical Habitat for Humped Tree Snail (*Partula gibba*)
Humped Tree Snail–1, Sarigan
Commonwealth of the Northern Mariana Islands



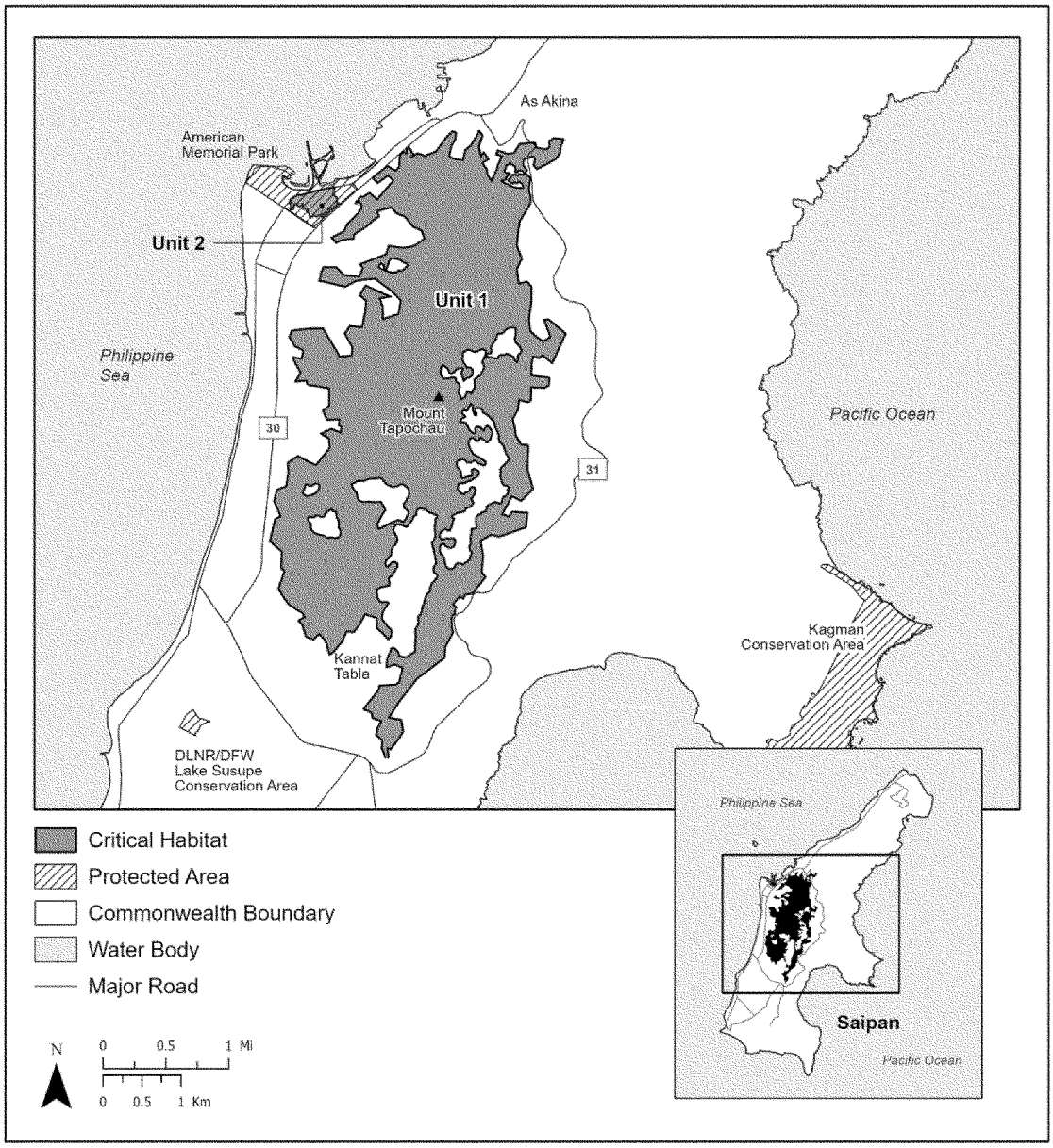
(9) Humped Tree Snail–1, Saipan; Commonwealth of the Northern Mariana Islands.

(i) Unit 1 of two units on the island of Saipan consists of 3,290 ac (1,332 ha) and is composed of secondary forests and is located on the western side of central Saipan. The unit extends from Route 30 towards Mt. Tapochau and ends near Route 31 in the east. The unit extends north into As Akina and south to Kannat Tabla. Landownership includes 893 ac (361 ha) of Commonwealth government lands, 2,393 ac (969 ha) in private ownership, and 4 ac (2 ha) that are uncategorized.

(ii) Map of Humped Tree Snail–1, Saipan, follows:

Figure 5 to Humped Tree Snail (*Partula gibba*) paragraph (9)(ii)

Critical Habitat for Humped Tree Snail (*Partula gibba*)
Humped Tree Snail–1, Saipan
Humped Tree Snail–2, Saipan
Commonwealth of the Northern Mariana Islands



(10) Humped Tree Snail–2, Saipan; Commonwealth of the Northern Mariana Islands.

(i) Unit 2 on the island of Saipan consists of 35 ac (14 ha) and is composed of secondary forests in the American Memorial Park on the western coast of Saipan, within the village of Garapan and adjacent to the village of As Palacios. All lands are owned by the Federal Government (National Park Service).

(ii) Map of Humped Tree Snail–2, Saipan, is provided at paragraph (9)(ii) of this entry.

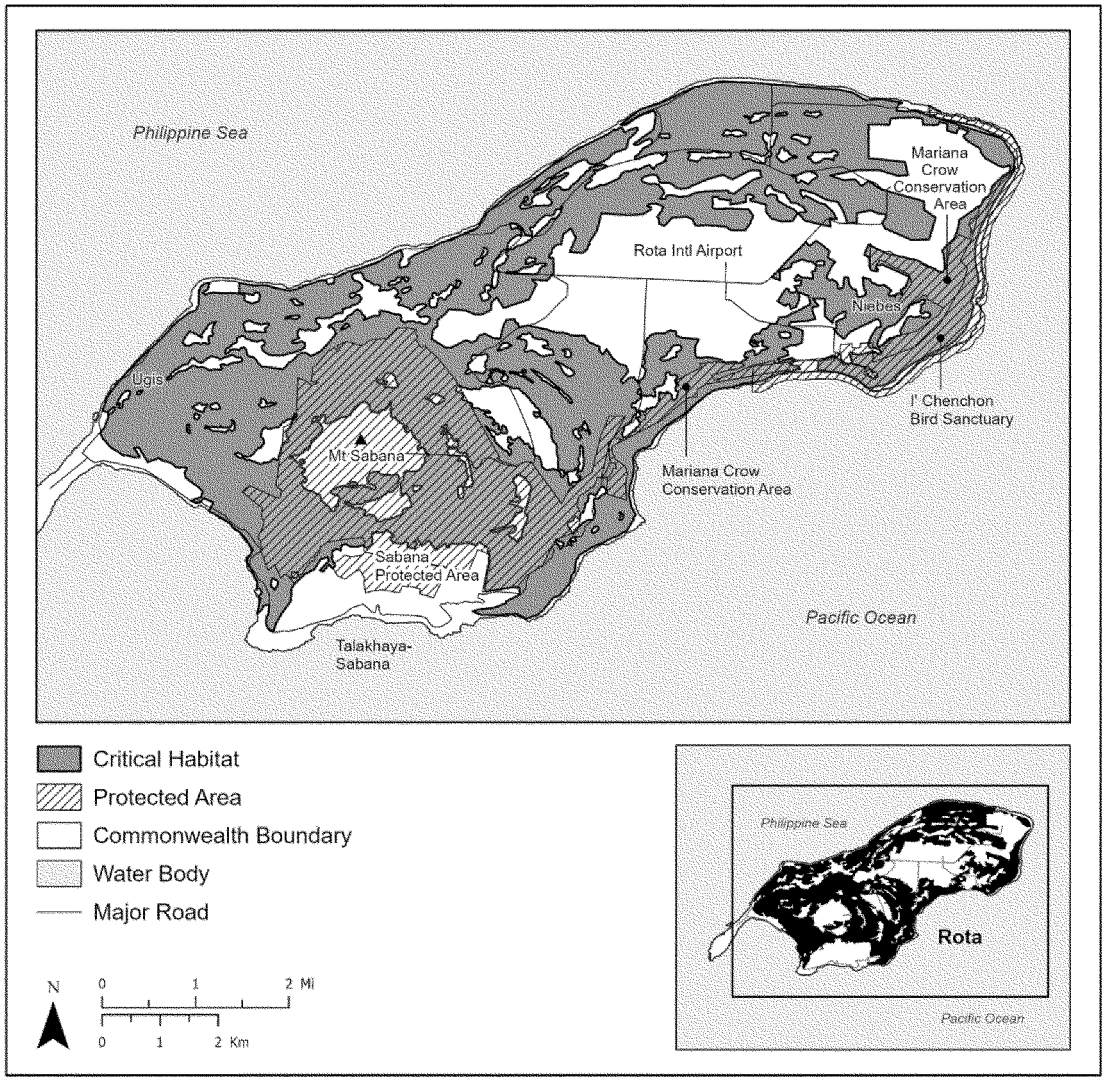
(11) Humped Tree Snail–1, Rota; Commonwealth of the Northern Mariana Islands.

(i) This single critical habitat unit on the island of Rota consists of 12,282 ac (4,970 ha) and is composed of forested lands across the majority of the island with the exception of developed areas, Mt. Sabana, and the watersheds at the southern end. Landownership includes 9,294 ac (3,761 ha) of Commonwealth government lands, 2,954 ac (1,195 ha) in private ownership, and 34 ac (14 ha) that are uncategorized. The northeastern coastal portion of the unit overlaps the I'Chenchon Bird Sanctuary Conservation Area, and the southcentral area overlaps the Sabana Protected Area.

(ii) Map of Humped Tree Snail–1, Rota, follows:

Figure 7 to Humped Tree Snail (*Partula gibba*) paragraph (12)(ii)

Critical Habitat for Humped Tree Snail (*Partula gibba*)
Humped Tree Snail–1, Rota
Commonwealth of the Northern Mariana Islands



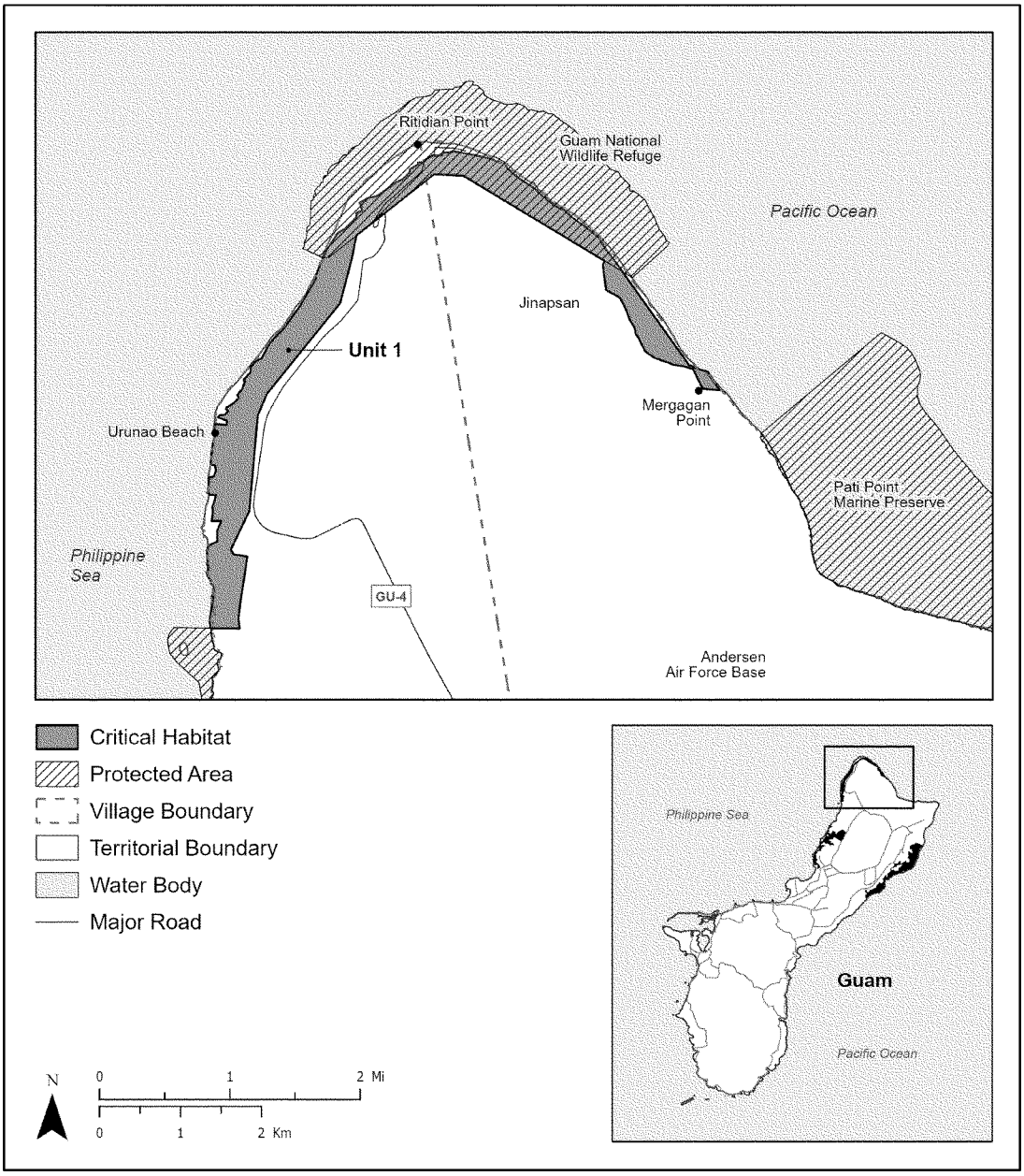
(12) Humped Tree Snail–1, Guam; Territory of Guam.

(i) Unit 1 on the island of Guam consists of 856 ac (346 ha) and is composed of a band of secondary limestone forest in a horseshoe-shape on the northwestern point of Guam (Ritidian Point). The unit extends from the southwestern boundary south of Urunao Beach and runs north along the cliffline towards Jinapsan ending at Mergagan Point. Landownership includes 262 ac (106 ha) of Federal lands (Guam NWR), 68 ac (27 ha) of Territory government lands, 408 ac (165 ha) in private ownership, and 118 ac (48 ha) that are uncategorized.

(ii) Map of Humped Tree Snail–1, Guam, follows:

Figure 8 to Humped Tree Snail (*Partula gibba*) paragraph (13)(ii)

Critical Habitat for Humped Tree Snail *(Partula gibba)*
Humped Tree Snail–1, Guam
Territory of Guam



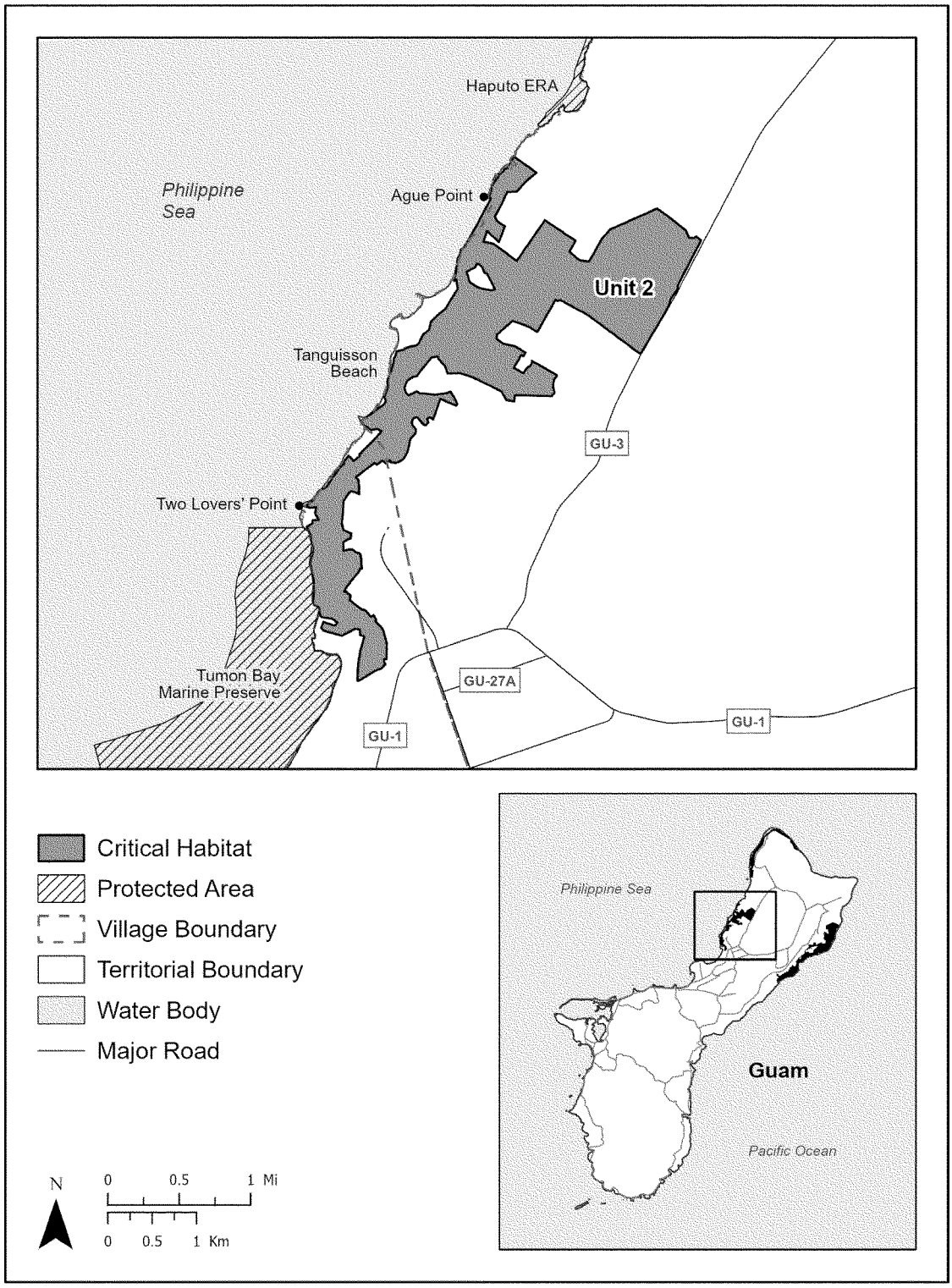
(13) Humped Tree Snail–2, Guam; Territory of Guam.

(i) Unit 2 on the island of Guam consists of 1,245 ac (504 ha) and is composed of limestone forests along the northwestern edge of the island. The unit lies west of Route 3 and extends from the clifflines overlooking Tumon Bay west of Route 1 and runs north to Ague Point. Landownership includes 1,081 ac (437 ha) of Territory government lands, 108 ac (44 ha) in private ownership, and 56 ac (23 ha) that are uncategorized.

(ii) Map of Humped Tree Snail–2, Guam, follows:

Figure 9 to Humped Tree Snail (*Partula gibba*) paragraph (14)(ii)

Critical Habitat for Humped Tree Snail *(Partula gibba)*
Humped Tree Snail–2, Guam
Territory of Guam



(14) Humped Tree Snail–3, Guam; Territory of Guam.

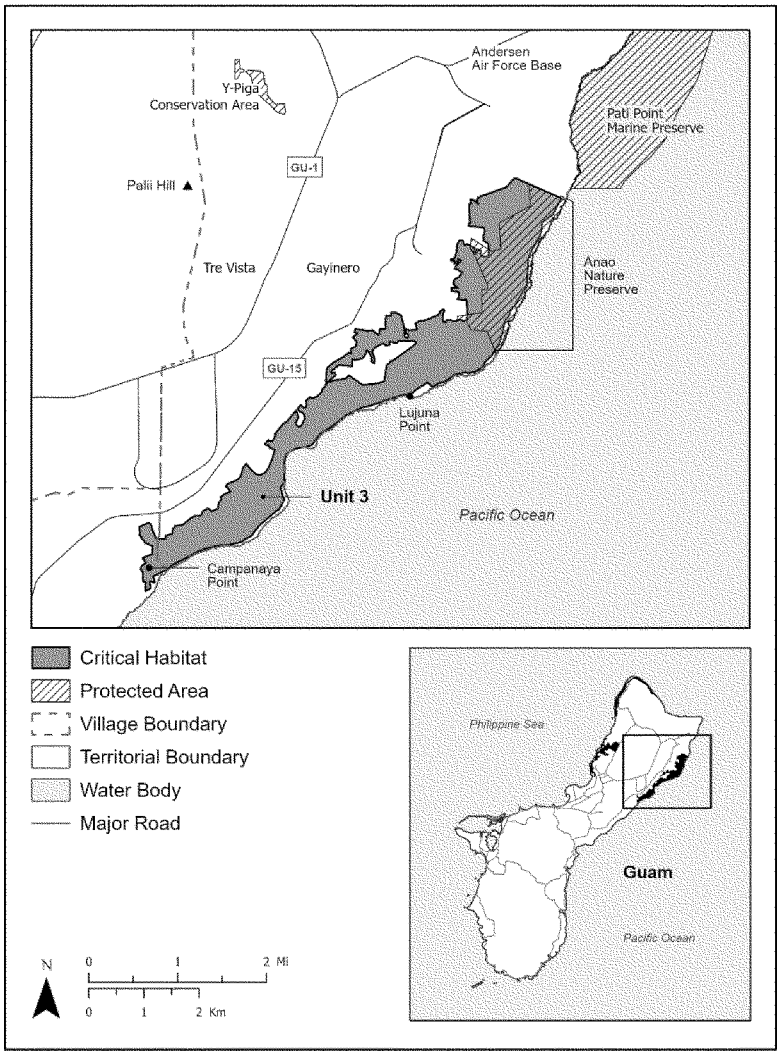
(i) Unit 3 on the island of Guam consists of 2,166 ac (877 ha) and is composed of limestone forests along the northeastern coastal edge of the island. The unit begins at the boundary of the Anao Nature Preserve, immediately adjacent to the southern end of the Guam NWR boundary, and extends southwest along the coast to Campanaya Point. Landownership includes 1,549 ac

(627 ha) of Territory government lands, 270 ac (109 ha) in private ownership, and 347 ac (141 ha) that are uncategorized. The northeastern portion of this unit overlaps the Anao Nature Preserve.

(ii) Map of Humped Tree Snail–3, Guam, follows:

Figure 10 to Humped Tree Snail (*Partula gibba*) paragraph (15)(ii)

Critical Habitat for Humped Tree Snail *(Partula gibba)*
Humped Tree Snail–3, Guam
Territory of Guam



Langford's Tree Snail (*Partula langfordi*)

(1) One critical habitat unit is depicted for Aguiguan within the Commonwealth of the Northern Mariana Islands, on the map in this entry.

(2) Within this area, the physical or biological features essential to the conservation of the Langford's tree snail consist of the following components:

(i) Contiguous closed-canopy limestone, volcanic, riverine, riparian, ravine, or secondary/mixed forests, or backstrand beach vegetation, providing relatively stable climatic conditions such as shade, moisture, high humidity, and low air movement.

(ii) Dense mid-canopy vegetation such as large leaves, branches, vines, or other structures.

(iii) Understory such as ground cover composed of short herbs, shrubs, ferns, or small trees.

(iv) Food sources such as dead and decaying plant material, leaf litter, and tree debris.

(3) Critical habitat does not include manmade structures (such as buildings or paved areas including aqueducts, runways, or roads) and the land on which they are located existing within the legal boundaries on the effective date of the final rule.

(4) Data layers defining the map unit were created using survey and distribution data provided by multiple local and regional sources as available (*e.g.,* reports, databases, and species experts' knowledge) and as maintained by universities, local governments, and nonprofit organizations across the Mariana Islands. Landcover data (*e.g.,* soil substrate, vegetation, and elevation) were obtained and compiled from multiple Federal and local government agencies. Temperature and precipitation data were obtained and compiled from journal publications. Landforms were primarily delineated based on the most currently available aerial maps and

satellite imagery. The map in this entry, as modified by any accompanying regulatory text, establishes the boundaries of the critical habitat designation. The coordinates or plot points or both on which the map is based are available to the public at the Service's internet site at *https://www.fws.gov/project/critical-habitat-mariana-islands,* at *https://www.regulations.gov* at Docket No. FWS–R1–ES–2024–0194, and at the field office responsible for this designation. You may obtain field office location information by contacting one of the Service regional offices, the addresses of which are listed at 50 CFR 2.2.

(5) There is a single critical habitat unit on the island of Aguiguan. The critical habitat unit name comprises the species name, a numeral digit (1) to correspond with the number of critical habitat units on the island for this species, and an island name.

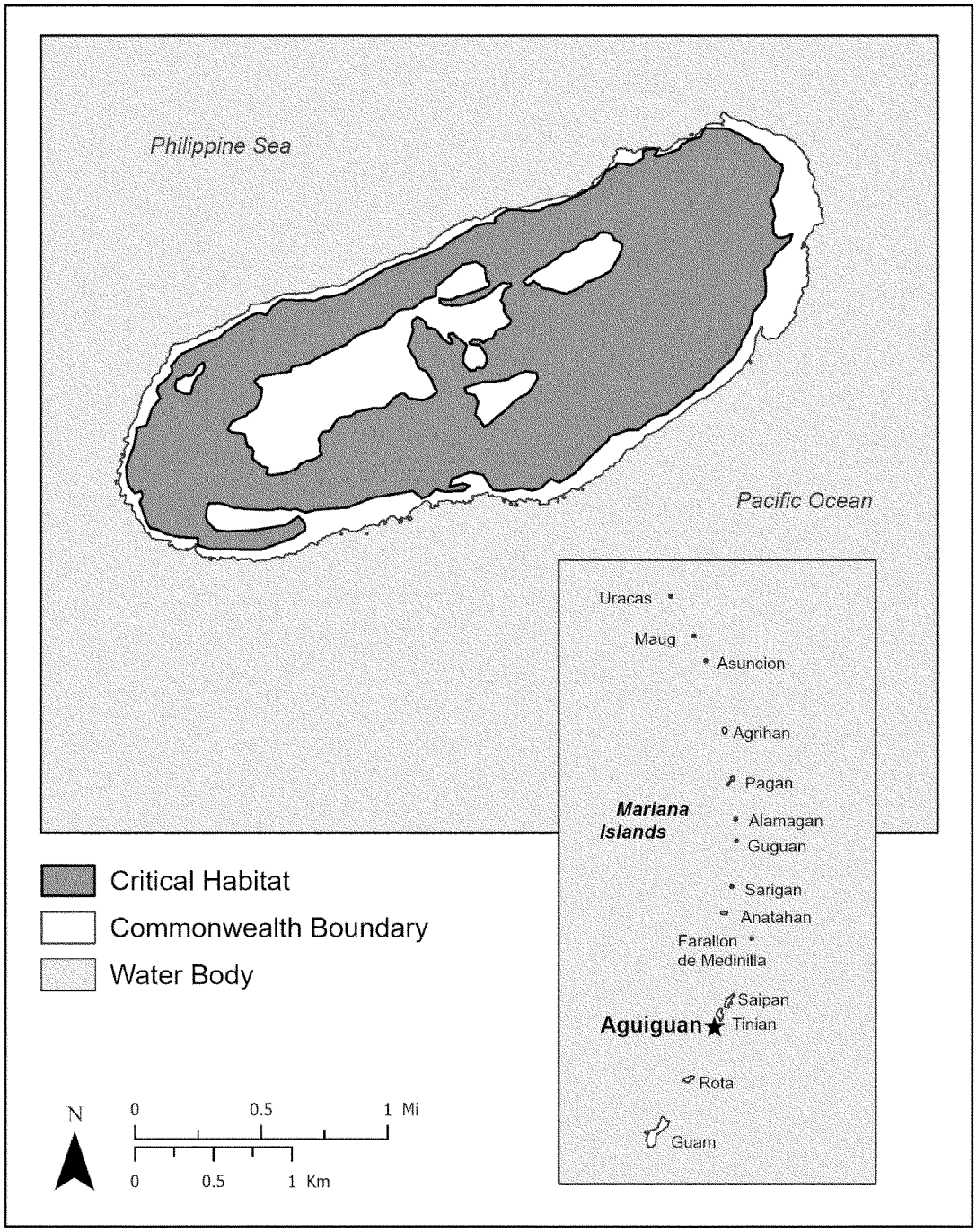
(6) Langford's Tree Snail–1, Aguiguan; Commonwealth of the Northern Mariana Islands.

(i) This single critical habitat unit on the island of Aguiguan consists of 1,217 ac (492 ha) and is composed of limestone and secondary forests. The unit extends across the majority of the island with the exception of grasslands in the center of the island and bare rock along the coastline. All lands are owned by the Commonwealth government.

(ii) Map of Langford's Tree Snail–1, Aguiguan, follows:

Figure 1 to Langford's Tree Snail (*Partula langfordi*) paragraph (6)

Critical Habitat for Langford's Tree Snail (*Partula langfordi*)
Langford's Tree Snail–1, Aguiguan
Commonwealth of the Northern Mariana Islands



* * * * *

(i) *Insects.*

* * * * *

Mariana Eight-Spot Butterfly (Hypolimnas Octocula Marianensis)

(1) Critical habitat units are depicted for Guam within the Territory of Guam, on the maps in this entry.

(2) Within these areas, the physical or biological features essential to the conservation of Mariana eight-spot butterfly consist of the following components:

(i) Interconnected native, closed-canopy limestone forests.

(ii) Larval host plants such as *Procris pedunculata* (no common name) or *Elatostema calcareum* (tapun ayuyu).

(iii) Food resources from day-flowering plants or decaying organic matter (*e.g.,* rotten fruits or animals).

(3) Critical habitat does not include manmade structures (such as buildings or paved areas including aqueducts, runways, or roads) and the land on which they are located existing within the legal boundaries on the effective date of the final rule.

(4) Data layers defining map units were created using survey and distribution data provided by multiple local and regional sources as available (*e.g.,* reports, databases, and species experts' knowledge) and as maintained by universities, local governments, and nonprofit organizations across the Mariana Islands. Landcover data (*e.g.,* soil substrate, vegetation, and elevation) were obtained and compiled from multiple Federal and local government agencies. Temperature and precipitation data were obtained and compiled from journal publications. Landforms were primarily delineated based on the most currently available aerial maps and satellite imagery. The maps in this entry, as modified by any accompanying regulatory text, establish the boundaries of the critical habitat designation. The coordinates or plot points or both on which each map is based are available to the public at the Service's internet site at *https://www.fws.gov/project/critical-habitat-mariana-islands,* at *https://www.regulations.gov* at Docket No. FWS–R1–ES–2024–0194, and at the field office responsible for this designation. You may obtain field office location information by contacting one of the Service regional offices, the addresses of which are listed at 50 CFR 2.2.

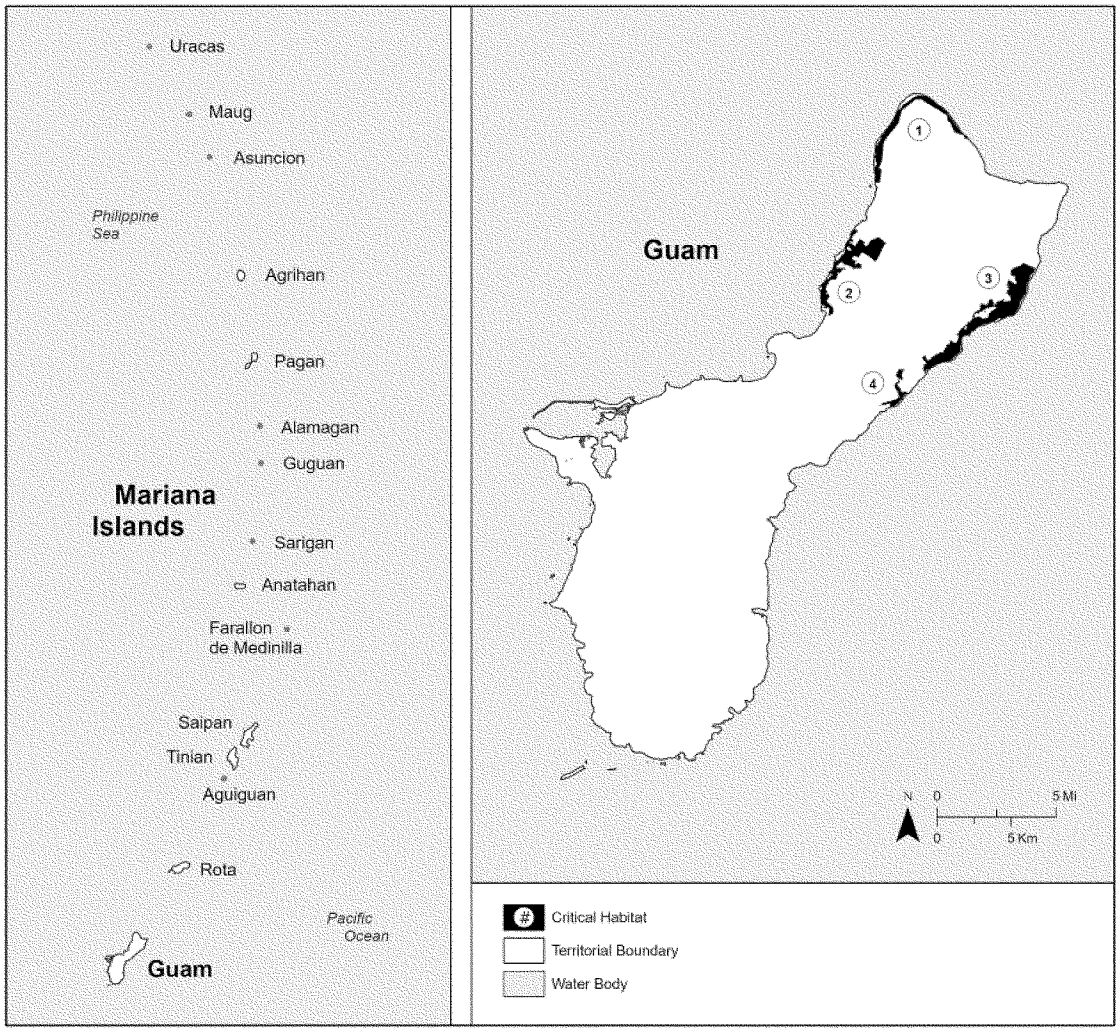
(5) The following index map shows the general locations of critical habitat units designated on the island of Guam, with each location/area identified as a specific number.

(i) Each critical habitat unit name comprises the species name, a numeral digit, and an island name. The numeral digit within a unit name corresponds with the number of the critical habitat unit on the island, totaling four units for this species.

(ii) Index map follows:

Figure 1 to the Mariana Eight-Spot Butterfly (*Hypolimnas octocula marianensis*) paragraph (5)(ii)

Critical Habitat for Mariana Eight-Spot Butterfly
(*Hypolimnas octocula marianensis*)
Index Map for the Island of Guam, Territory of Guam



(6) Mariana Eight-Spot Butterfly—1, Guam; Territory of Guam.

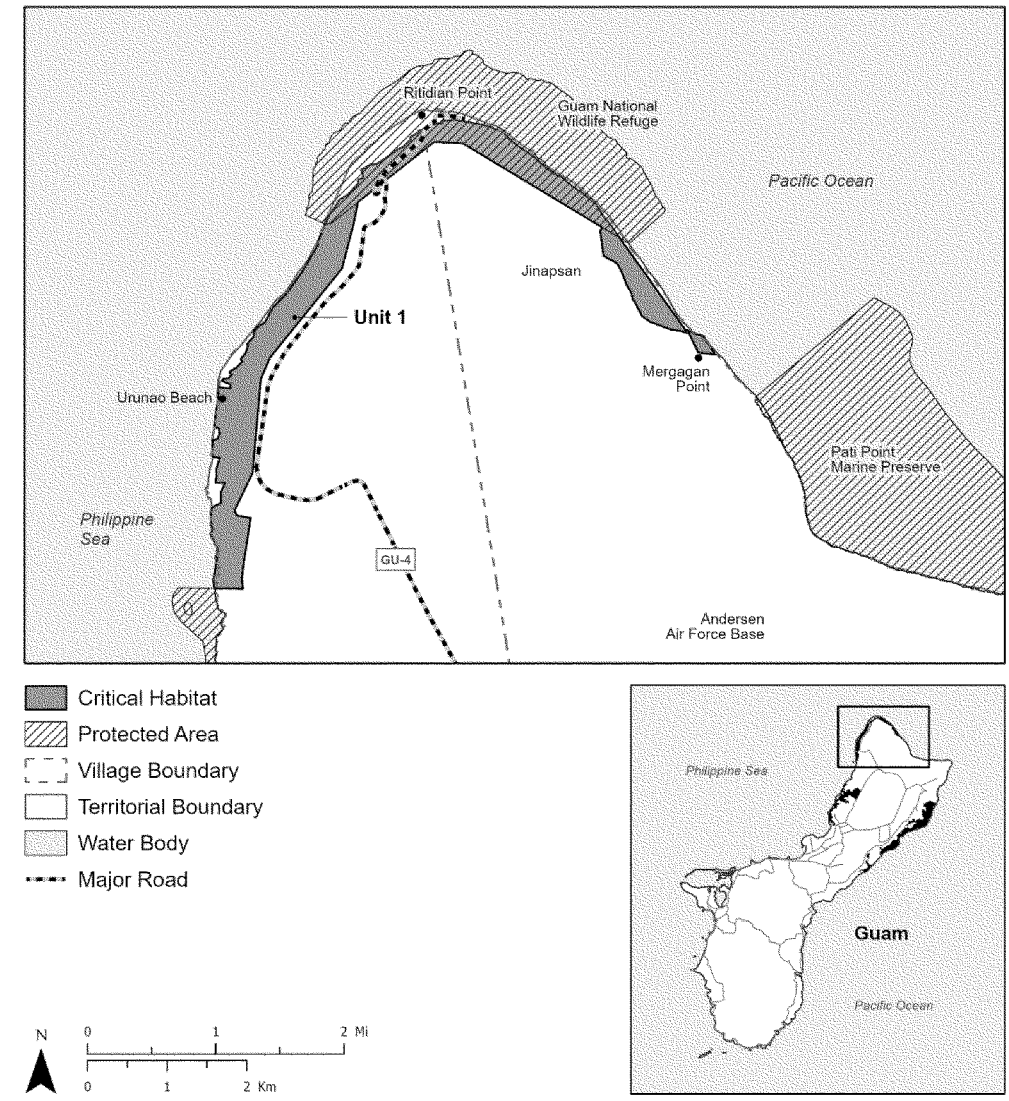
(i) Unit 1 on the island of Guam consists of 856 ac (346 ha) and is composed of a band of secondary limestone forest in a horseshoe-shape on the northwestern point of Guam (Ritidian Point). The unit extends from the southwestern boundary south of Urunao Beach and runs north along the cliffline towards Jinapsan ending at Mergagan Point. Landownership includes 262 ac (106 ha) of Federal lands (Guam NWR), 68 ac (27 ha) of Territory government lands, 408 ac (165

ha) in private ownership, and 118 ac (48 ha) that are uncategorized.

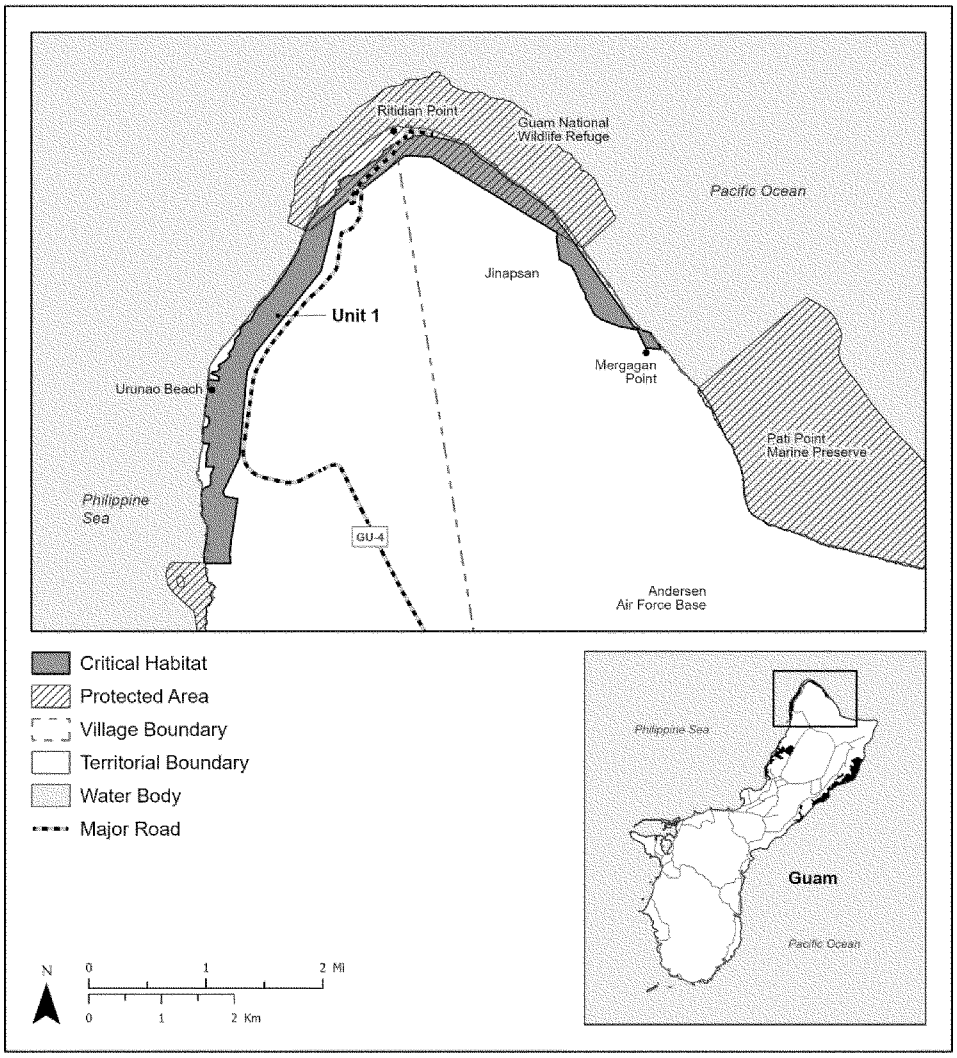
(ii) Map of Mariana Eight-Spot Butterfly—1, Guam, follows:

Figure 2 to Mariana Eight-Spot Butterfly (*Hypolimnas octocula marianensis*) paragraph (6)(ii)

Critical Habitat for Mariana Eight-Spot Butterfly (*Hypolimnas octocula marianensis*)
Mariana Eight-Spot Butterfly–1, Guam
Territory of Guam



Critical Habitat for Mariana Eight-Spot Butterfly (*Hypolimnas octocula marianensis*)
Mariana Eight-Spot Butterfly–1, Guam
Territory of Guam



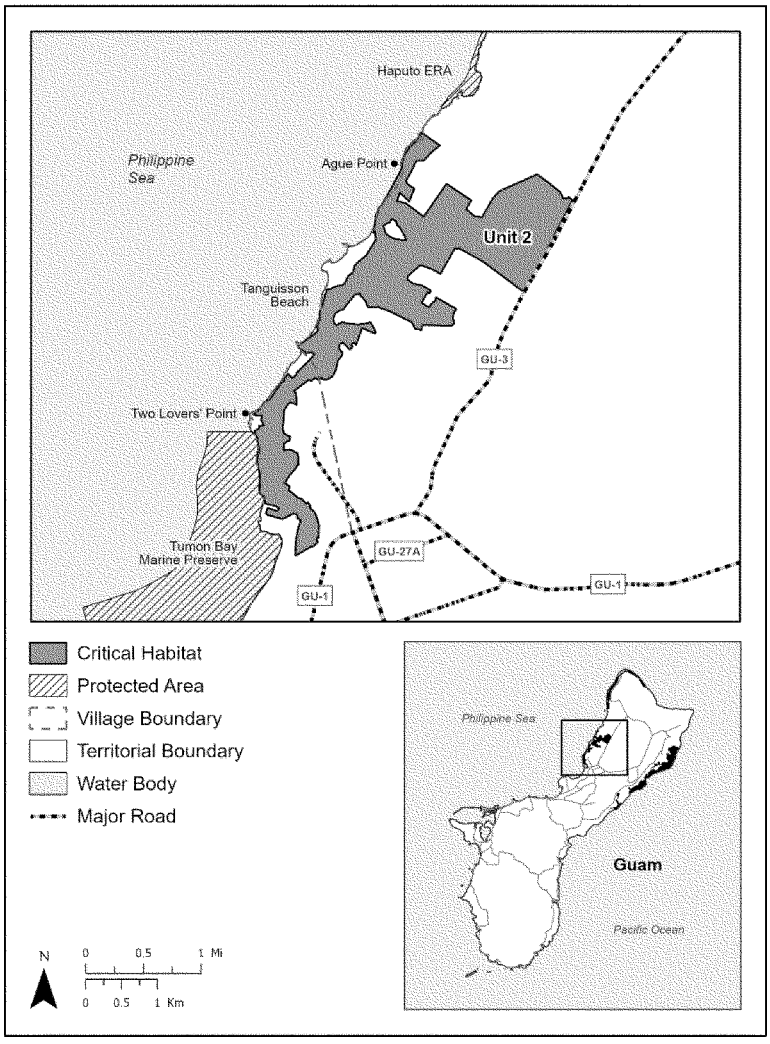
(7) Mariana Eight-Spot Butterfly—2, Guam; Territory of Guam.

(i) Unit 2 on the island of Guam consists of 1,245 ac (504 ha) in the Territory of Guam and is composed of limestone forests along the northwestern edge of the island. It lies west of Route 3 and extends from the clifflines overlooking Tumon Bay west of Route 1 and runs north to Ague Point. Landownership includes 1,081 ac (437 ha) of Territory government lands, 108 ac (44 ha) in private ownership, and 56 ac (23 ha) that are uncategorized.

(ii) Map of Mariana Eight-Spot Butterfly—2, Guam, follows:

Figure 3 to Mariana Eight-Spot Butterfly (*Hypolimnas octocula marianensis*) paragraph (7)(ii)

Critical Habitat for Mariana Eight-Spot Butterfly
(*Hypolimnas octocula marianensis*)
Mariana Eight-Spot Butterfly–2, Guam
Territory of Guam



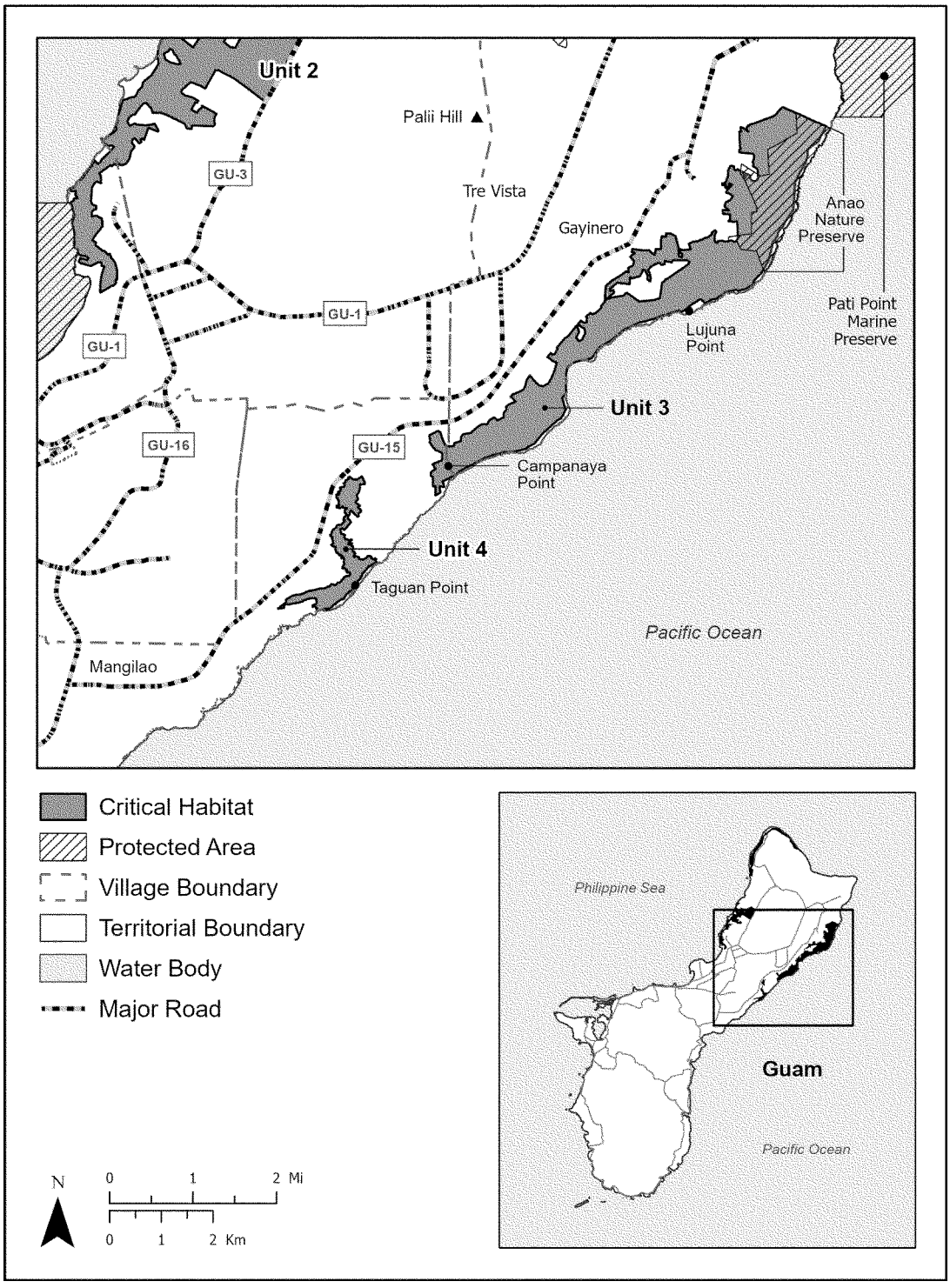
(8) Mariana Eight-Spot Butterfly—3, Guam; Territory of Guam.

(i) Unit 3 on the island of Guam consists of 2,166 ac (877 ha) and is composed of limestone forests along the northeastern coastal edge of the island. The unit begins at the boundary of the Anao Nature Preserve, immediately adjacent to the southern end of the Guam NWR boundary and extends southwest along the coast to Campanaya Point. Landownership includes 1,549 ac (627 ha) of Territory government land, 270 ac (109 ha) in private ownership, and 347 ac (141 ha) that are uncategorized. The northeastern portion of this unit overlaps the Anao Nature Preserve.

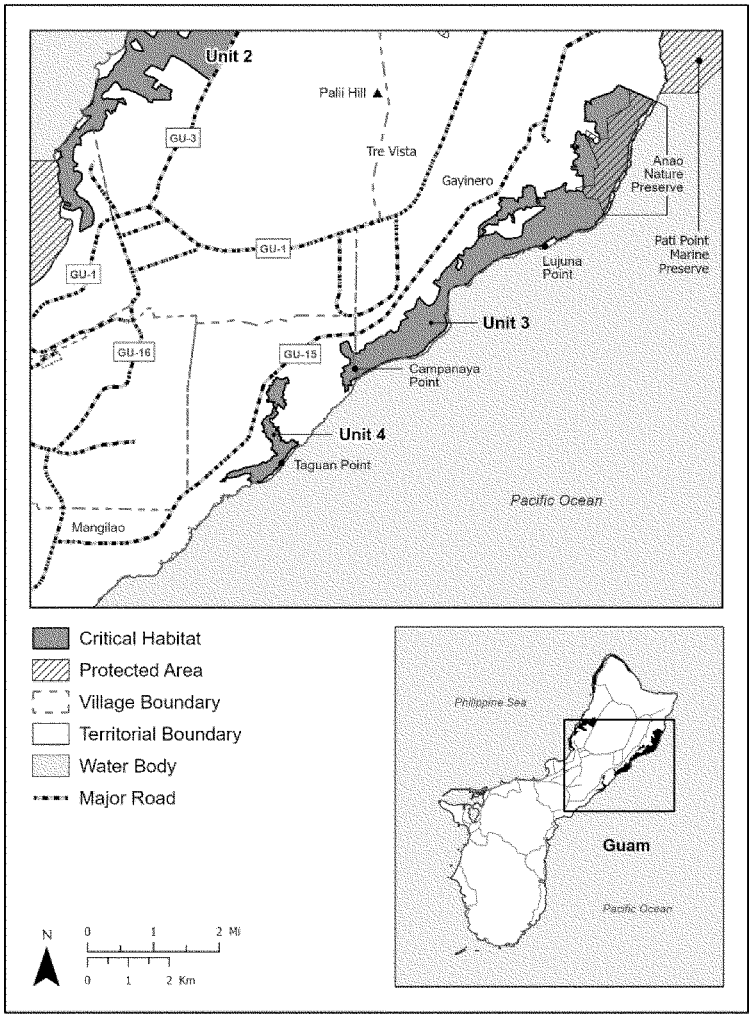
(ii) Map of Mariana Eight-Spot Butterfly—3 and Mariana Eight-Spot Butterfly—4, Guam, follows:

Figure 4 to Mariana Eight-Spot Butterfly (*Hypolimnas octocula marianensis*) paragraph (8)(ii)

Critical Habitat for Mariana Eight-Spot Butterfly
(*Hypolimnas octocula marianensis*)
Mariana Eight-Spot Butterfly–3, Guam
Mariana Eight-Spot Butterfly–4, Guam
Territory of Guam



Critical Habitat for Mariana Eight-Spot Butterfly
(*Hypolimnas octocula marianensis*)
Mariana Eight-Spot Butterfly–3, Guam
Mariana Eight-Spot Butterfly–4, Guam
Territory of Guam



(9) Mariana Eight-Spot Butterfly—4, Guam; Territory of Guam.

(i) Unit 4 on the island of Guam consists of 242 ac (98 ha) and is composed of limestone, secondary, and coastal strand forests from Taguan Point and extending east towards Route 15 in the village of Mangilao. Landownership includes 133 ac (54 ha) in private ownership and 109 ac (44 ha) that are uncategorized.

(ii) Map of Mariana Eight-Spot Butterfly—4, Guam, is provided at paragraph (8)(ii) of this entry.

Mariana Wandering Butterfly (Vagrans Egistina)

(1) One critical habitat unit is depicted for Rota within the Commonwealth of the Northern Mariana Islands, on the map in this entry.

(2) Within this area, the physical or biological features essential to the conservation of Mariana wandering butterfly consist of the following components:

(i) Interconnected native limestone forest.

(ii) Native limestone forest understory vegetation.

(iii) Larval host plants such as *Maytenus thompsonii* (luluhut).

(iv) Food resources from day-flowering plants or decaying organic matter (*e.g.,* rotten fruits or animals).

(3) Critical habitat does not include manmade structures (such as buildings or paved areas including aqueducts, runways, or roads) and the land on which they are located existing within the legal boundaries on the effective date of the final rule.

(4) Data layers defining the map unit were created using survey and distribution data provided by multiple local and regional sources as available (*e.g.,* reports, databases, and species experts' knowledge) and as maintained by universities, local governments, and nonprofit organizations across the Mariana Islands. Landcover data (*e.g.,* soil substrate, vegetation, and elevation) were obtained and compiled from multiple Federal and local government agencies. Temperature and precipitation data were obtained and compiled from journal publications. Landforms were primarily delineated based on the most currently available aerial maps and satellite imagery. The map in this entry, as modified by any accompanying regulatory text, establishes the boundaries of the critical habitat designation. The coordinates or plot points or both on which the map is based are available to the public at the Service's internet site at *https://www.fws.gov/project/critical-habitat-mariana-islands,* at *https://*

www.regulations.gov at Docket No. FWS–R1–ES–2024–0194, and at the field office responsible for this designation. You may obtain field office location information by contacting one of the Service regional offices, the addresses of which are listed at 50 CFR 2.2.

(5) There is a single critical habitat unit on the island of Rota. The critical habitat unit name comprises the species name, a numeral digit (1) that corresponds with the number of critical habitat units on the island for this species, and an island name.

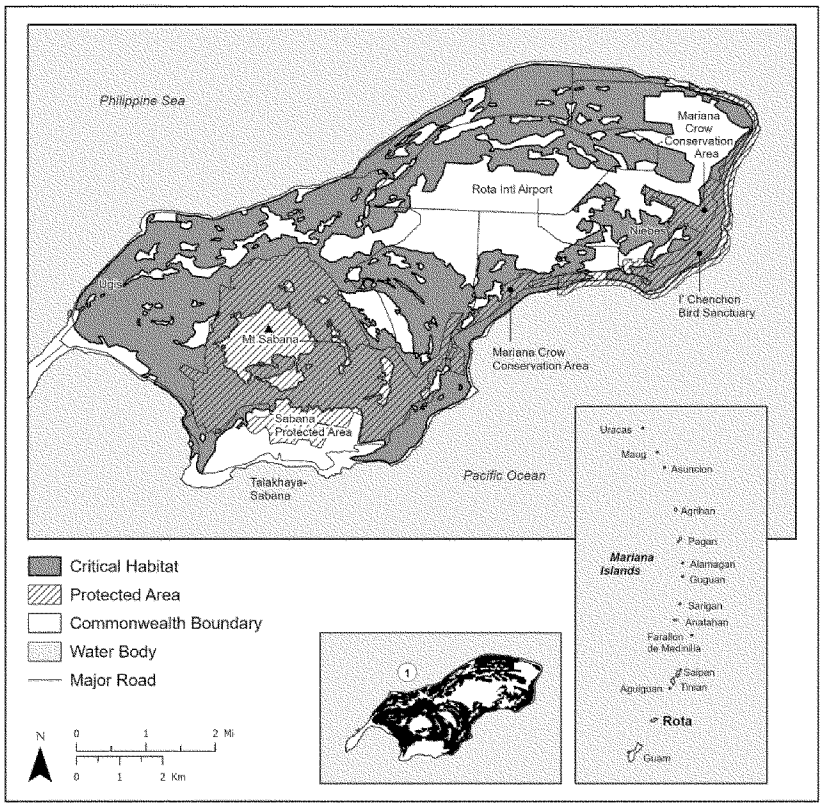
(6) Mariana Wandering Butterfly—1, Rota; Commonwealth of the Northern Mariana Islands.

(i) This single critical habitat unit on the island of Rota consists of 12,282 ac (4,970 ha) and is composed of forested lands across the majority of the island with the exception of developed areas, Mt. Sabana, and the watersheds at the southern end. Landownership includes 9,294 ac (3,761 ha) of Commonwealth government lands, 2,954 ac (1,195 ha) in private ownership, and 34 ac (14 ha) that are uncategorized. The northeastern coastal portion of the unit overlaps the I'Chenchon Bird Sanctuary Conservation Area, and the southcentral area overlaps the Sabana Protected Area.

(ii) Map of Mariana Wandering Butterfly—1, Rota, follows:

Figure 1 to Mariana Wandering Butterfly (*Vagrans egistina*) paragraph (6)(ii)

Critical Habitat for Mariana Wandering Butterfly (*Vagrans egistina*)
Mariana Wandering Butterfly–1, Rota
Commonwealth of the Northern Mariana Islands



* * * * *

Rota Blue Damselfly (Ischnura Luta)

(1) One critical habitat unit is depicted for Rota within the Commonwealth of the Northern Mariana Islands, on the map in this entry.

(2) Within this area, the physical or biological features essential to the conservation of the Rota blue damselfly consist of the following components:

(i) Contiguous closed-canopy forest habitats surrounding streams and their tributaries with adequate cool, clean, clear, moving water.

(ii)) Riparian vegetation adjacent to streams and their tributaries.

(iii) Small prey such as water fleas, larvae, or other small invertebrate or aquatic organisms.

(3) Critical habitat does not include manmade structures (such as buildings or paved areas including aqueducts, runways, or roads) and the land on which they are located existing within the legal boundaries on the effective date of the final rule.

(4) Data layers defining the map unit were created using survey and distribution data provided by multiple local and regional sources as available (*e.g.,* reports, databases, and species expert's knowledge) and as maintained by universities, local governments, and nonprofit organizations across the Mariana Islands. Landcover data (*e.g.,* soil substrate, vegetation, and elevation) were obtained and compiled from multiple Federal and local government agencies. Temperature and precipitation data were obtained and compiled from journal publications. Landforms were primarily delineated based on the most currently available aerial maps and satellite imagery. The map in this entry, as modified by any accompanying regulatory text, establishes the boundaries of the critical habitat designation. The coordinates or plot points or both on which the map is based are available to the public at the Service's internet site at *https://www.fws.gov/project/critical-habitat-mariana-islands,* at *https://*

www.regulations.gov at Docket No. FWS–R1–ES–2024–0194, and at the field office responsible for this designation. You may obtain field office location information by contacting one of the Service regional offices, the addresses of which are listed at 50 CFR 2.2.

(5) There is a single critical habitat unit on the island of Rota. The critical habitat unit name comprises the species name, a numeral digit (1) that corresponds with the number of critical habitat units on the island for this species, and an island name.

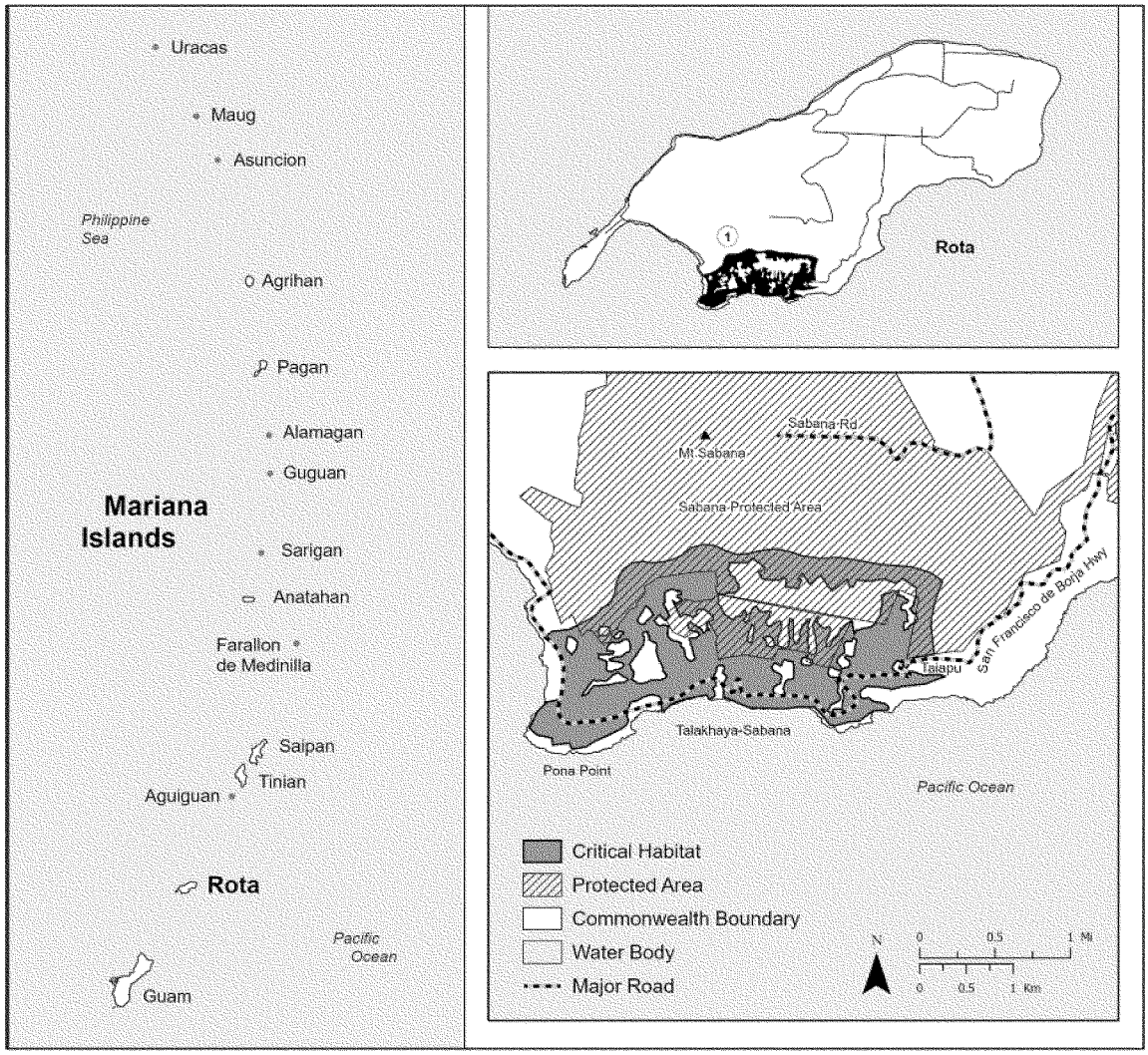
(6) Rota Blue Damselfly—1, Rota; Commonwealth of the Northern Mariana Islands.

(i) This single critical habitat unit on the island of Rota consists of 1,133 ac (459 ha) and is composed of limestone and secondary forests containing streams and riparian vegetation on the southern slopes of Mt. Sabana. This unit begins near Pona Point and extends east towards Taipu and north including the clifflines of the Sabana within the Talakhaya watershed. Landownership includes 671 ac (272 ha) of Commonwealth government lands, 433 ac (175 ha) in private ownership, and 29 ac (12 ha) that are uncategorized. Northern portions of this unit overlap the Sabana Protected Area.

(ii) Map of Rota Blue Damselfly—1, Rota, follows:

Figure 1 to Rota blue damselfly (*Ischnura luta*) paragraph (6)(ii)

Critical Habitat for Rota Blue Damselfly (*Ischnura luta*)
Rota Blue Damselfly–1, Rota
Commonwealth of the Northern Mariana Islands



* * * * *

■ 5. Amend § 17.96 by:

■ a. In paragraph (a), adding:

■ i. An entry for ''Family Apocynaceae: *Tabernaemontana rotensis* (no common name)'' after the entry for ''Family Apocynaceae: *Asclepias prostrata* (prostrate milkweed)'';

■ ii. An entry for ''Family Malvaceae: *Heritiera longipetiolata* (ufa halumtanu, ufa halomtano)'' before the entry for ''Family Malvaceae: *Hibiscus dasycalyx* (Neches River rose-mallow)'';

■ iii. Entries for ''Family Menispermaceae: *Tinospora homosepala* (no common name)'', ''Family Myrsinaceae: *Maesa walkeri* (no common name)'', and ''Family Myrtaceae: *Eugenia bryanii* (no common name)'' after the entry for ''Family Malvaceae: *Sphaeralcea gierischii* (Gierisch mallow)'';

■ iv. Entries for ''Family Orchidaceae: *Bulbophyllum guamense* (siboyas

halumtanu, siboyan halomtano)'', ''Family Orchidaceae: *Dendrobium guamense* (no common name)'', and ''Family Orchidaceae: *Nervilia jacksoniae* (no common name)'' before the entry for ''Family Orchidaceae: *Piperia yadonii* (Yadon's piperia)'' and, after that entry, adding an entry for ''Family Orchidaceae: *Tuberolabium guamense* (no common name)'';

■ v. An entry for ''Family Phyllanthaceae: *Phyllanthus saffordii* (maigo lalo)'' after the entry for ''Family Orobanchaceae: *Castilleja cinerea* (ash-gray Indian paintbrush)''; and

■ vi. Entries for ''Family Rubiaceae: *Hedyotis megalantha* (pau dedo, pao doodu)'' and ''Family Rubiaceae: *Psychotria malaspinae* (aplokhating palaoan)'' after the entry for ''Family Rubiaceae: *Catesbaea melanocarpa* (no common name)''; and

■ b. In paragraph (b), adding paragraph (b)(2).

The additions read as follows:

§ 17.96 Critical habitat—plants.

(a) *Flowering plants.*

* * * * *

Family Apocynaceae: Tabernaemontana Rotensis (No Common Name)

(1) Critical habitat units are depicted for Rota within the Commonwealth of the Northern Mariana Islands, and Guam within the Territory of Guam, on the maps in this entry.

(2) Within these areas, the physical or biological features essential to the conservation of *Tabernaemontana rotensis* consist of the following components:

(i) Interconnected native limestone forests, open patches, and forest edges providing moderate to full sunlight.

(ii) Native limestone forest habitat vegetation such as (but not limited to) *Abrus* spp., *Aidia* spp., *Aglaia* spp., *Aglaia mariannensis* (mapunyao, mapunao, fischil liyoos), *Aidia cochinchinensis* (sumak), *Asplenium nidus* (galak, fedda, bird's nest fern), *Elaeocarpus* spp., *Ficus* spp., *Freycinetia* spp., *Guamia* spp., *Hernandia* spp., *Hibiscus tiliaceus* (sea hibiscus, pago), *Intsia bijuga* (ifit, Borneo teak), *Macaranga thompsonii* (NCN), *Melanolepis* spp., *Morinda citrifolia* (lada, noni, Indian mulberry), *Operculina* spp., *Pandanus* spp., *Phymatosorus scolopendria* (monarch fern, kahlao), *Pipturus* spp., *Pisonia grandis* (umumu, bird-catcher tree, cabbage tree, birdlime tree), *Pouteria* spp., *Premna* spp., *Psychotria mariana* (applok hating, aplohkateng, aplu kati, gathemach, aploghating, aplokhating), and *Trema* spp.

(iii) Native seed dispersers such as birds and fruit bats.

(iv) Native pollinators, such as butterflies and other generalist pollinators and native vegetation to support them.

(3) Critical habitat does not include manmade structures (such as buildings or paved areas including aqueducts, runways, or roads) and the land on which they are located existing within the legal boundaries on the effective date of the final rule.

(4) Data layers defining map units were created using survey and distribution data provided by multiple local and regional sources as available (*e.g.,* reports, databases, and species experts' knowledge) and as maintained by universities, local governments, and nonprofit organizations across the Mariana Islands. Landcover data (*e.g.,* soil substrate, vegetation, and elevation) were obtained and compiled from multiple Federal and local government agencies. Temperature and precipitation data were obtained and compiled from journal publications. Landforms were primarily delineated based on the most currently available aerial maps and satellite imagery. The maps in this entry, as modified by any accompanying regulatory text, establish the boundaries of the critical habitat designation. The coordinates or plot points or both on which each map is based are available to the public at the Service's internet site at *https://www.fws.gov/project/critical-habitat-mariana-islands,* at *https://www.regulations.gov* at Docket No. FWS–R1–ES–2024–0194, and at the field office responsible for this designation. You may obtain field office location information by contacting one of the Service regional offices, the addresses of which are listed at 50 CFR 2.2.

(5) The following index maps show the general locations of critical habitat units for all plant species designated on each island, with each location/area on each island identified as a specific number on the index maps. These island location/area numbers allow for comparison of overlapping critical habitat units for other listed species within the same location.

(i) Each critical habitat unit name comprises an island name, a number corresponding to a specific geographic location/area on the applicable island, which may include overlapping units for different species, the species name, and a letter. The letter at the end of each critical habitat unit name corresponds to the number of units present on a given island, where each escalating letter for each island corresponds to the additive number of units per island for the species. Critical habitat for *Tabernaemontana rotensis* includes two units on the island of Rota and five units on the island of Guam, for a total of seven critical habitat units.

(ii) Index maps follow:

Figure 1 to Family Apocynaceae: *Tabernaemontana rotensis* (No Common Name) paragraph (5)(ii)

Critical Habitat
Index Map for Plants on the Islands of Rota,
Commonwealth of the Northern Mariana Islands

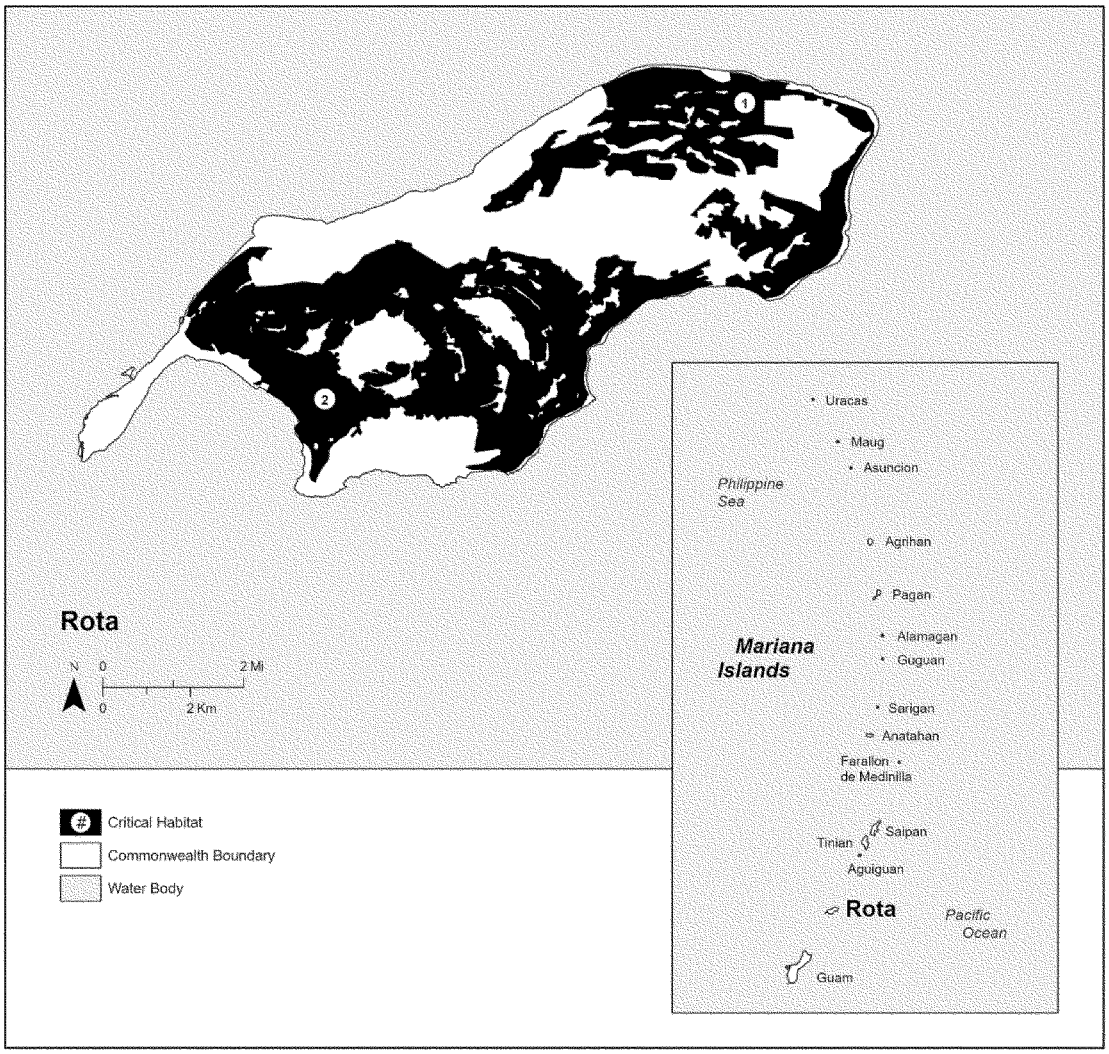
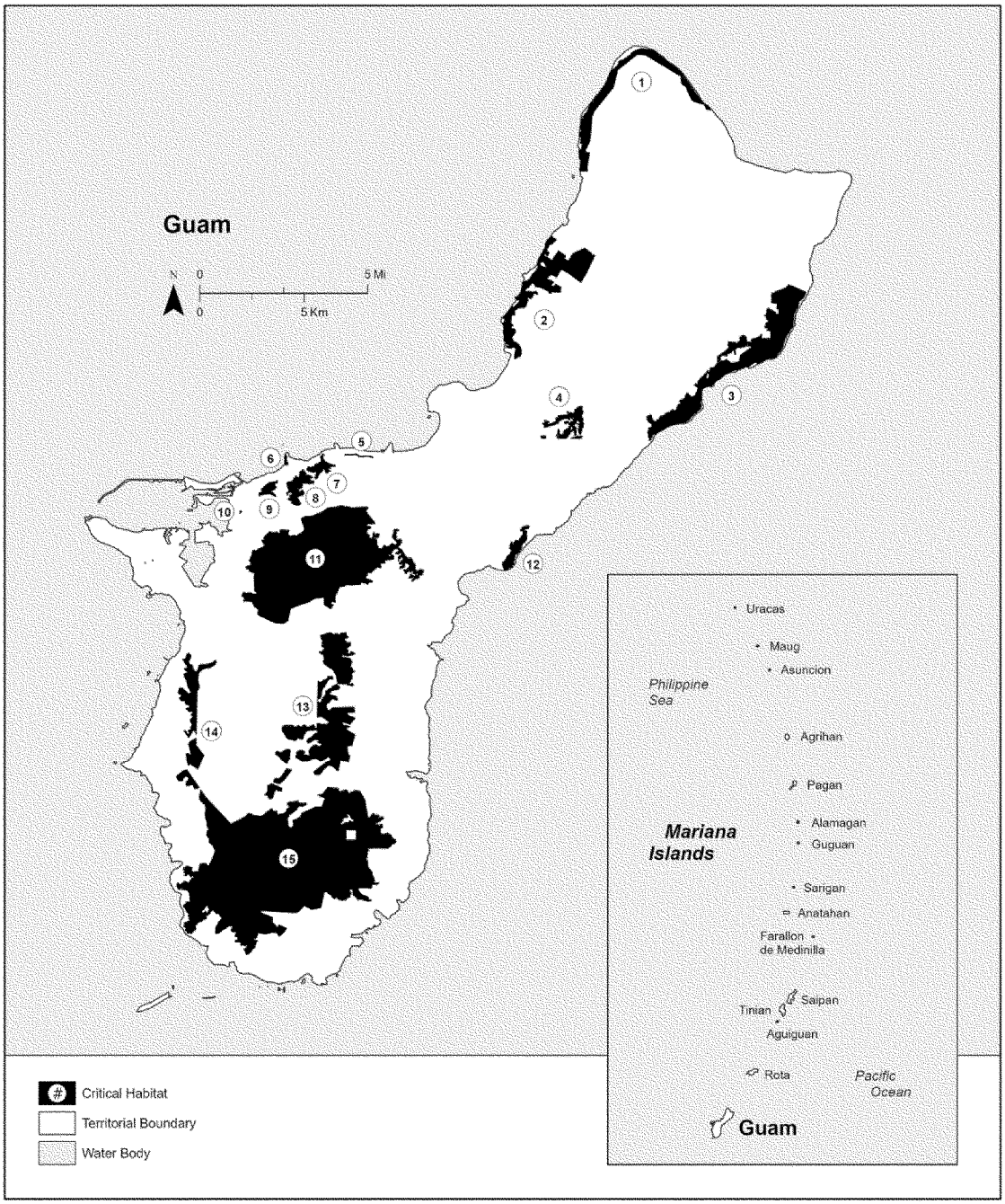


Figure 2 to Family Apocynaceae: *Tabernaemontana rotensis* (No Common Name) paragraph (5)(ii)

Critical Habitat
Index Map for Plants on the Islands of Guam,
Territory of Guam



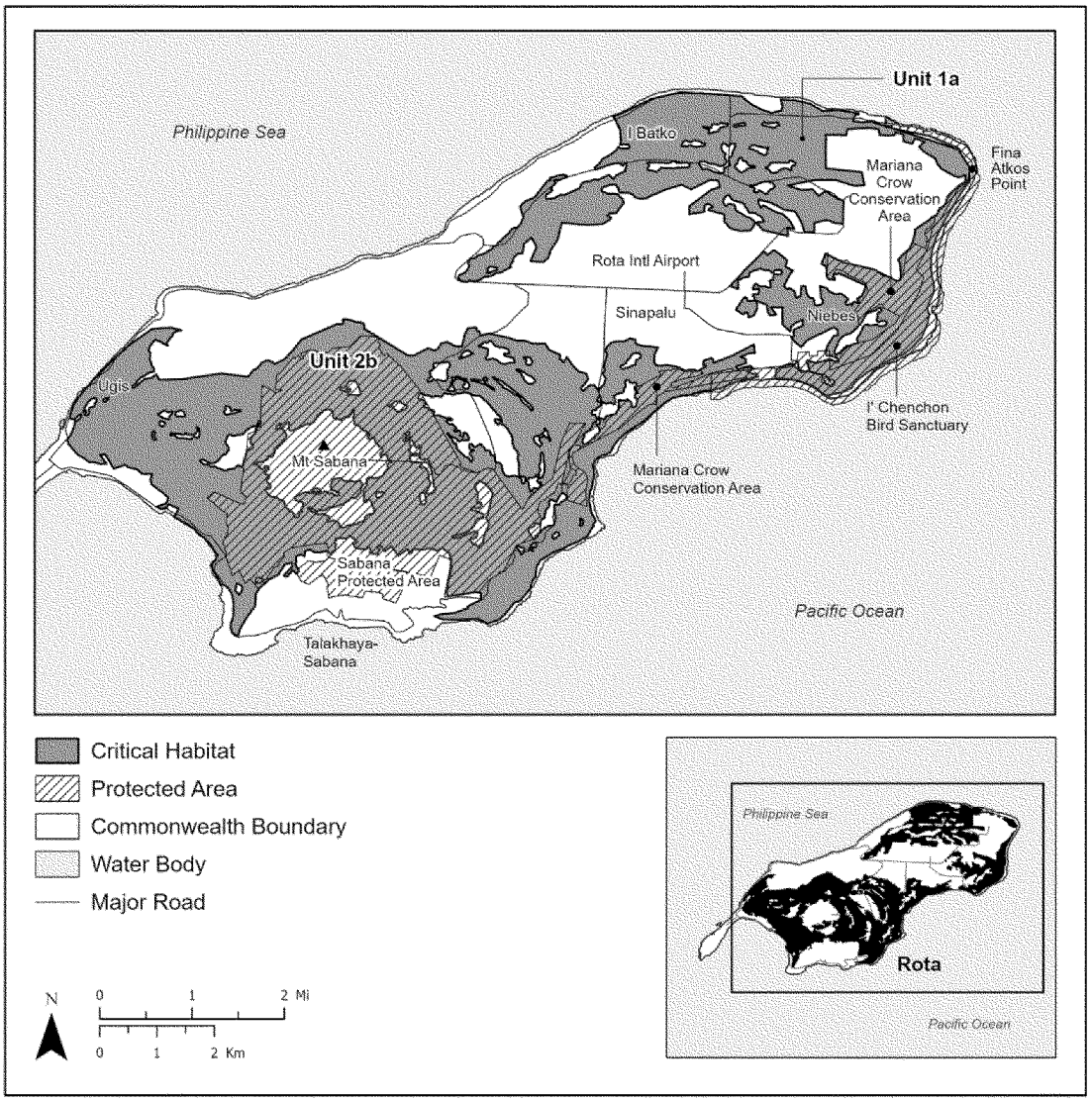
(6) Rota 1—*Tabernaemontana rotensis*–a, Commonwealth of the Northern Mariana Islands.

(i) Unit 1a on the island of Rota consists of 3,327 ac (1,347 ha) of limestone forests in the north and northeastern sides of the island. The unit starts from I Batko to the north, stretches east along the coast and around Fina Atkos Point, passes through the I'Chenchon Bird Sanctuary and then inland toward Niebes, extends inland north of the Rota International Airport and west of Sinapalu. Landownership includes 2,656 ac (1,075 ha) of Commonwealth government lands and 671 ac (272 ha) in private ownership.

(ii) Map of Rota 1—*Tabernaemontana rotensis*–a follows:

Figure 3 to Family Apocynaceae: *Tabernaemontana rotensis* (No Common Name) paragraph (6)(ii)

Critical Habitat for *Tabernaemontana rotensis* (no common name)
Rota 1–*Tabernaemontana rotensis*–a
Rota 2–*Tabernaemontana rotensis*–b
Rota, Commonwealth of the Northern Mariana Islands



(7) Rota 2—*Tabernaemontana rotensis*–b, Commonwealth of the Northern Mariana Islands.

(i) Unit 2b on the island of Rota consists of 6,875 ac (2,782 ha) and is composed of limestone forest in the south of the island. This unit extends south of the Rota International Airport, stretches east to the I'Chenchon Bird Sanctuary, and flanks the Talakhaya-Sabana watershed to the south (encompassing parts of the Sabana Protected Area, Mariana Crow Conservation Area, and I'Chenchon Bird Sanctuary) and east to Ugis. The unit does not include developed areas, grasslands, or Mt. Sabana. Landownership includes 5,806 ac (2,350 ha) of land owned by the Commonwealth government, 1,039 ac (420 ha) in private ownership, and 30 ac (12 ha) that are uncategorized.

(ii) Map of Rota 2—*Tabernaemontana rotensis*–b is presented at paragraph (6)(ii) of this entry.

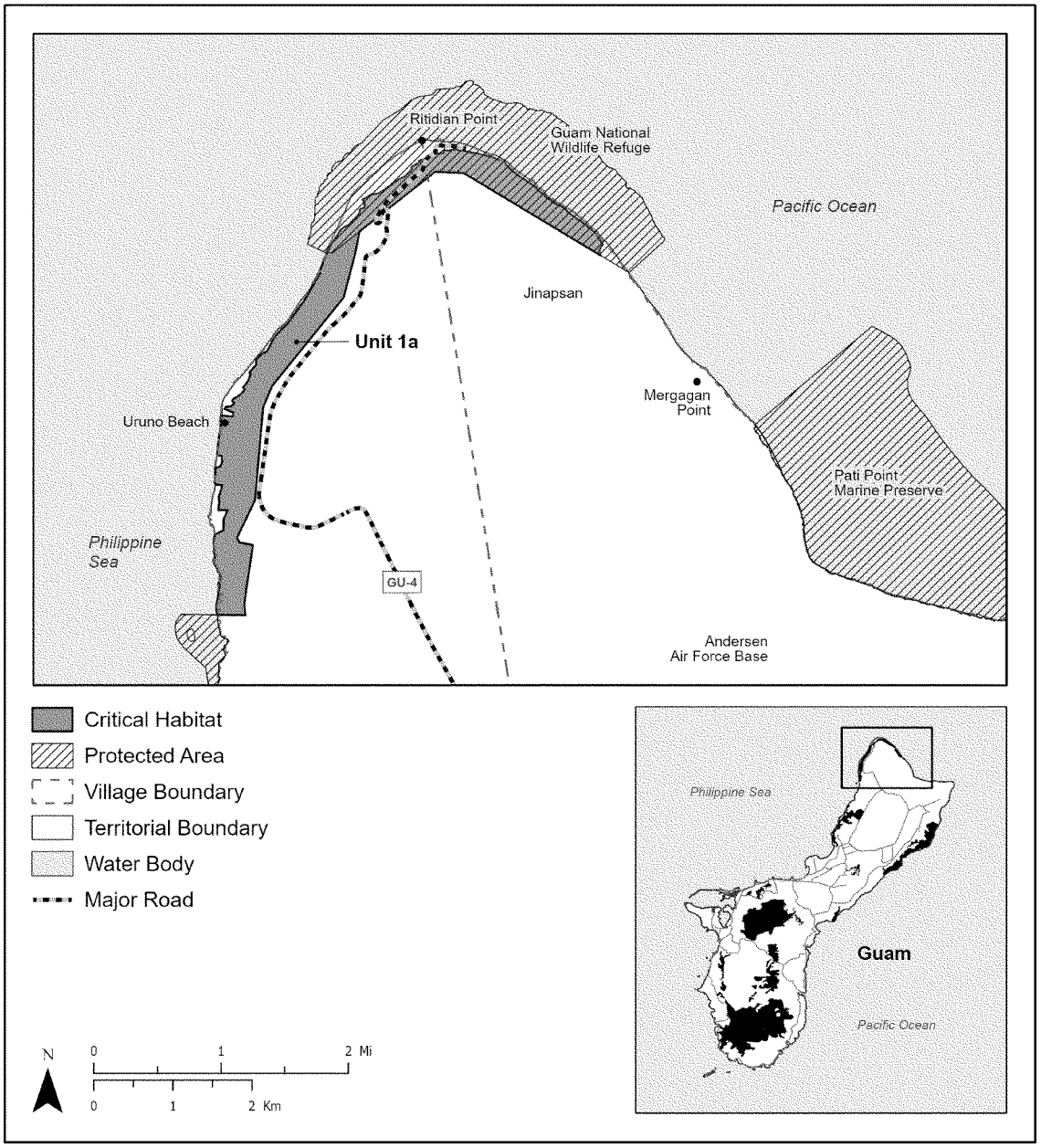
(8) Guam 1—*Tabernaemontana rotensis*–a, Territory of Guam.

(i) Unit 1a on the island of Guam consists of 741 ac (300 ha) and is composed of a band of secondary limestone forest along the north point of the island (Ritidian Point). The unit extends from the southwestern boundary south of Urunao Beach and runs north along the cliffline ending at Jinapsan. Landownership includes 257 ac (104 ha) of Federal lands (Guam NWR), 68 ac (27 ha) of Territory government lands, 375 ac (152 ha) in private ownership, and 41 ac (17 ha) that are uncategorized.

(ii) Map of Guam 1—*Tabernaemontana rotensis*–a follows:

Figure 4 to Family Apocynaceae: *Tabernaemontana rotensis* (No Common Name) paragraph (8)(ii)

Critical Habitat for *Tabernaemontana rotensis* (no common name)
Guam 1–*Tabernaemontana rotensis*–a
Guam, Territory of Guam



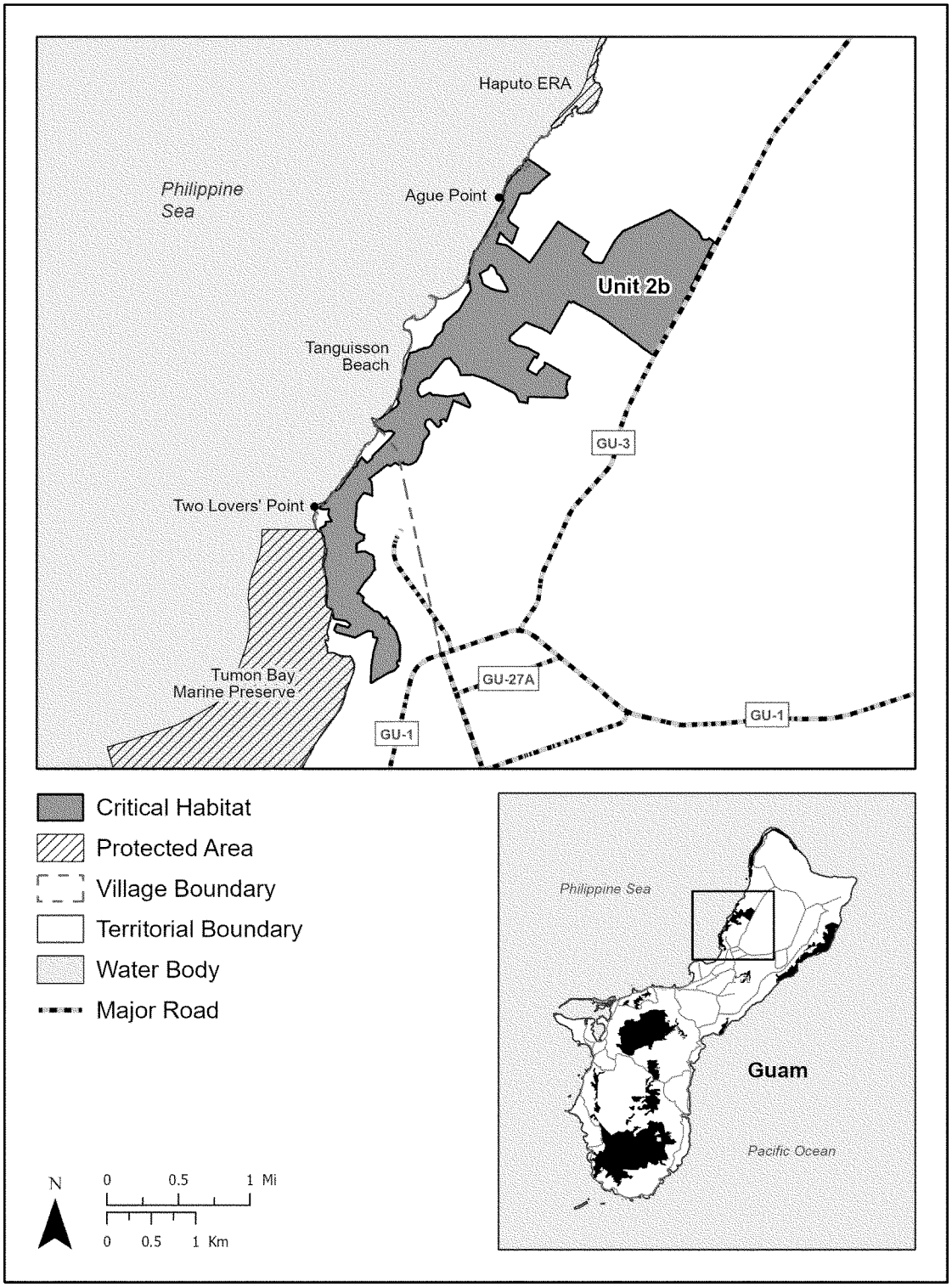
(9) Guam 2—*Tabernaemontana rotensis*–b, Territory of Guam.

(i) Unit 2b on the island of Guam consists of 1,245 ac (504 ha) and is composed of limestone forests along the northwestern edge of the island. The unit lies west of Route 3 and extends from the clifflines overlooking Tumon Bay west of Route 1 and runs north to Ague Point. Landownership includes 1,081 ac (437 ha) of Territory government lands, 108 ac (44 ha) in private ownership, and 56 ac (23 ha) that are uncategorized.

(ii) Map of Guam 2—*Tabernaemontana rotensis*–b follows:

Figure 5 to Family Apocynaceae: *Tabernaemontana rotensis* (No Common Name) paragraph (9)(ii)

Critical Habitat for *Tabernaemontana rotensis* (no common name)
Guam 2–*Tabernaemontana rotensis*–b
Guam, Territory of Guam



(10) Guam 3—*Tabernaemontana rotensis*–c, Territory of Guam.

(i) Unit 3c on the island of Guam consists of 1,986 ac (804 ha) and is composed of limestone forests along the northeastern coastal edge of the island. The unit begins at the boundary of the Anao Nature Preserve, immediately adjacent to the southern end of the Guam NWR boundary and extends southwest along the coast to Campanaya Point. Landownership includes 1,488 ac

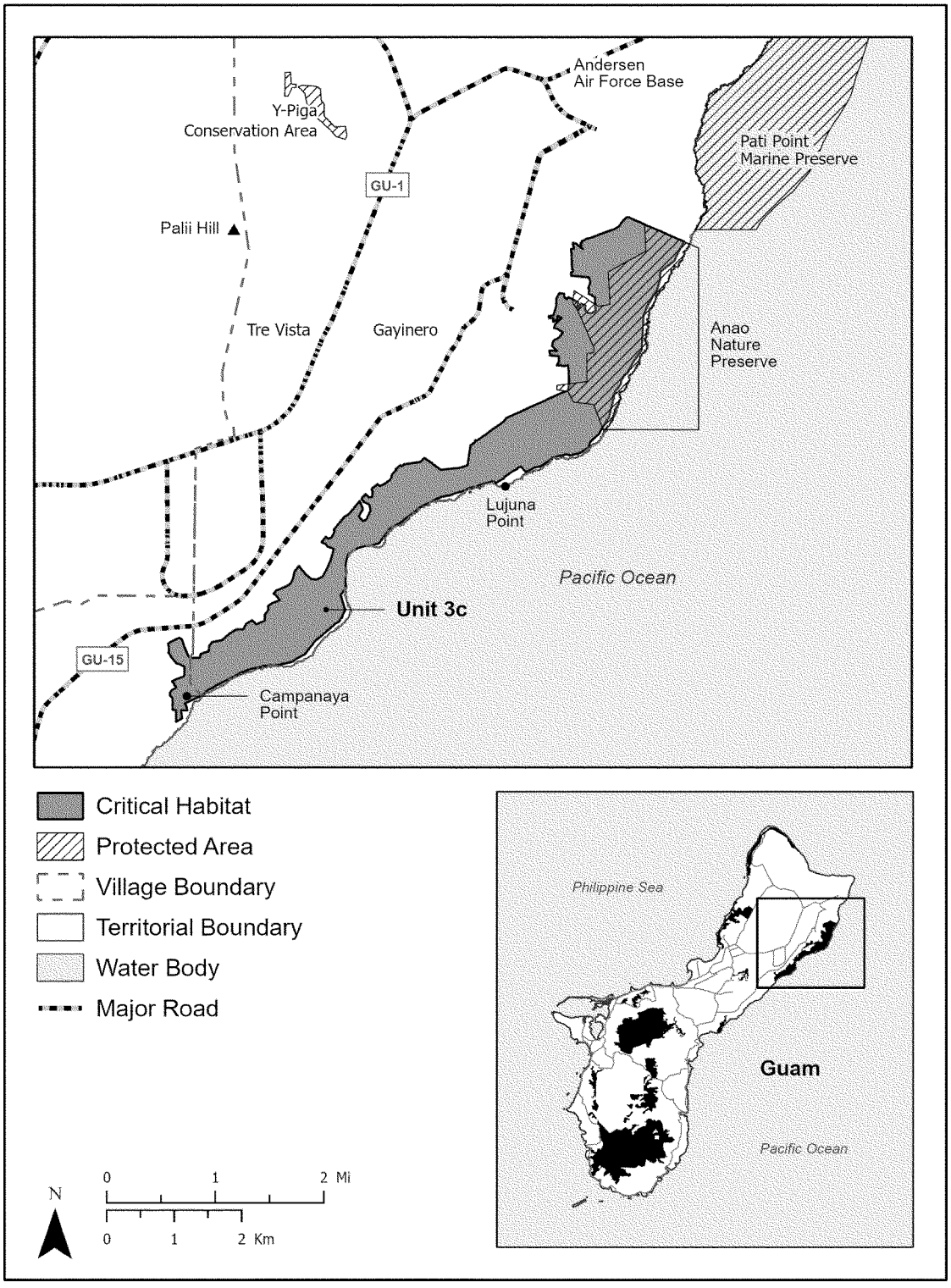
(602 ha) of Territory government lands, 198 ac (80 ha) in private ownership, and 300 ac (122 ha) that are uncategorized.

The northeastern portion of this unit overlaps the Anao Nature Preserve.

(ii) Map of Guam 3—*Tabernaemontana rotensis*–c follows:

Figure 6 to Family Apocynaceae: *Tabernaemontana rotensis* (No Common Name) paragraph (10)(ii)

Critical Habitat for *Tabernaemontana rotensis* (no common name)
Guam 3–*Tabernaemontana rotensis*–c
Guam, Territory of Guam



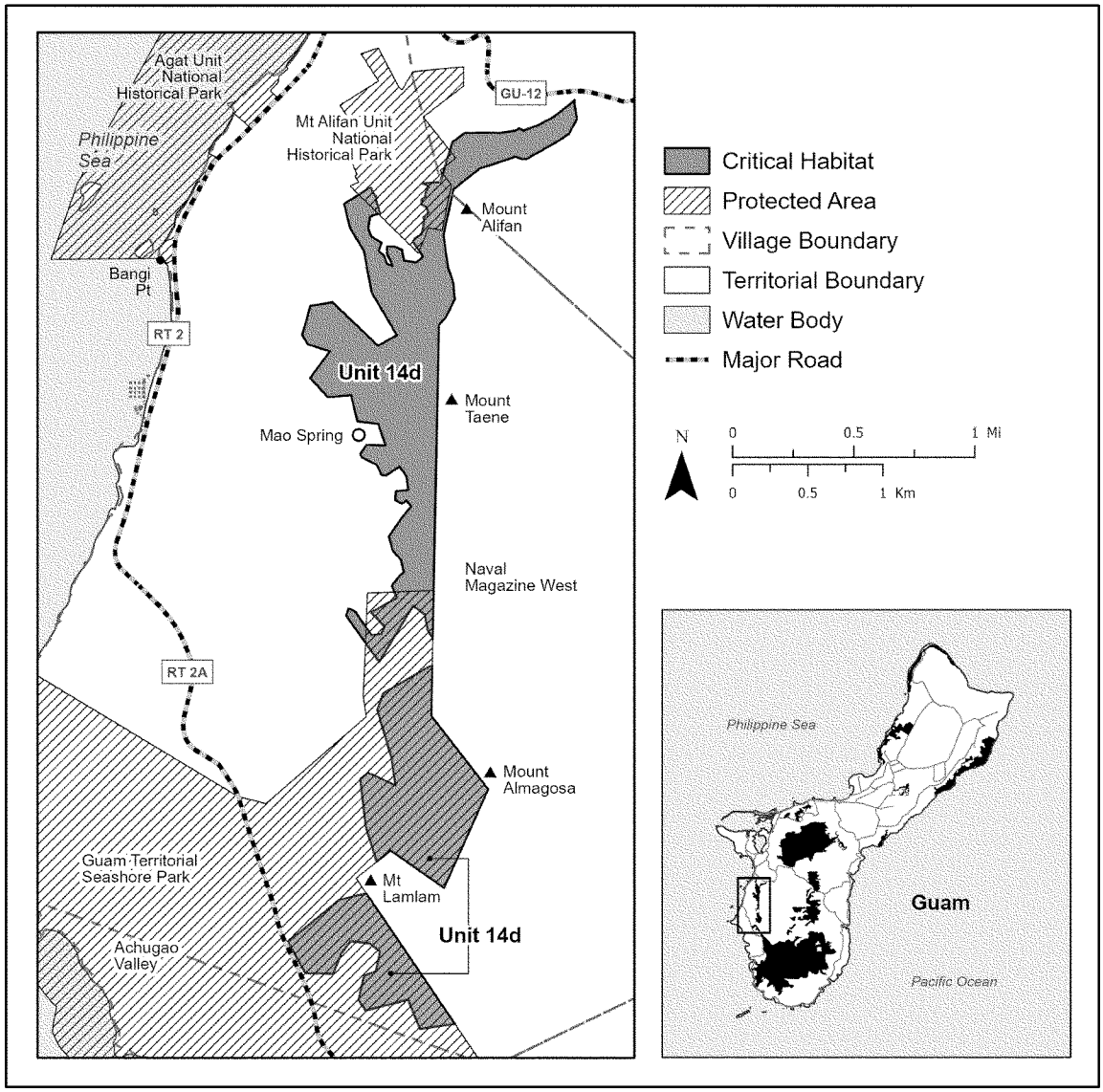
(11) Guam 14—*Tabernaemontana rotensis*–d, Territory of Guam.

(i) Unit 14d on the island of Guam consists of 629 ac (254 ha) and is composed of three segments of limestone forests on the southwestern side of the island. The unit extends from Route 12 and Mt. Alifan in the north, running along the border of Naval Magazine West and ending south of Mt. Lamlam at Route 2A. Landownership includes 16 ac (6 ha) of Federal lands (War in the Pacific National Historical Park), 84 ac (34 ha) of territorial government lands, 344 ac (139 ha) in private ownership, and 185 ac (75 ha) that are uncategorized. The northern portion of the unit overlaps the Mt. Alifan unit of War in the Pacific National Historical Park. The southern portion of the unit overlaps the Guam Territorial Seashore Park.

(ii) Map of Guam 14—*Tabernaemontana rotensis*–d follows:

Figure 7 to Family Apocynaceae: *Tabernaemontana rotensis* (No Common Name) paragraph (11)(ii)

Critical Habitat for *Tabernaemontana rotensis* (no common name)
Guam 14–*Tabernaemontana rotensis*–d
Guam, Territory of Guam



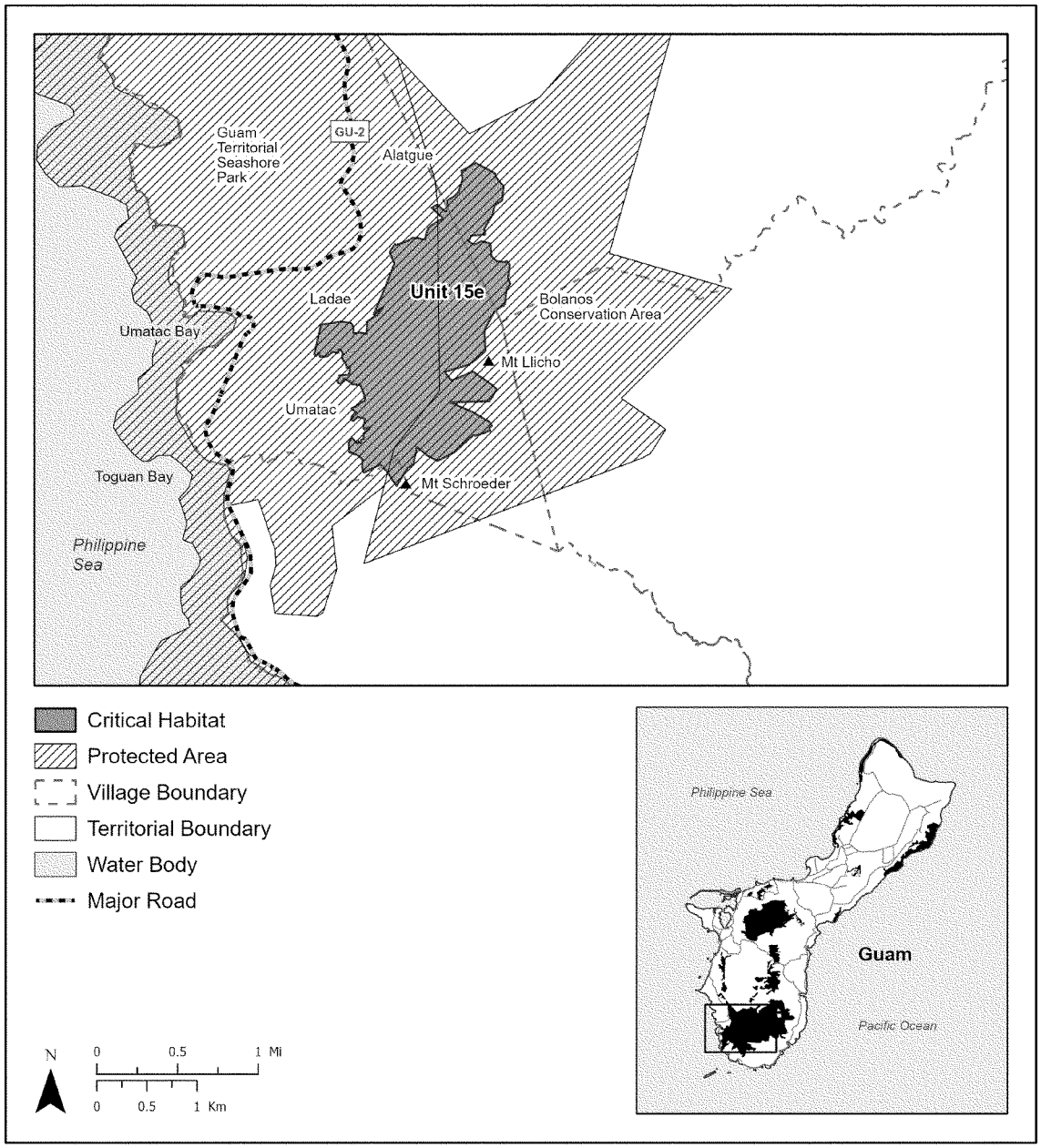
(12) Guam 15—*Tabernaemontana rotensis*–e, Territory of Guam.

(i) Unit 15e on the island of Guam consists of 763 ac (309 ha) and is composed of limestone forests in the southern part of the island. The unit extends from Alatgue in the north down to Mt. Schroeder in the south. Landownership includes 181 ac (73 ha) of Territory government land, 323 ac (131 ha) in private ownership, and 259 ac (105 ha) that are uncategorized. The western half of the unit overlaps the Guam Territorial Seashore Park, and the eastern half overlaps the Bolanos Conservation Area.

(ii) Map of Guam 15—*Tabernaemontana rotensis*–e follows:

Figure 8 to Family Apocynaceae: *Tabernaemontana rotensis* (No Common Name) paragraph (12)(ii)

Critical Habitat for *Tabernaemontana rotensis* (no common name)
Guam 15–*Tabernaemontana rotensis*–e
Guam, Territory of Guam



* * * * *

Family Malvaceae: Heritiera Longipetiolata (Ufa Halumtanu, Ufa Halomtano)

(1) Critical habitat units are depicted for Saipan and Tinian within the Commonwealth of the Northern Mariana Islands, and Guam within the Territory of Guam, on the maps in this entry.

(2) Within these areas, the physical or biological features essential to the conservation of *Heritiera longipetiolata* consist of the following components:

(i) Closed-canopy native limestone forests where there are substrates of karsts, clifflines, and outcroppings.

(ii) Sufficient space within limestone vegetation communities composed of plants such as (but not limited to) *Asplenium nidus* (galak, fedda, bird's nest fern), *Hibiscus tiliaceus* (sea hibiscus, pago), *Morinda citrifolia* (lada, noni, Indian mulberry), *Phymatosorus scolopendria* (monarch fern, kahlao), *Psychotria mariana* (applok hating, aplohkateng, aplu kati, gathemach, aploghating, aplokhating), *Abrus* spp., *Aidia* spp., *Aglaia* spp., *Ficus* spp., *Freycinetia* spp., *Melanolepis* spp., *Operculina* spp., *Pandanus* spp., and *Pipturus* spp.

(iii) Individuals in close proximity to each other and adequate access by native seed dispersers such as birds and fruit bats.

(iv) Native pollinators and native vegetation to support them.

(3) Critical habitat does not include manmade structures (such as buildings or paved areas including aqueducts, runways, or roads) and the land on which they are located existing within

the legal boundaries on the effective date of the final rule.

(4) Data layers defining map units were created using survey and distribution data provided by multiple local and regional sources as available (*e.g.,* reports, databases, and species experts' knowledge) and as maintained by universities, local governments, and nonprofit organizations across the Mariana Islands. Landcover data (*e.g.,* soil substrate, vegetation, and elevation) were obtained and compiled from multiple Federal and local government agencies. Temperature and precipitation data were obtained and compiled from journal publications. Landforms were primarily delineated based on the most currently available aerial maps and satellite imagery. The maps in this entry, as modified by any accompanying regulatory text, establish the boundaries of the critical habitat designation. The coordinates or plot points or both on which each map is based are available to the public at the Service's internet site at *https://www.fws.gov/project/critical-habitat-mariana-islands,* at *https://www.regulations.gov* at Docket No. FWS–R1–ES–2024–0194, and at the field office responsible for this designation. You may obtain field office location information by contacting one of the Service regional offices, the addresses of which are listed at 50 CFR 2.2.

(5) The following index maps show the general locations of critical habitat units for all plant species designated on each island, with each location/area on each island identified as a specific number on the index maps. These island location/area numbers allow for comparison of overlapping critical habitat units for other listed species within the same location.

(i) Each critical habitat unit name comprises an island name, a number corresponding to a specific geographic location/area on the applicable island, which may include overlapping units for different species, the species name, and a letter. The letter at the end of each critical habitat unit name corresponds to the number of units present on a given island, where each escalating letter for each island corresponds to the additive number of units per island for the species. Critical habitat for *Heritiera longipetiolata* includes one unit each on the islands of Saipan and Tinian, and six units on the island of Guam, for a total of eight critical habitat units.

(ii) Index maps follow:

Figure 1 to Family Malvaceae: *Heritiera longipetiolata* (Ufa Halumtanu, Ufa Halomtano) paragraph (5)(ii)

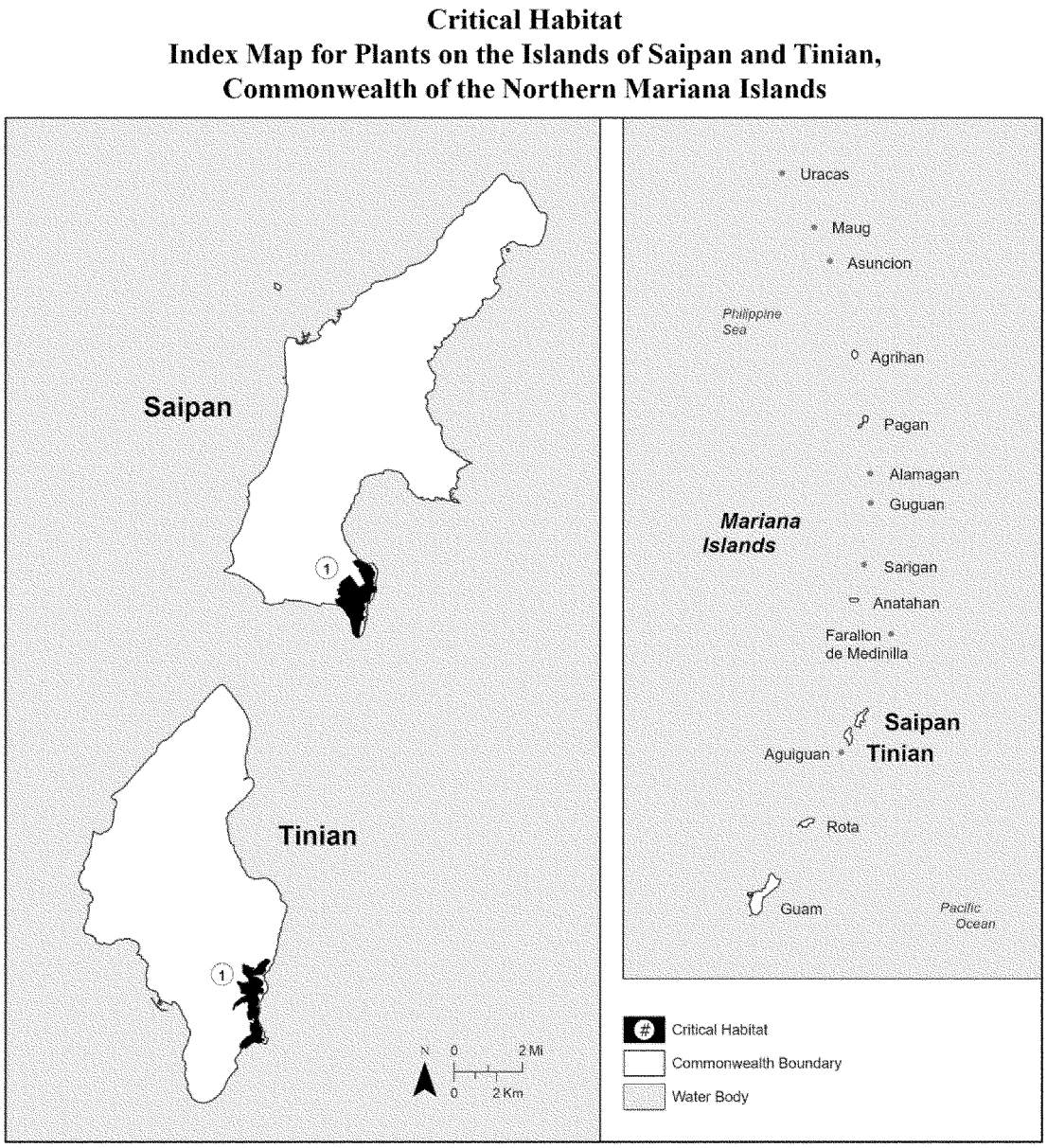
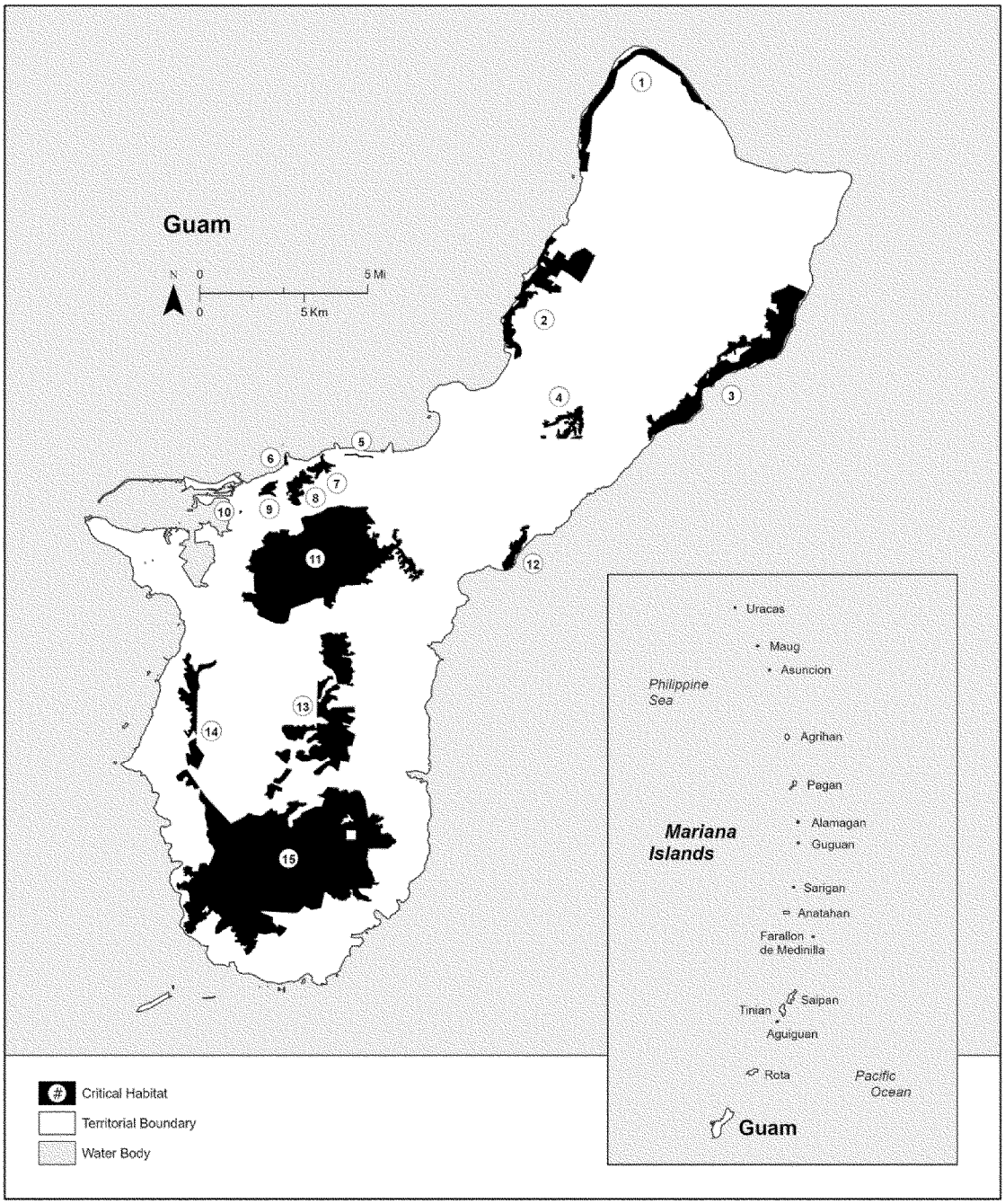


Figure 2 to Family Malvaceae: *Heritiera longipetiolata* (Ufa Halumtanu, Ufa Halomtano) paragraph (5)(ii)

Critical Habitat
Index Map for Plants on the Islands of Guam,
Territory of Guam



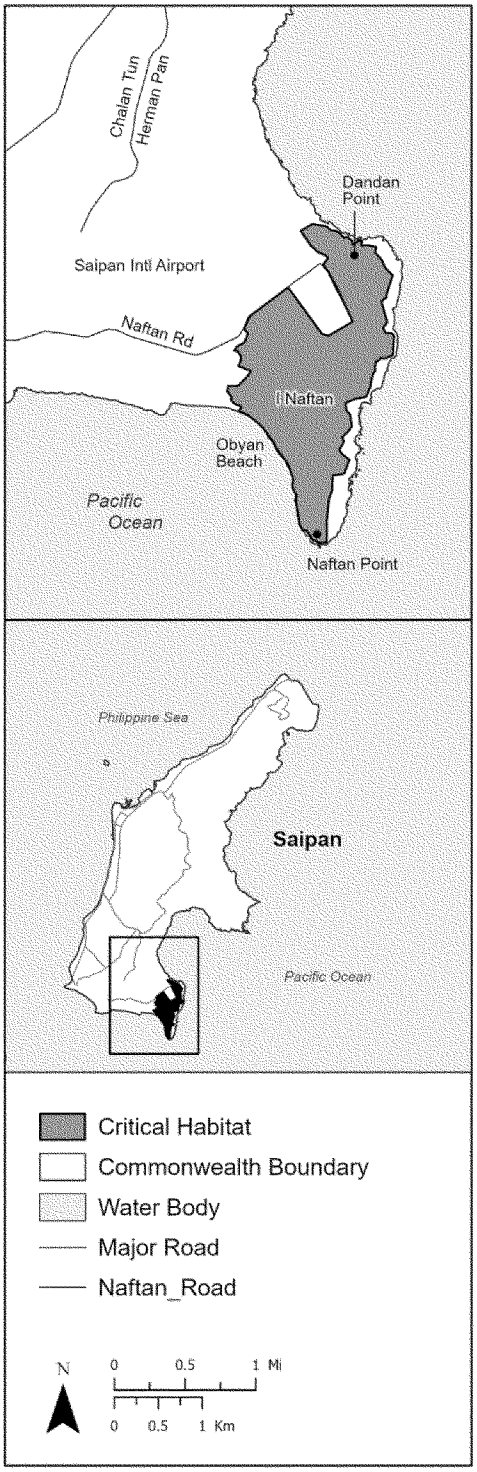
(6) Saipan 1—*Heritiera longipetiolata*–a, Commonwealth of the Northern Mariana Islands.

(i) This single critical habitat unit on the island of Saipan consists of 779 ac (315 ha) and is composed of limestone forest in the southeastern section of Saipan. This unit is southeast of Naftan Road and Saipan International Airport and lies within the I Naftan Area, extends just north of Dandan Point, and extends to Naftan Point in the south and the western boundary ends at Obyan Beach. The unit does not include the majority of the coastal area from Dandan Point to Nafta Point on the eastern edge of the island. Landownership within this area consists of 634 ac (257 ha) of land owned by the Commonwealth government, 143 ac (58 ha) of private land, and 2 ac (less than 1 ha) that are uncategorized.

(ii) Map of Saipan 1—*Heritiera longipetiolata*–a follows:

Figure 3 to Family Malvaceae: *Heritiera longipetiolata* (Ufa Halumtanu, Ufa Halomtano) paragraph (6)(ii)

Critical Habitat for
Heritiera longipetiolata
(Ufa halumtanu, Ufa halomtano)
Saipan 1–*Heritiera longipetiolata*–a
Saipan, Commonwealth of the
Northern Mariana Islands



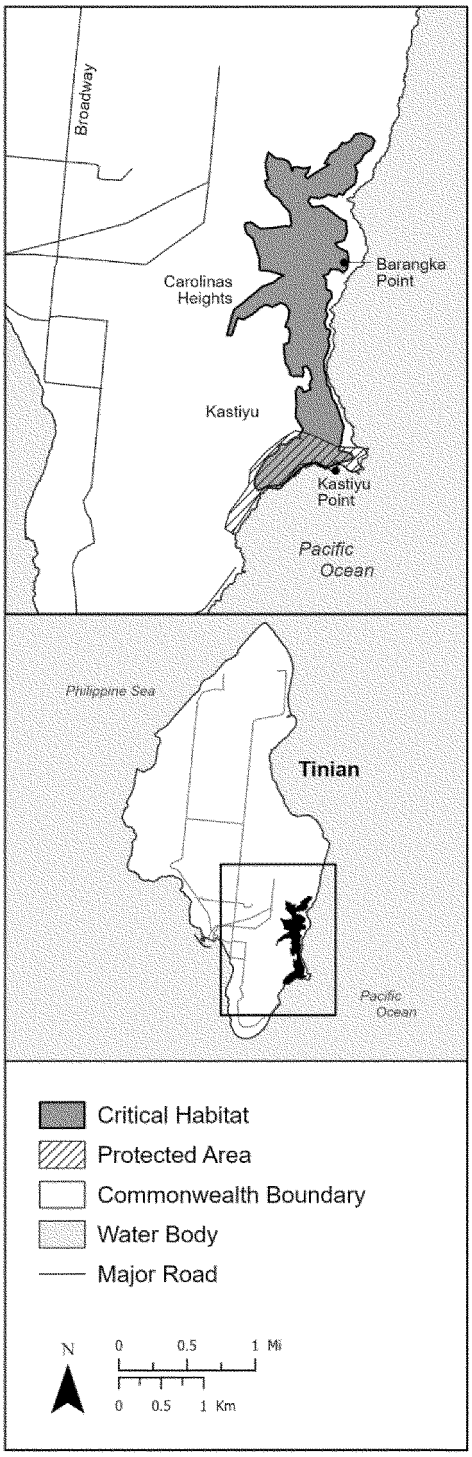
(7) Tinian 1—*Heritiera longipetiolata*–a, Commonwealth of the Northern Mariana Islands.

(i) This single critical habitat unit on the island of Tinian consists of 651 ac (263 ha) and is composed of contiguous limestone forest in the southeastern section of the island. This unit starts north of Barangka Point, extends south beyond Kastiyu Point, and lies east of Kastiyu and Carolinas Heights. Landownership within this area consists of 639 ac (258 ha) of land owned by the Commonwealth government, 3 ac (1 ha) of private land, and 9 ac (4 ha) that are uncategorized.

(ii) Map of Tinian 1—*Heritiera longipetiolata*–a follows:

Figure 4 to Family Malvaceae: *Heritiera longipetiolata* (Ufa Halumtanu, Ufa Halomtano) paragraph (7)(ii)

Critical Habitat for
Heritiera longipetiolata
(Ufa halumtanu, Ufa halomtano)
Tinian 1–*Heritiera longipetiolata*–a
Tinian, Commonwealth of the
Northern Mariana Islands



(8) Guam 1—*Heritiera longipetiolata*–a, Territory of Guam.

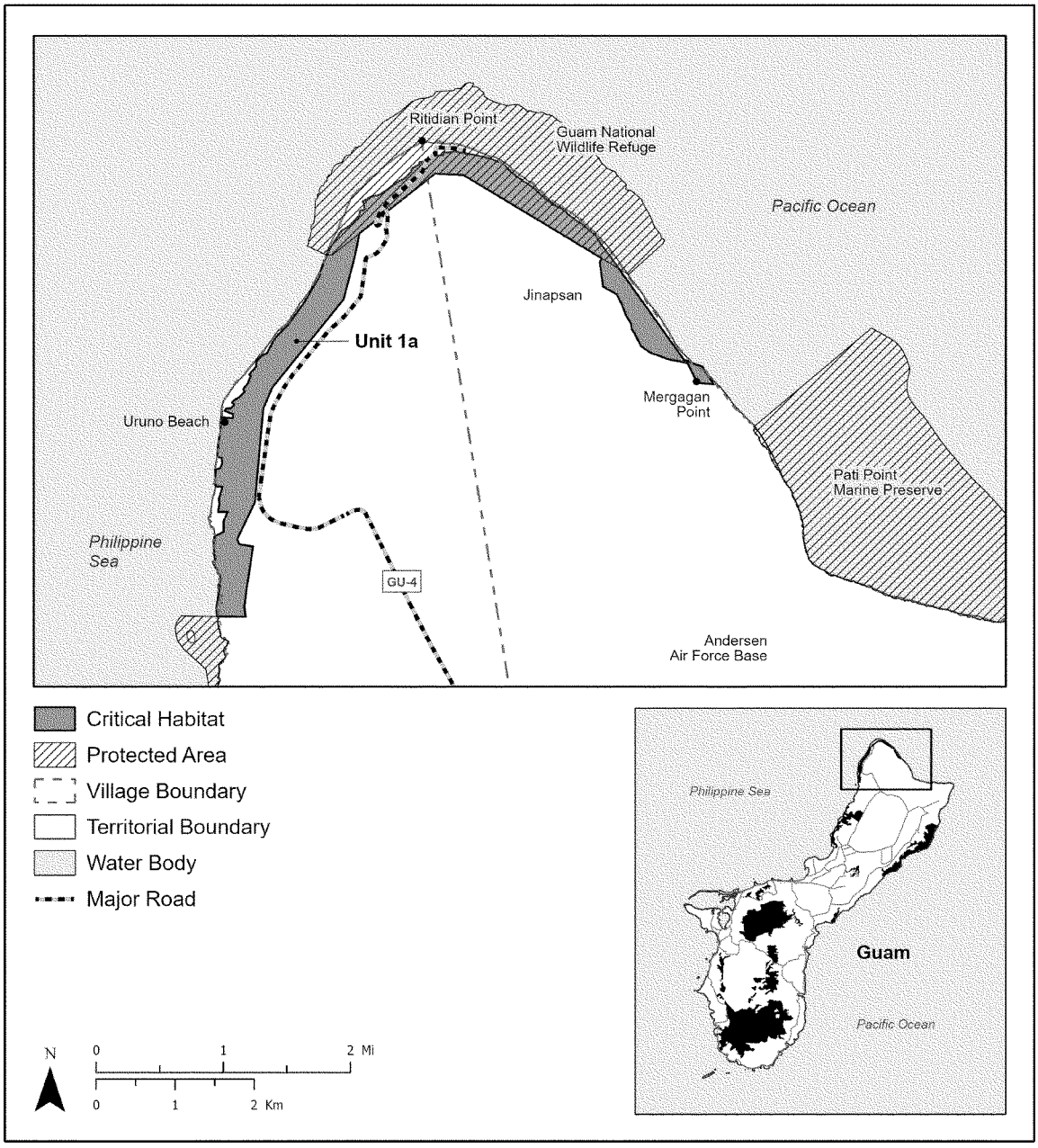
(i) Unit 1a on the island of Guam consists of 856 ac (346 ha) and is composed of a band of secondary limestone forest in a horseshoe-shape on the northwestern point of the island (Ritidian Point). The unit extends from

the southwestern boundary south of Urunao Beach and runs north along the cliffline towards Jinapsan ending at Mergagan Point. Landownership includes 262 ac (106 ha) of Federal lands (Guam NWR), 68 ac (27 ha) of Territory government lands, 408 ac (165 ha) in private ownership, and 118 ac (48 ha) that are uncategorized.

(ii) Map of Guam 1—*Heritiera longipetiolata*–a follows:

Figure 5 to Family Malvaceae: *Heritiera longipetiolata* (Ufa Halumtanu, Ufa Halomtano) paragraph (8)(ii)

Critical Habitat for *Heritiera longipetiolata* (Ufa halumtanu, Ufa halomtano)
Guam 1–*Heritiera longipetiolata*–a
Guam, Territory of Guam



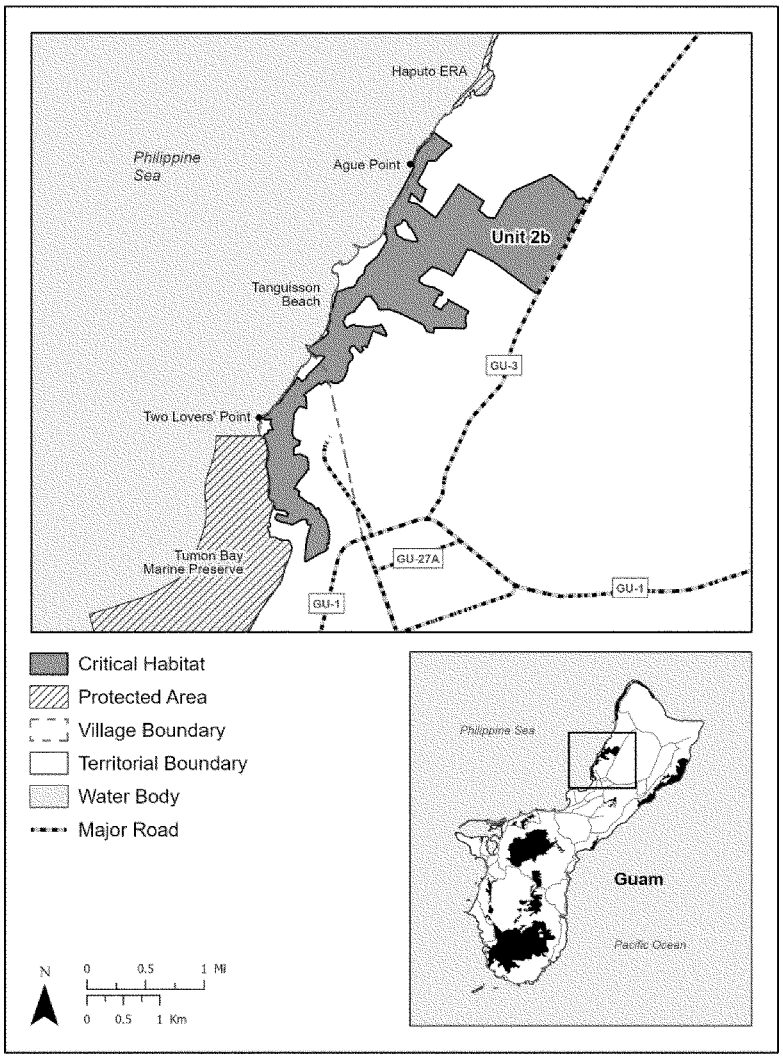
(9) Guam 2—*Heritiera longipetiolata*–b, Territory of Guam.

(i) Unit 2b on the island of Guam consists of 1,245 ac (504 ha) and is composed of limestone forests along the northwestern edge of the island. The unit lies west of Route 3 and extends from the clifflines overlooking Tumon Bay west of Route 1 and runs north to Ague Point. Landownership includes 1,081 ac (437 ha) of Territory government lands, 108 ac (44 ha) in private ownership, and 56 ac (23 ha) that are uncategorized.

(ii) Map of Guam 2—*Heritiera longipetiolata*–b follows:

Figure 6 to Family Malvaceae: *Heritiera longipetiolata* (Ufa Halumtanu, Ufa Halomtano) paragraph (9)(ii)

Critical Habitat for *Heritiera longipetiolata* (Ufa halumtanu, Ufa halomtano)
Guam 2–*Heritiera longipetiolata*–b
Guam, Territory of Guam



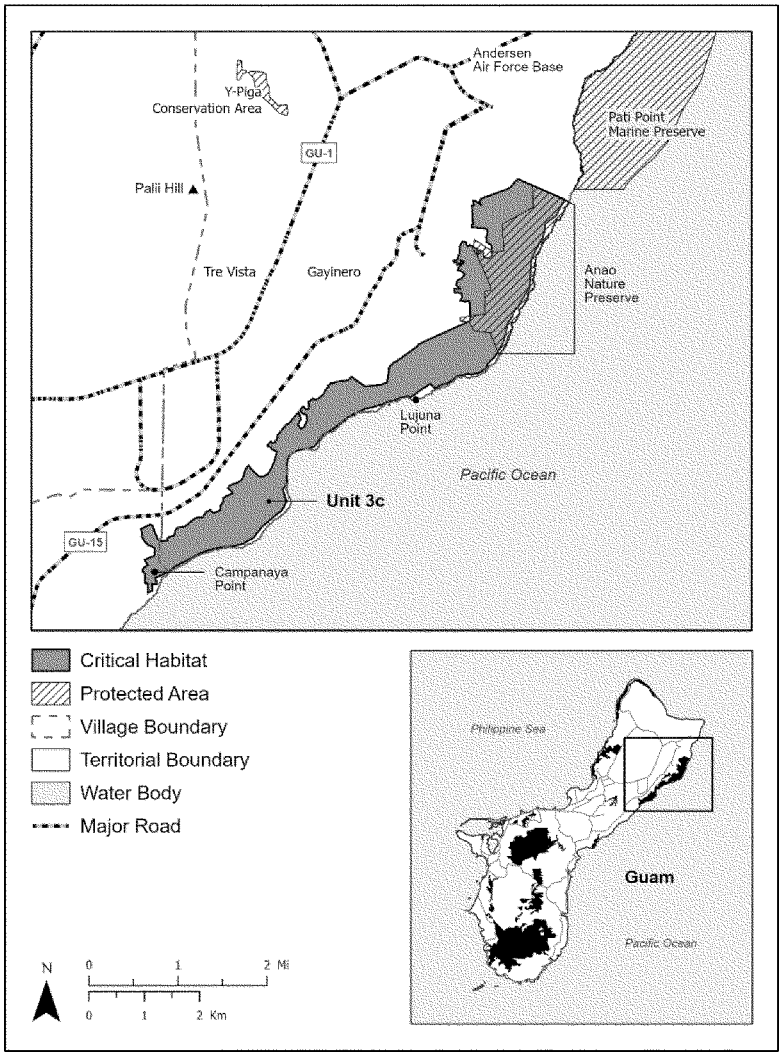
(10) Guam 3—*Heritiera longipetiolata*–c, Territory of Guam.

(i) Unit 3c on the island of Guam consists of 1,986 ac (804 ha) and is composed of limestone forests along the northeast coastal edge of the island. The unit begins at the boundary of the Anao Nature Preserve, immediately adjacent to the southern end of the Guam NWR boundary and extends southwest along the coast to Campanaya Point. Landownership includes 1,488 ac (602 ha) of Territory government lands, 198 ac (80 ha) in private ownership, and 300 ac (122 ha) that are uncategorized. The northeastern portion of this unit overlaps the Anao Nature Preserve.

(ii) Map of Guam 3—*Heritiera longipetiolata*–c follows:

Figure 7 to Family Malvaceae: *Heritiera longipetiolata* (Ufa Halumtanu, Ufa Halomtano) paragraph (10)(ii)

Critical Habitat for *Heritiera longipetiolata* (Ufa halumtanu, Ufa halomtano)
Guam 3–*Heritiera longipetiolata*–c
Guam, Territory of Guam



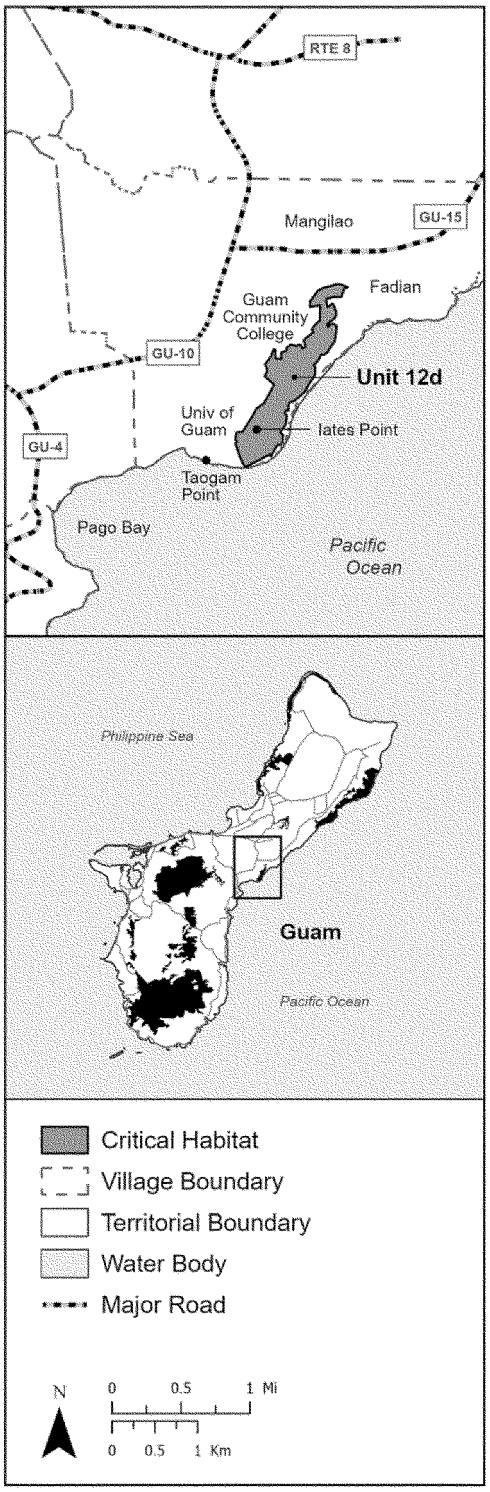
(11) Guam 12—*Heritiera longipetiolata*–d, Territory of Guam.

(i) Unit 12d on the island of Guam consists of 195 ac (79 ha) and is composed of limestone forests along the central-east coast of the island. The unit extends from Fadian south along the coast to Taogam Point, east of Guam Community College and University of Guam. Landownership includes 190 ac (77 ha) in private ownership and 5 ac (2 ha) that are uncategorized.

(ii) Map of Guam 12—*Heritiera longipetiolata*–d follows:

Figure 8 to Family Malvaceae: *Heritiera longipetiolata* (Ufa Halumtanu, Ufa Halomtano) paragraph (11)(ii)

Critical Habitat for
Heritiera longipetiolata
(Ufa halumtanu, Ufa halomtano)
Guam 12–*Heritiera longipetiolata*–d
Guam, Territory of Guam



(12) Guam 13—*Heritiera longipetiolata*–e, Territory of Guam.

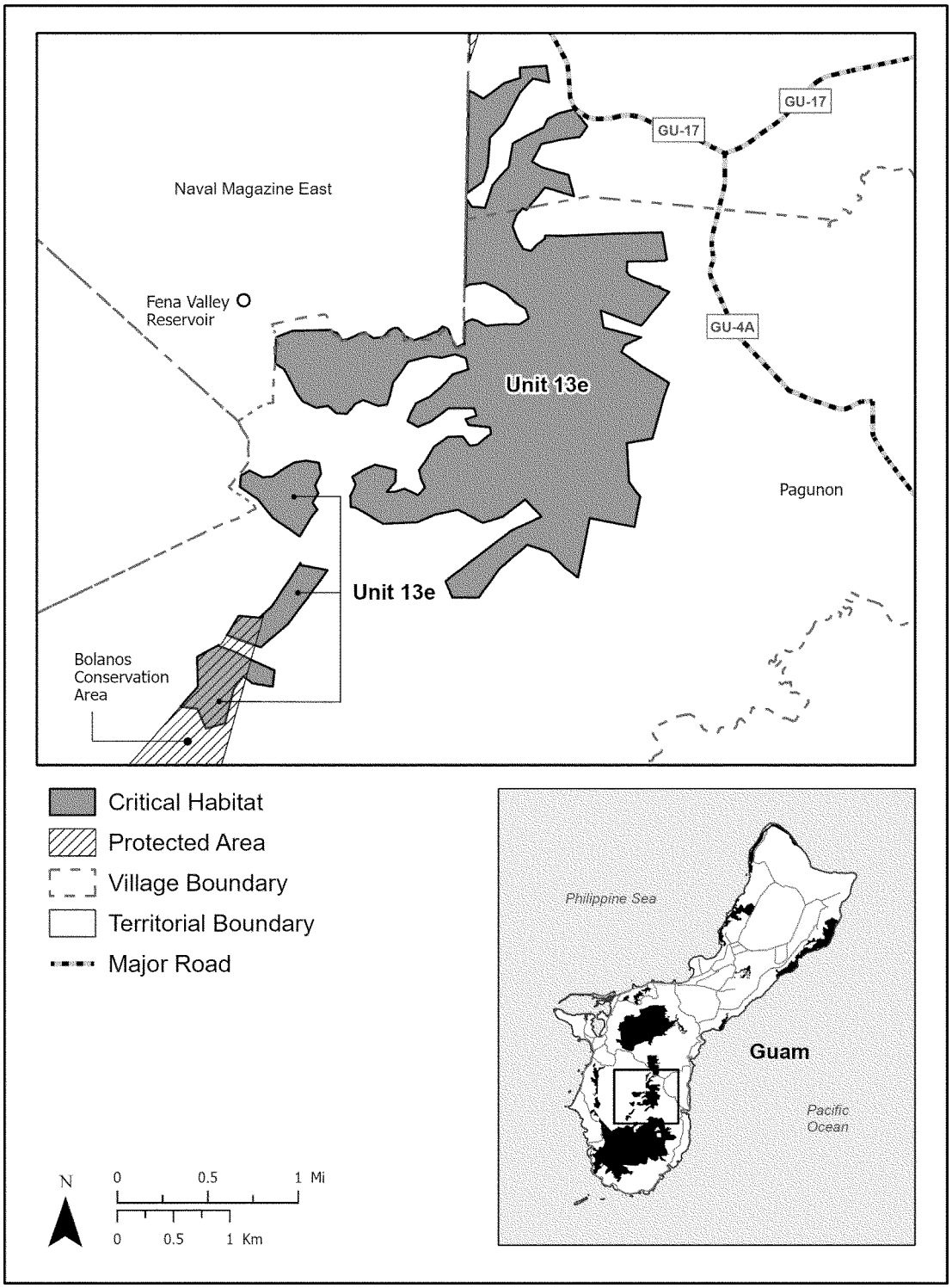
(i) Unit 13e on the island of Guam consists of 1,726 ac (698 ha) and is composed of four segments of volcanic forests in the southcentral part of the island. The unit extends from Route 17 south past Naval Magazine East and

Fena Valley Reservoir along the western boundaries and towards Pagunon on the eastern boundary. The unit extends along the Maagas, Mahlac, and Sagge Rivers and their tributaries (which are not represented on the map due to unavailable data layers). Landownership includes 142 ac (57 ha) of Territory government lands, 859 ac (348 ha) in private ownership, and 725 ac (293 ha) that are uncategorized. The southwestern portion of the unit overlaps the Bolanos Conservation Area.

(ii) Map of Guam 13—*Heritiera longipetiolata*–e follows:

Figure 9 to Family Malvaceae: *Heritiera longipetiolata* (Ufa Halumtanu, Ufa Halomtano) paragraph (12)(ii)

Critical Habitat for *Heritiera longipetiolata* (Ufa halumtanu, Ufa halomtano)
Guam 13–*Heritiera longipetiolata*–e
Guam, Territory of Guam



(13) Guam 14—*Heritiera longipetiolata*–f, Territory of Guam.

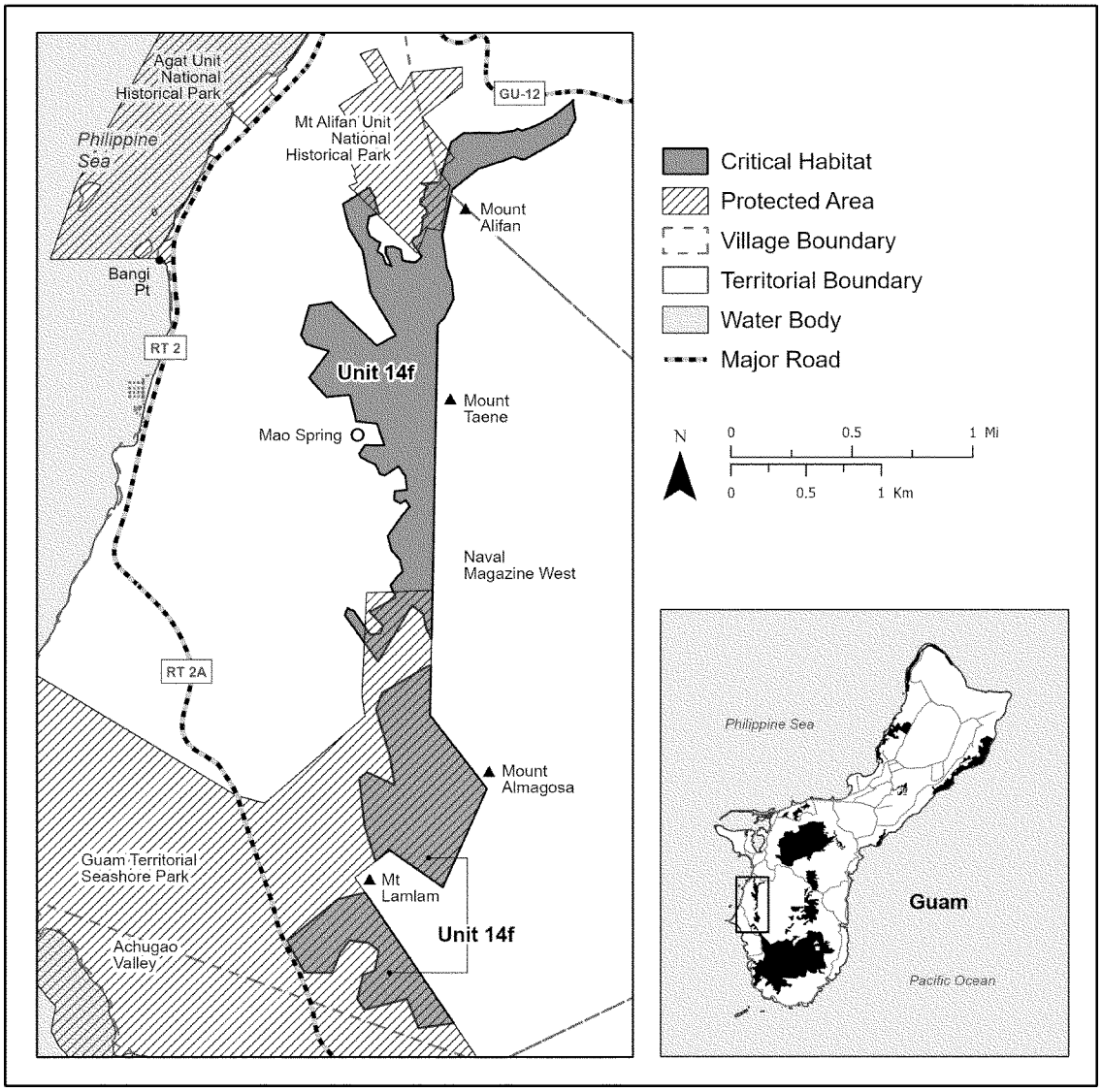
(i) Unit 14f on the island of Guam consists of 629 ac (254 ha) and is composed of three segments of limestone forests on the southwestern side of the island. The unit extends from Route 12 and Mt. Alifan in the north, running along the border of Naval Magazine West and ending south of Mt. Lamlam at Route 2A. Landownership includes 16 ac (6 ha) of Federal lands (War in the Pacific National Historical Park), 84 ac (34 ha) of territorial government lands, 344 ac (139 ha) in

private ownership, and 185 ac (75 ha) that are uncategorized. The northern portion of the unit overlaps the Mt. Alifan unit of War in the Pacific National Historical Park. The southern portion of the unit overlaps the Guam Territorial Seashore Park.

(ii) Map of Guam 14—*Heritiera longipetiolata*–f follows:

Figure 10 to Family Malvaceae: *Heritiera longipetiolata* (Ufa Halumtanu, Ufa Halomtano) paragraph (13)(ii)

Critical Habitat for *Heritiera longipetiolata* (Ufa halumtanu, Ufa halomtano)
Guam 14–*Heritiera longipetiolata*–f
Guam, Territory of Guam



* * * * *

Family Menispermaceae: Tinospora Homosepala (No Common Name)

(1) Critical habitat units are depicted for Guam within the Territory of Guam, on the maps in this entry.

(2) Within these areas, the physical or biological features essential to the conservation of *Tinospora homosepala* consist of the following components:

(i) Tall-canopy native limestone forests with limestone soils and karst substrates.

(ii) Native pollinators and native vegetation to support them.

(iii) Native seed dispersers such as native birds and fruit bats.

(3) Critical habitat does not include manmade structures (such as buildings or paved areas including aqueducts, runways, or roads) and the land on which they are located existing within the legal boundaries on the effective date of the final rule.

(4) Data layers defining map units were created using survey and distribution data provided by multiple local and regional sources as available (*e.g.,* reports, databases, and species experts' knowledge) and as maintained by universities, local governments, and nonprofit organizations across the Mariana Islands. Landcover data (*e.g.,* soil substrate, vegetation, and elevation) were obtained and compiled from

multiple Federal and local government agencies. Temperature and precipitation data were obtained and compiled from journal publications. Landforms were primarily delineated based on the most currently available aerial maps and satellite imagery. The maps in this entry, as modified by any accompanying regulatory text, establish the boundaries of the critical habitat designation. The coordinates or plot points or both on which each map is based are available to the public at the Service's internet site at *https://www.fws.gov/project/critical-habitat-mariana-islands,* at *https://www.regulations.gov* at Docket No. FWS–R1–ES–2024–0194, and at the field office responsible for this designation. You may obtain field office location information by contacting one of the Service regional offices, the addresses of which are listed at 50 CFR 2.2.

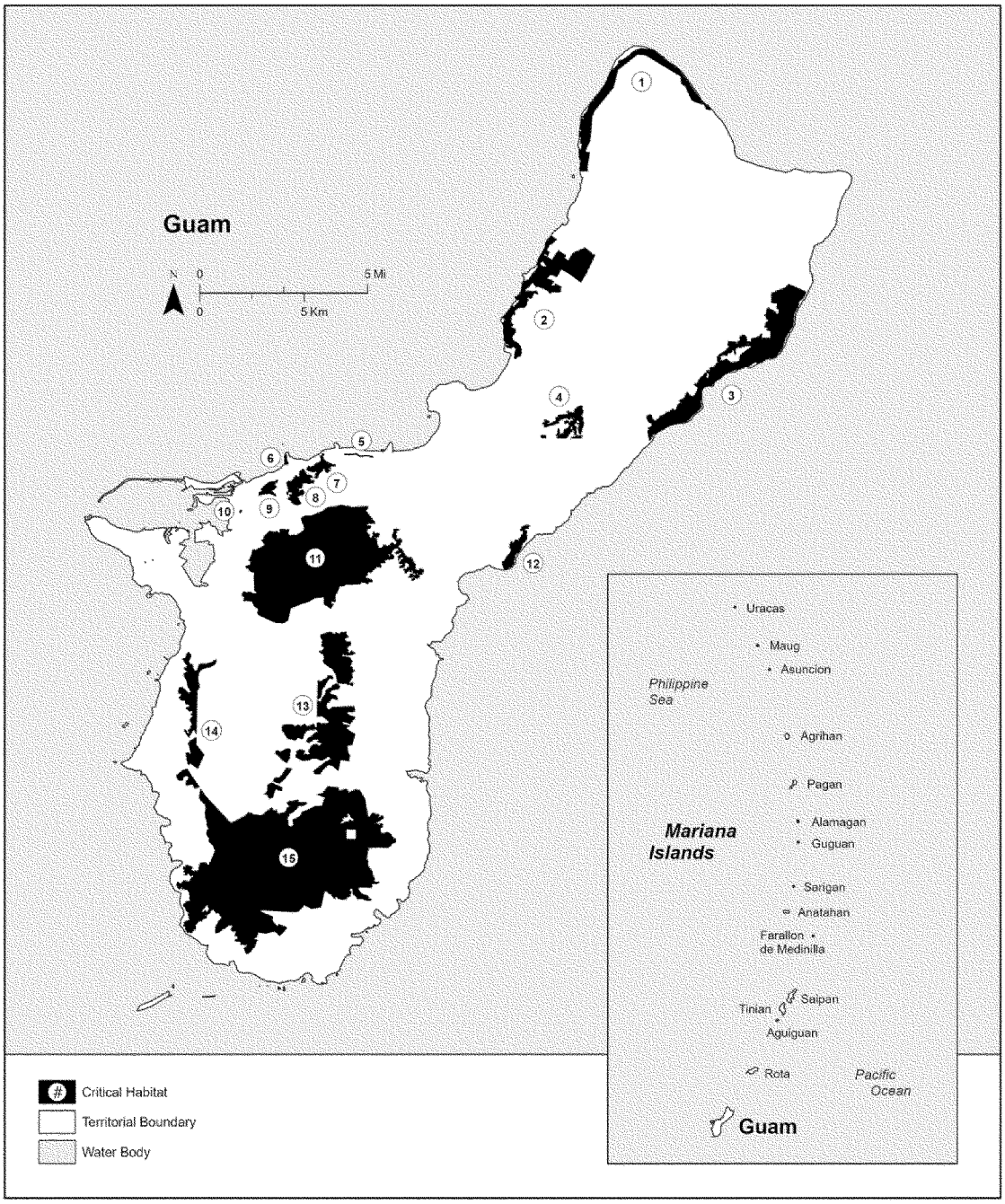
(5) The following index map shows the general locations of critical habitat units for all plant species designated on the island of Guam, with each location/area on the island identified as a specific number on the index map. These island location/area numbers allow for comparison of overlapping critical habitat units for other listed species within the same location.

(i) Each critical habitat unit name comprises the island name, a number corresponding to a specific geographic location/area on the island of Guam, which may include overlapping units for different species, the species name, and a letter. The letter at the end of each critical habitat unit name corresponds to the number of units present on the island, where each escalating letter corresponds to the additive number of units on the island for the species. Critical habitat for *Tinospora homosepala* includes a total of four critical habitat units.

(ii) Index map follows:

Figure 1 to Family Menispermaceae: *Tinospora homosepala* (No Common Name) paragraph (5)(ii)

Critical Habitat
Index Map for Plants on the Islands of Guam,
Territory of Guam



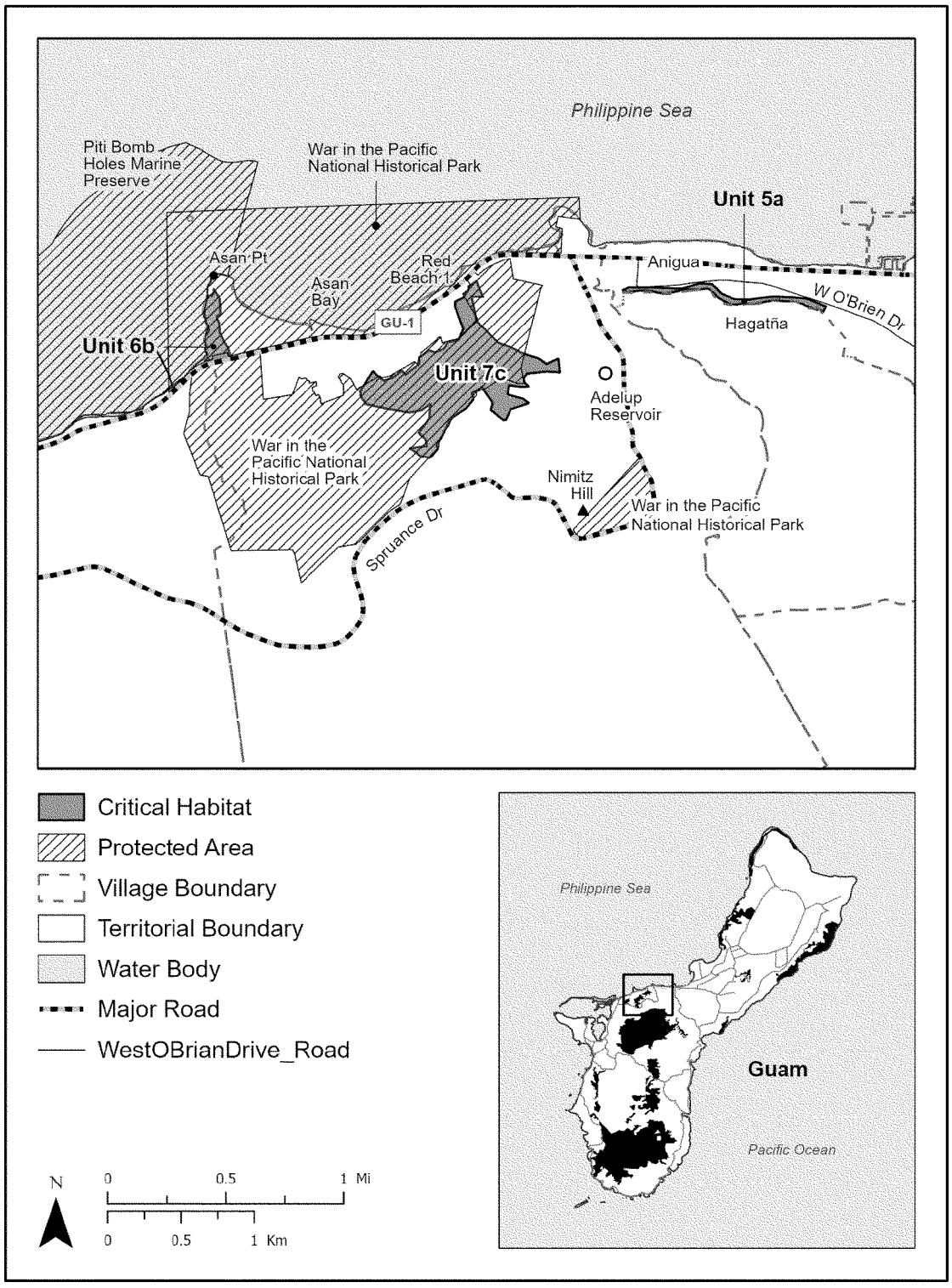
(6) Guam 5—*Tinospora homosepala*–a, Territory of Guam.

(i) Unit 5a on the island of Guam consists of 11 ac (5 ha) and is composed of secondary forests near the central-west coast of the island. The unit is a narrow strip running east to west along the cliffline south of Route 1 along West O'Brien Drive in Anigua and the village of Hagatna. All landownership within this unit is uncategorized.

(ii) Map of Guam 5—*Tinospora homosepala*–a follows:

Figure 2 to Family Menispermaceae: *Tinospora homosepala* (No Common Name) paragraph (6)(ii)

Critical Habitat for *Tinospora homosepala* (no common name)
Guam 5–*Tinospora homosepala*–a
Guam 6–*Tinospora homosepala*–b
Guam 7–*Tinospora homosepala*–c
Guam, Territory of Guam



(7) Guam 6—*Tinospora homosepala*–b, Territory of Guam.

(i) Unit 6b on the island of Guam consists of 12 ac (5 ha) and is composed of secondary forests along the central-west coast of the island on Asan Point.

The unit lies north of Route 1 and east of the Piti Bomb Holes Marine Preserve. Landownership includes 11 ac (4 ha) of Federal lands (War in the Pacific National Historical Park) and 1 ac (1 ha) that are uncategorized. The unit overlaps the Asan Beach Unit of War in the Pacific National Historical Park.

(ii) Map of Guam 6—*Tinospora homosepala*–b is provided at paragraph 6(ii) of this entry.

(8) Guam 7—*Tinospora homosepala*–c, Territory of Guam.

(i) Unit 7c on the island of Guam consists of 124 ac (50 ha) and is composed of secondary forests along the central-west coast of the island near Asan Bay. The unit lies between Route 1 and Spruance Drive and west of the Adelup Reservoir. Landownership includes 102 ac (41 ha) of Federal lands (War in the Pacific National Historical Park), 11 ac (4 ha) in private ownership, and 11 ac (5 ha) that are uncategorized. The unit overlaps the Asan Inland unit of War in the Pacific National Historical Park.

(ii) Map of Guam 7—*Tinospora homosepala*–c is provided at paragraph 6(ii) of this entry.

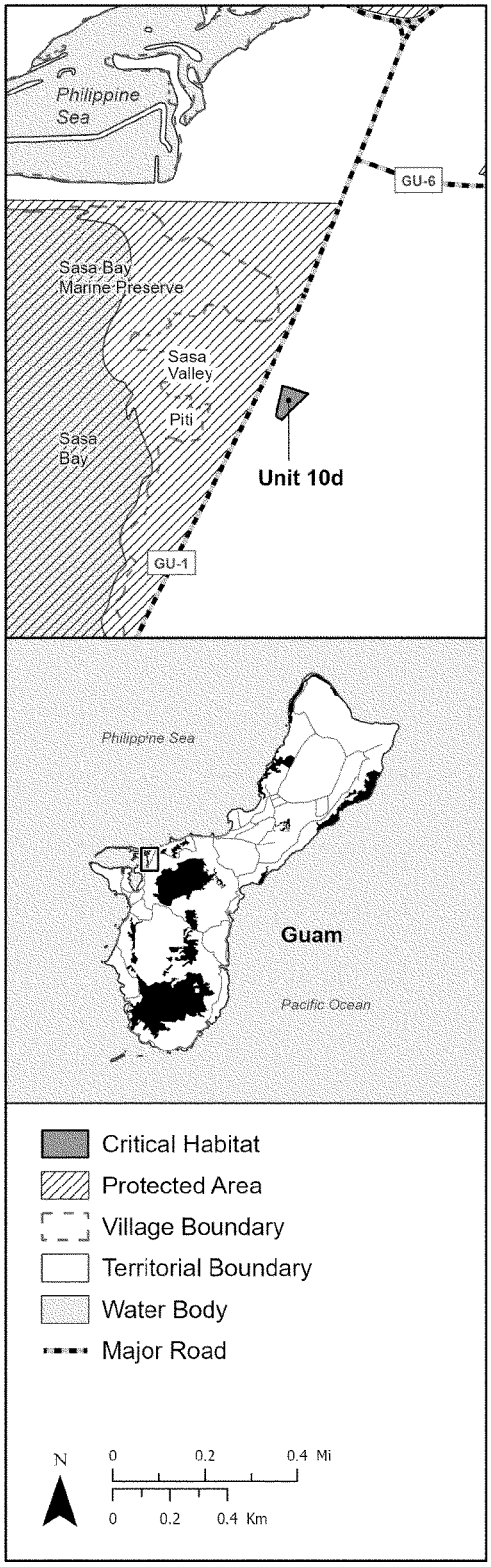
(9) Guam 10—*Tinospora homosepala*–d, Territory of Guam.

(i) Unit 10d on the island of Guam consists of 2 ac (1 ha) and is composed of secondary forests near the central-west coast of the island along Sasa Bay. The unit lies on the east side of Route 1 near the Sasa Valley and Sasa Bay Marine Preserve. The northern boundary of the unit is adjacent to the Guam NWR. Landownership within the entire unit is uncategorized.

(ii) Map of Guam 10—*Tinospora homosepala*–d follows:

Figure 3 to Family Menispermaceae: *Tinospora homosepala* (No Common Name) paragraph (9)(ii)

Critical Habitat for
***Tinospora homosepala* (no common name)**
Guam 10–*Tinospora homosepala*–d
Guam, Territory of Guam



Family Myrsinaceae: Maesa Walkeri (No Common Name)

(1) Critical habitat units are depicted for Rota within the Commonwealth of the Northern Mariana Islands, and Guam within the Territory of Guam, on the maps in this entry.

(2) Within these areas, the physical or biological features essential to the conservation of *Maesa walkeri* consist of the following components:

(i) Native limestone forest and forest edge habitats ranging in elevation between 656–1,312 ft (200–400 m).

(ii) Adequate sunlight, variable amounts of moisture, and relatively constant temperatures.

(iii) Native vegetation such as *Pandanus* spp. and *Hernandia-Elaeocarpus.*

(iv) Native seed dispersers such as birds and fruit bats.

(v) Native pollinators such as insects and native vegetation to support them.

(3) Critical habitat does not include manmade structures (such as buildings or paved areas including aqueducts, runways, or roads) and the land on which they are located existing within the legal boundaries on the effective date of the final rule.

(4) Data layers defining map units were created using survey and distribution data provided by multiple local and regional sources as available (*e.g.,* reports, databases, and species experts' knowledge) and as maintained by universities, local governments, and nonprofit organizations across the Mariana Islands. Landcover data (*e.g.,* soil substrate, vegetation, and elevation) were obtained and compiled from multiple Federal and local government agencies. Temperature and precipitation data were obtained and compiled from journal publications. Landforms were primarily delineated based on the most currently available aerial maps and satellite imagery. The maps in this entry, as modified by any accompanying regulatory text, establish the boundaries of the critical habitat designation. The coordinates or plot points or both on which each map is based are available to the public at the Service's internet site at *https://www.fws.gov/project/critical-habitat-mariana-islands,* at *https://www.regulations.gov* at Docket No. FWS–R1–ES–2024–0194, and at the field office responsible for this designation. You may obtain field office location information by contacting one of the Service regional offices, the addresses of which are listed at 50 CFR 2.2.

(5) The following index maps show the general locations of critical habitat units for all plant species designated on each island, with each location/area on each island identified as a specific number on the index maps. These island location/area numbers allow for comparison of overlapping critical habitat units for other listed species within the same location.

(i) Each critical habitat unit name comprises an island name, a number corresponding to a specific geographic location/area on the applicable island, which may include overlapping units for different species, the species name, and a letter. The letter at the end of each critical habitat unit name corresponds to the number of units present on a given island, where each escalating letter for each island corresponds to the additive number of units per island for the species. Critical habitat for *Maesa walkeri* includes one unit on the island of Rota and one unit on the island of Guam, for a total of two critical habitat units.

(ii) Index maps follow:

Figure 1 to Family Myrsinaceae: *Maesa walkeri* (No Common Name) paragraph (5)(ii)

Critical Habitat
Index Map for Plants on the Islands of Rota,
Commonwealth of the Northern Mariana Islands

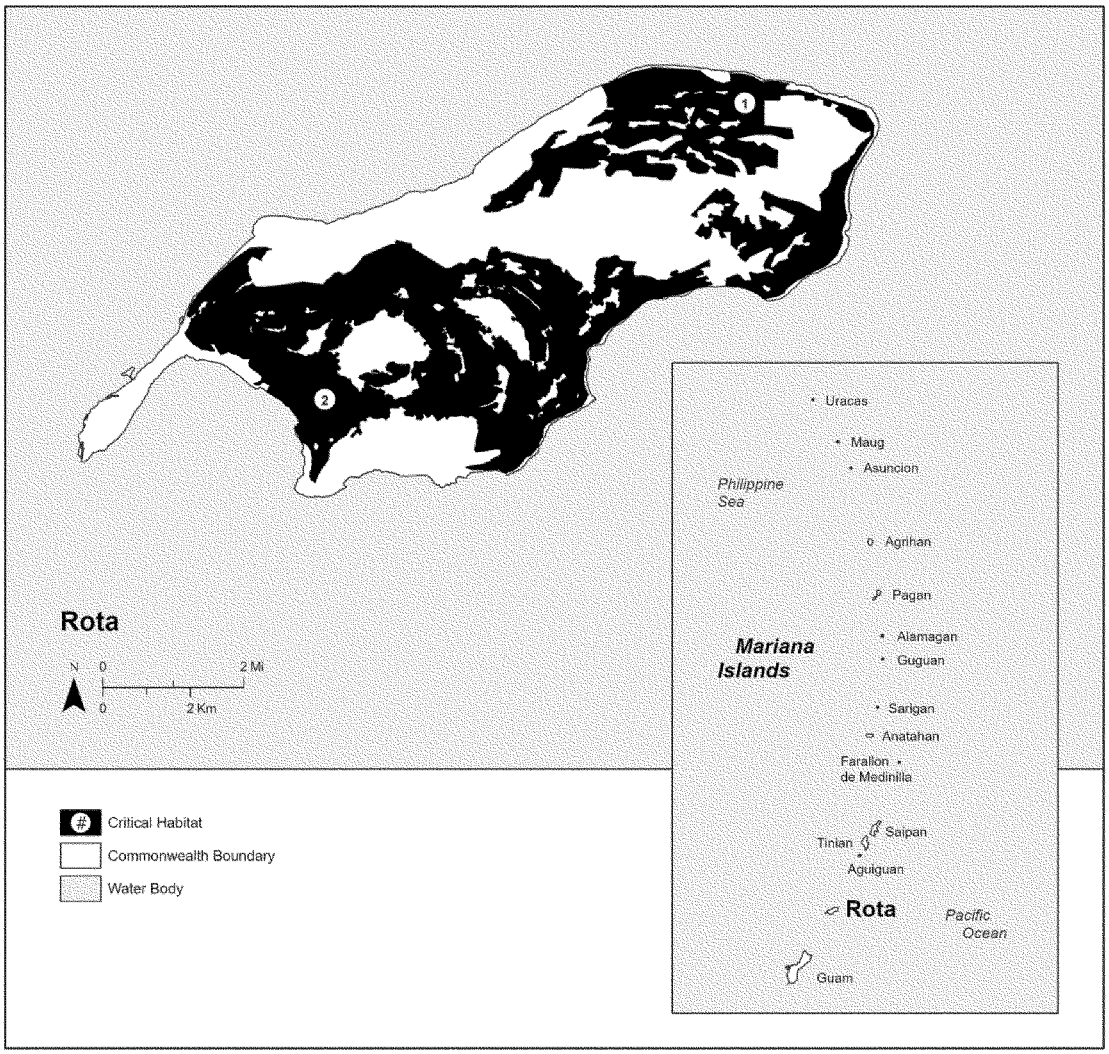
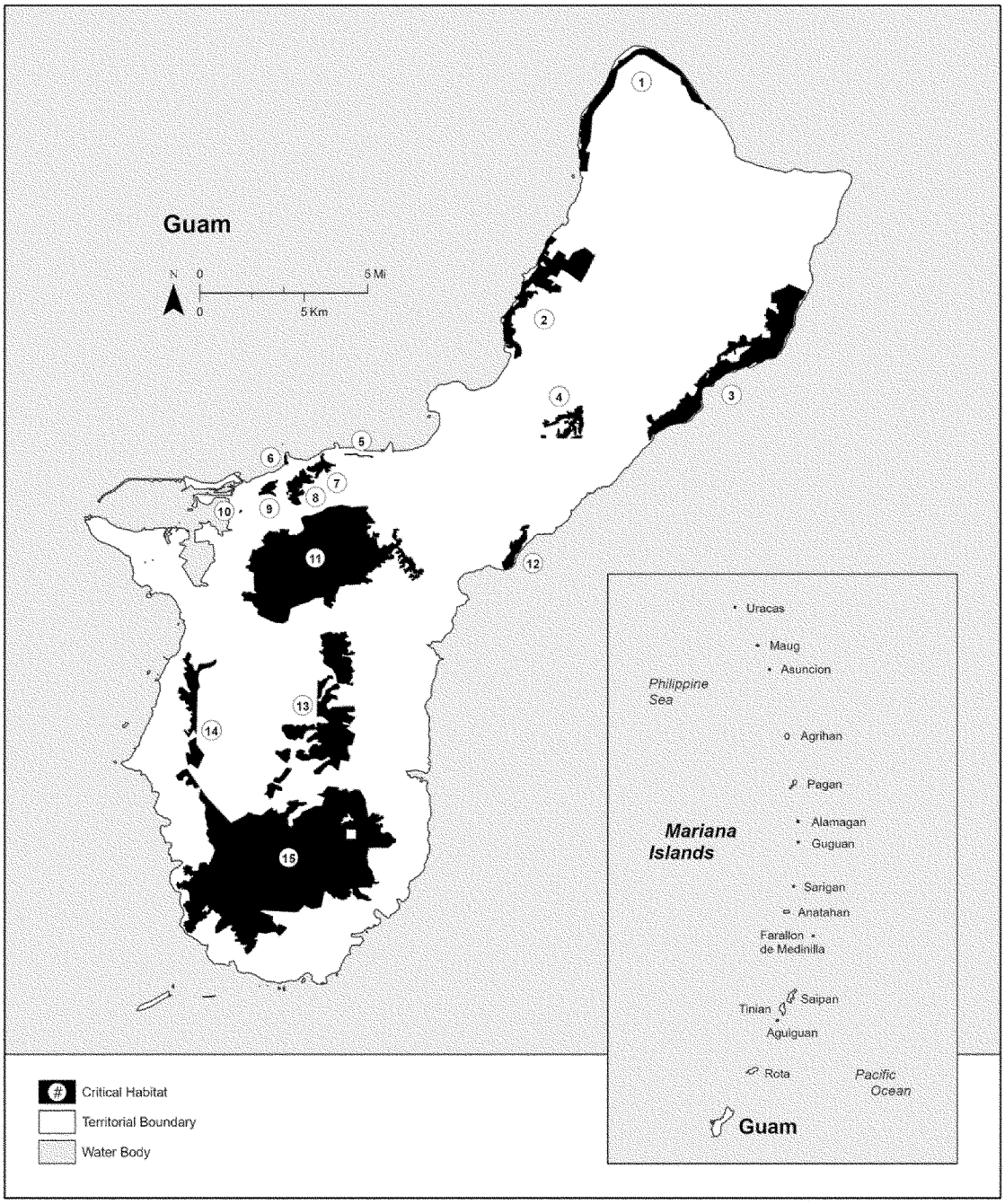


Figure 2 to Family Myrsinaceae: *Maesa walkeri* (No Common Name)
paragraph (5)(ii)

Critical Habitat
Index Map for Plants on the Islands of Guam,
Territory of Guam



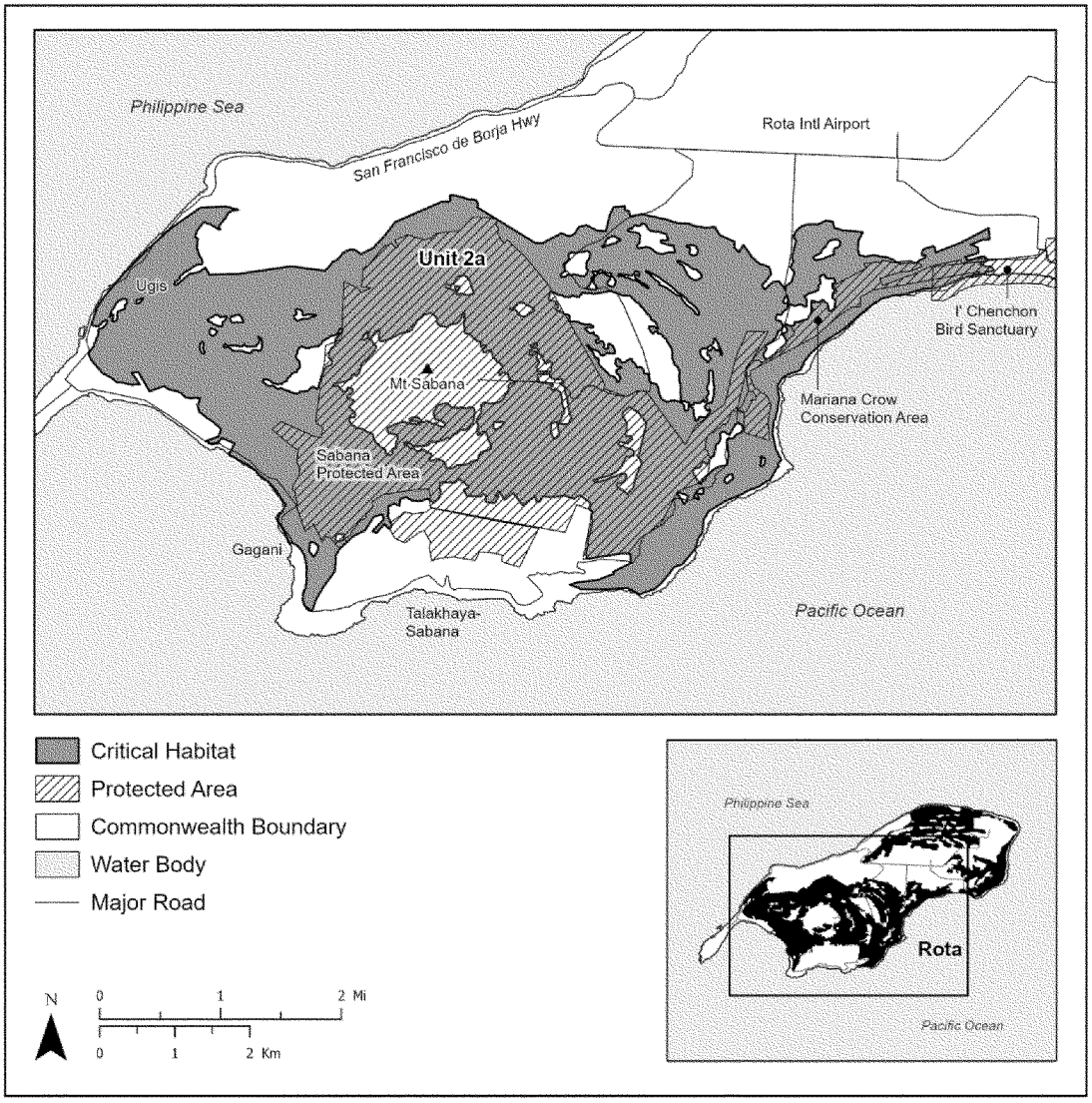
(6) Rota 2–*Maesa walkeri*–a, Commonwealth of the Northern Mariana Islands.

(i) This single critical habitat unit on the island of Rota consists of 6,875 ac (2,782 ha) and is composed of limestone forest in the south of the island. This unit extends south of the Rota International Airport, stretches east to the I'Chenchon Bird Sanctuary, and flanks the Talakhaya-Sabana watershed to the south (encompassing parts of the Sabana Protected Area, Mariana Crow Conservation Area, and I'Chenchon Bird Sanctuary) and east to Ugis. The unit does not include developed areas, grasslands, or Mt. Sabana. Landownership consists of 5,806 ac (2,350 ha) of land owned by the Commonwealth government, 1,039 ac (420 ha) in private ownership, and 30 ac (12 ha) that are uncategorized.

(ii) Map of Rota 2–*Maesa walkeri*–a follows:

Figure 3 to Family Myrsinaceae: *Maesa walkeri* (No Common Name) paragraph (6)(ii)

Critical Habitat for *Maesa walkeri* (no common name)
Rota 2–*Maesa walkeri*–a
Rota, Commonwealth of the Northern Mariana Islands



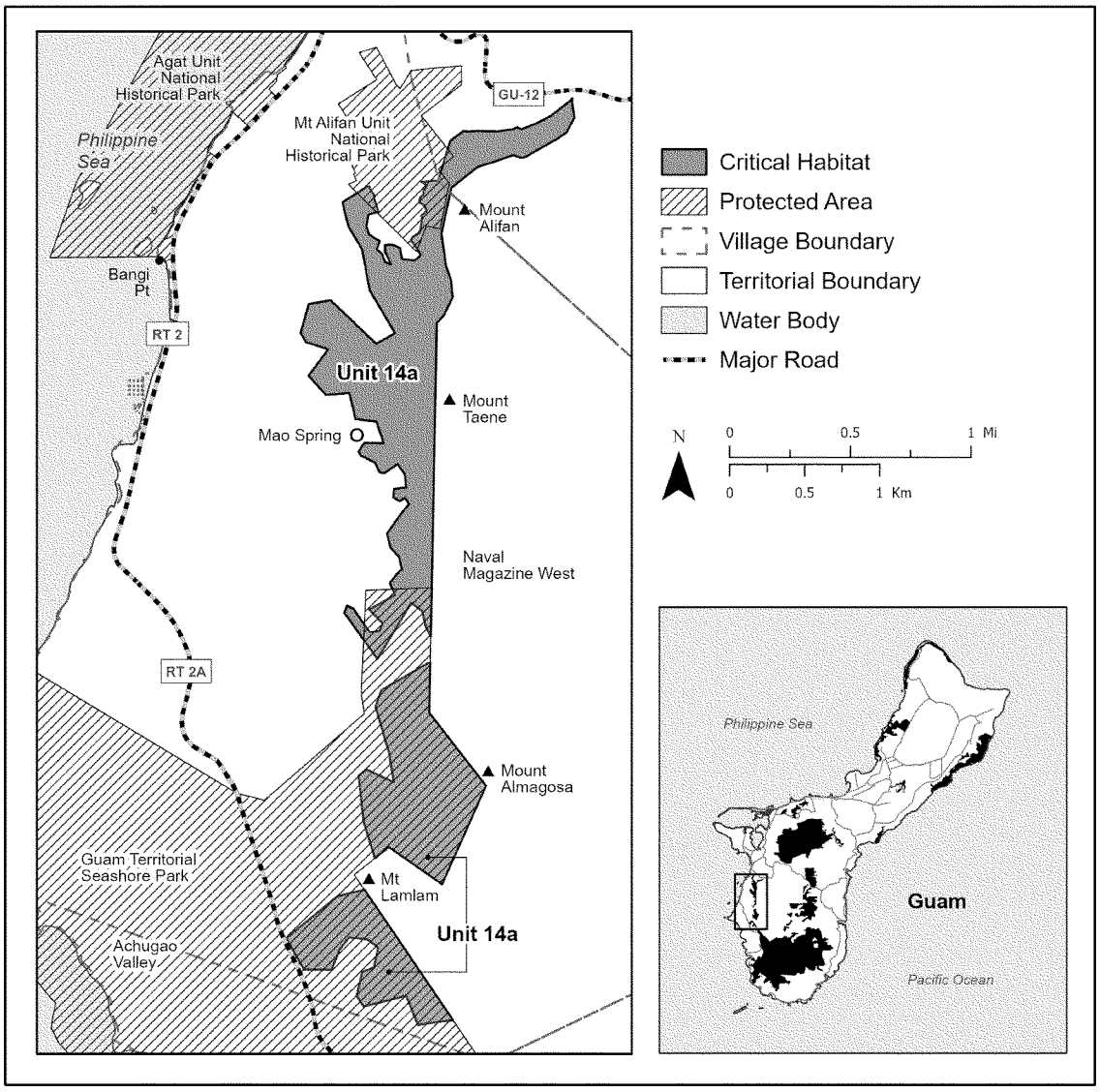
(7) Guam 14–*Maesa walkeri*–a, Territory of Guam.

(i) This single critical habitat unit on the island of Guam consists of 629 ac (254 ha) and is composed of three segments of limestone forests on the southwestern side of the island. The unit extends from Route 12 and Mt. Alifan in the north, running along the border of Naval Magazine West and ending south of Mt. Lamlam at Route 2A. Landownership includes 16 ac (6 ha) of Federal lands (War in the Pacific National Historical Park), 84 ac (34 ha) of Territory government lands, 344 ac (139 ha) in private ownership, and 185 ac (75 ha) that are uncategorized. The northern portion of the unit overlaps the Mt. Alifan unit of War in the Pacific National Historical Park. The southern portion of the unit overlaps the Guam Territorial Seashore Park.

(ii) Map of Guam 14–*Maesa walkeri*–a follows:

Figure 4 to Family Myrsinaceae: *Maesa walkeri* (No Common Name) paragraph (6)(ii)

Critical Habitat for *Maesa walkeri* (no common name)
Guam 14–*Maesa walkeri*–a
Guam, Territory of Guam



Family Myrtaceae: Eugenia bryanii (No Common Name)

(1) Critical habitat units are depicted for Guam within the Territory of Guam, on the maps in this entry.

(2) Within these areas, the physical or biological features essential to the conservation of *Eugenia bryanii* consist of the following components:

(i) Limestone forests with moisture, including (but not limited to) forest edge perimeters, exposed limestone cliffs, and limestone forests with karst as the primary substrate.

(ii) Native seed dispersers such as birds and fruit bats.

(iii) Native pollinators and native vegetation to support them.

(3) Critical habitat does not include manmade structures (such as buildings or paved areas including aqueducts, runways, or roads) and the land on which they are located existing within the legal boundaries on the effective date of the final rule.

(4) Data layers defining map units were created using survey and distribution data provided by multiple local and regional sources as available (*e.g.,* reports, databases, and species experts' knowledge) and as maintained by universities, local governments, and nonprofit organizations across the Mariana Islands. Landcover data (*e.g.,* soil substrate, vegetation, and elevation) were obtained and compiled from multiple Federal and local government agencies. Temperature and precipitation data were obtained and compiled from journal publications. Landforms were primarily delineated based on the most currently available aerial maps and satellite imagery. The maps in this entry, as modified by any accompanying regulatory text, establish the boundaries of the critical habitat designation. The coordinates or plot points or both on which each map is based are available to the public at the Service's internet site at *https://www.fws.gov/project/critical-habitat-mariana-islands,* at *https://www.regulations.gov* at Docket No. FWS–R1–ES–2024–0194, and at the field office responsible for this designation. You may obtain field office location information by contacting one of the Service regional offices, the addresses of which are listed at 50 CFR 2.2.

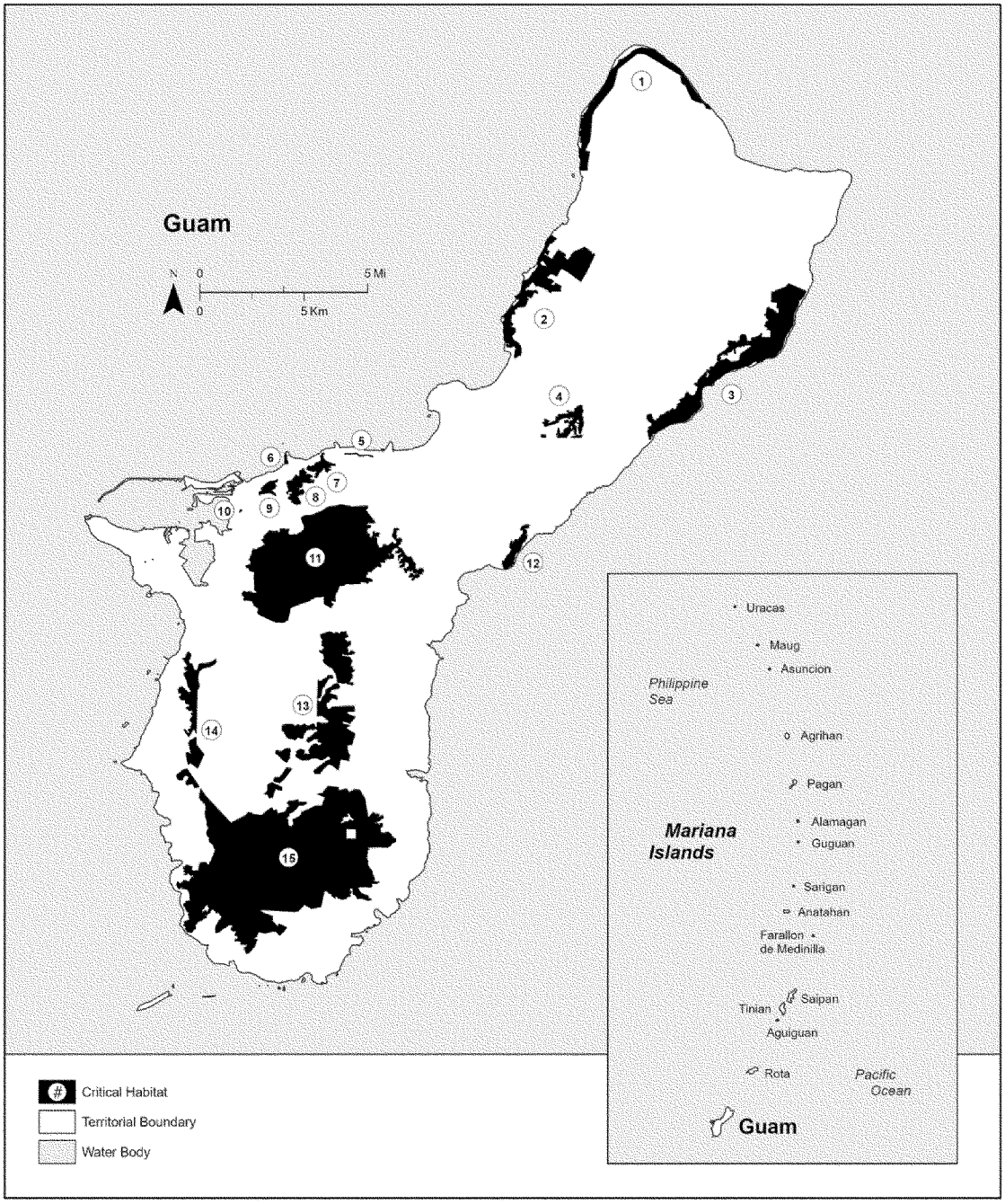
(5) The following index map shows the general locations of critical habitat units for all plant species designated on the island of Guam, with each location/area on the island identified as a specific number on the index map. These island location/area numbers allow for comparison of overlapping critical habitat units for other listed species within the same location.

(i) Each critical habitat unit name comprises the island name, a number (*i.e.,* the geographic location/area on the island of Guam) corresponding to a specific geographic location/area on the island of Guam, which may include overlapping units for different species, the species name, and a letter. The letter at the end of each critical habitat unit name corresponds to the number of units present on the island, where each escalating letter corresponds to the additive number of units on the island for the species. Critical habitat for *Eugenia bryanii* includes a total of five critical habitat units.

(ii) Index map follows:

Figure 1 to Family Myrtaceae: *Eugenia bryanii* (No Common Name) paragraph (5)(ii)

Critical Habitat
Index Map for Plants on the Islands of Guam, Territory of Guam



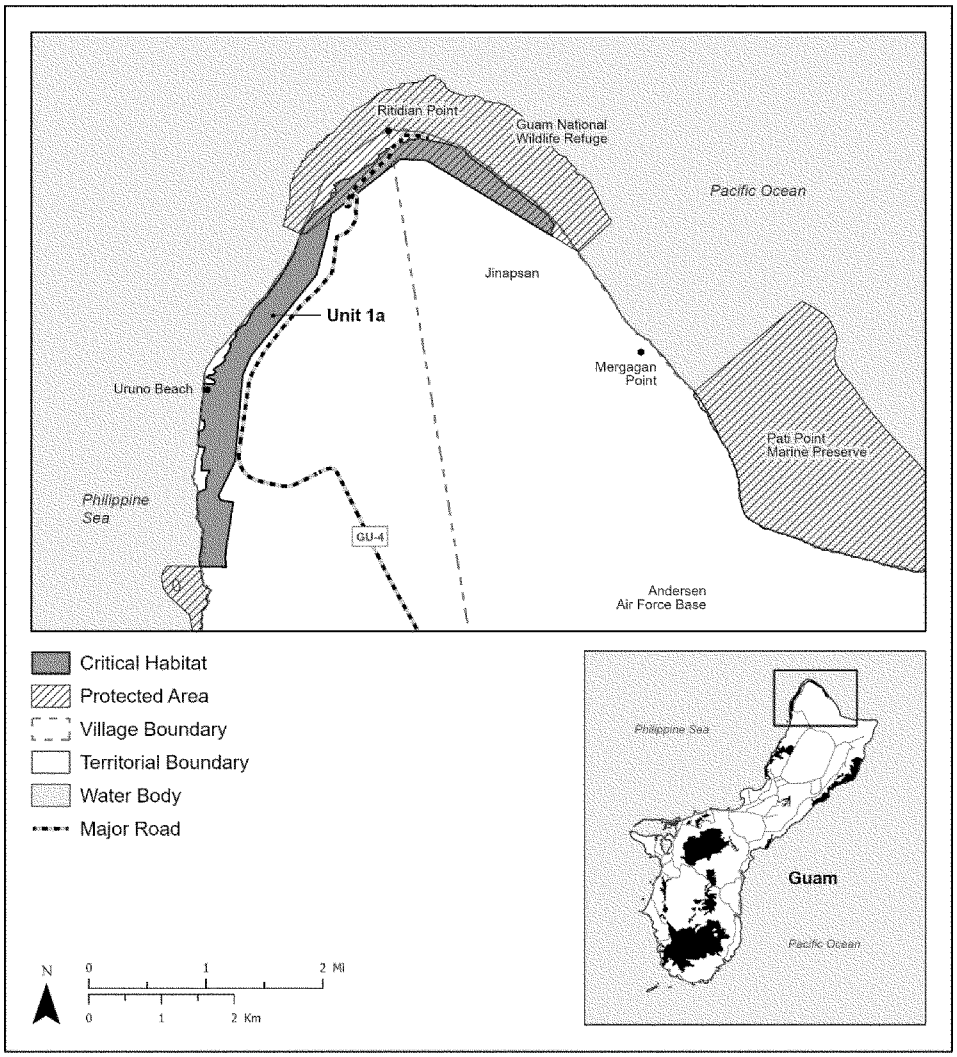
(6) Guam 1–*Eugenia bryanii*–a, Territory of Guam.

(i) Unit 1a on the island of Guam consists of 741 ac (300 ha) and is composed of a band of secondary limestone forest along the north point of the island (Ritidian Point). The unit extends from the southwestern boundary south of Urunao Beach and runs north along the cliffline ending at Jinapsan. Landownership includes 257 ac (104 ha) of Federal lands (Guam NWR), 68 ac (27 ha) of Territory government lands, 375 ac (152 ha) in private ownership, and 41 ac (17 ha) that are uncategorized.

(ii) Map of Guam 1–*Eugenia bryanii*–a follows:

Figure 2 to Family Myrtaceae: *Eugenia bryanii* (No Common Name) paragraph (6)(ii)

Critical Habitat for *Eugenia bryanii* (no common name)
Guam 1–*Eugenia bryanii*–a
Guam, Territory of Guam



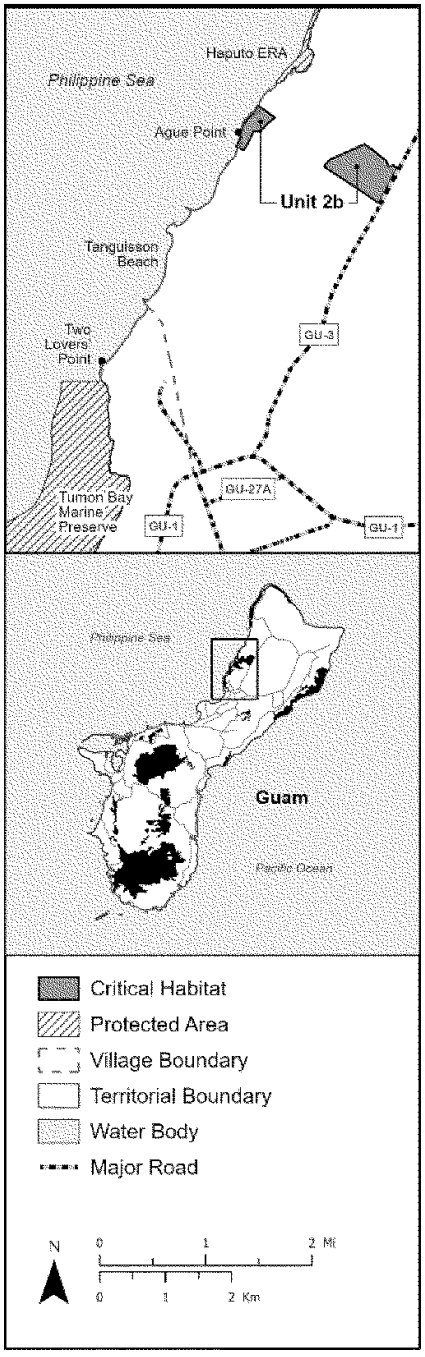
(7) Guam 2–*Eugenia bryanii*–b, Territory of Guam.

(i) Unit 2b on the island of Guam consists of two segments totaling 162 ac (65 ha) and is composed of limestone forests along the northwestern edge of the island. One segment within this unit lies inland of Ague Point and south of the Guam NWR. The second segment within this unit lies west of Route 3 and south of the Guam National Wildlife Refuge boundary. Landownership includes 159 ac (64 ha) of Territory government lands and 3 ac (1 ha) that are uncategorized.

(ii) Map of Guam 2–*Eugenia bryanii*–b follows:

Figure 3 to Family Myrtaceae: *Eugenia bryanii* (No Common Name) paragraph (7)(ii)

Critical Habitat for
***Eugenia bryanii* (no common name)**
Guam 2–*Eugenia bryanii*–b
Guam, Territory of Guam



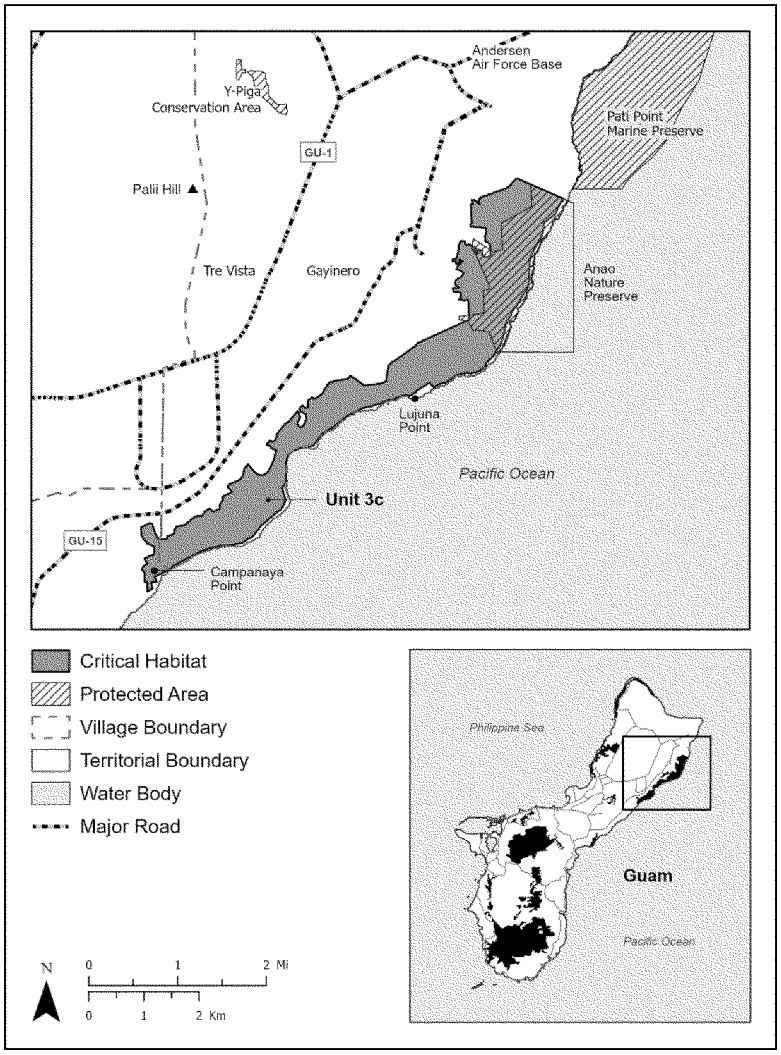
(8) Guam 3–*Eugenia bryanii*–c, Territory of Guam.

(i) Unit 3c on the island of Guam consists of 1,986 ac (804 ha) and is composed of limestone forests along the northeastern coastal edge of the island. The unit begins at the boundary of the Anao Nature Preserve, immediately adjacent to the southern end of the Guam NWR boundary and extends southwest along the coast to Campanaya Point. Landownership includes 1,488 ac (602 ha) of Territory government lands, 198 ac (80 ha) in private ownership, and 300 ac (122 ha) that are uncategorized. The northeastern portion of this unit overlaps the Anao Nature Preserve.

(ii) Map of Guam 3–*Eugenia bryanii*–c follows:

Figure 4 to Family Myrtaceae: *Eugenia bryanii* (No Common Name) paragraph (8)(ii)

Critical Habitat for *Eugenia bryanii* (no common name)
Guam 3–*Eugenia bryanii*–c
Guam, Territory of Guam



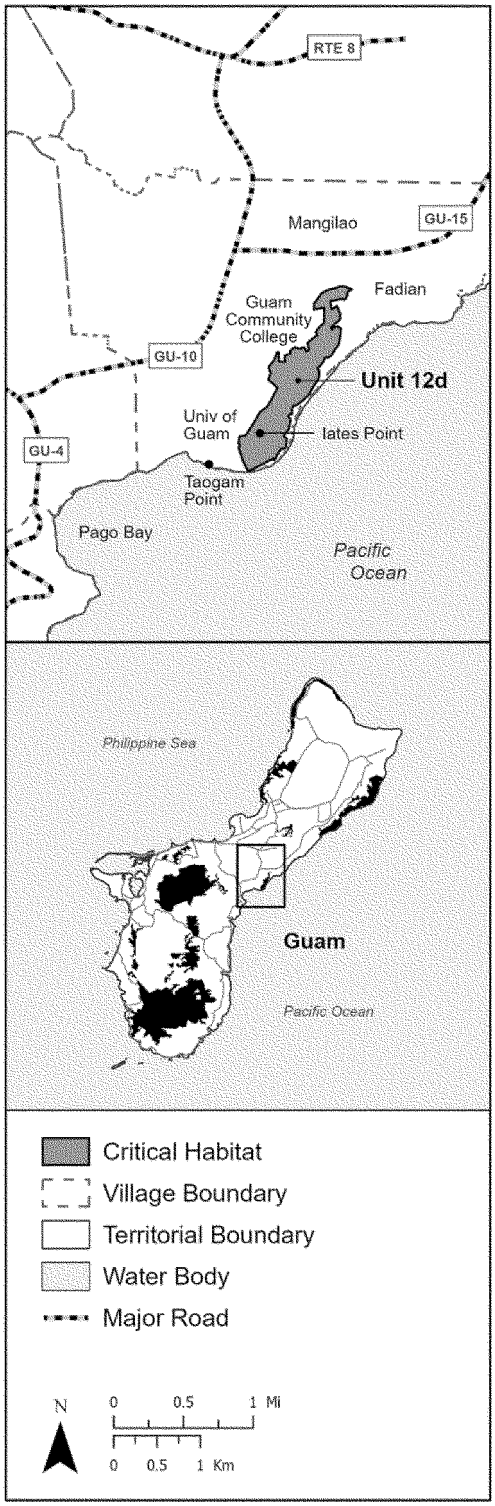
(9) Guam 12–*Eugenia bryanii*–d, Territory of Guam.

(i) Unit 12d on the island of Guam consists of 195 ac (79 ha) and is composed of limestone forests along the central-east coast of the island. It extends from Fadian down to Taogam Point, east of Guam Community College and University of Guam. Landownership includes 190 ac (77 ha) in private ownership and 5 ac (2 ha) that are uncategorized.

(ii) Map of Guam 12–*Eugenia bryanii*–d follows:

Figure 5 to Family Myrtaceae: *Eugenia bryanii* (No Common Name) paragraph (9)(ii)

Critical Habitat for
***Eugenia bryanii* (no common name)**
Guam 12–*Eugenia bryanii*–d
Guam, Territory of Guam



(10) Guam 15–*Eugenia bryanii*–e, Territory of Guam.

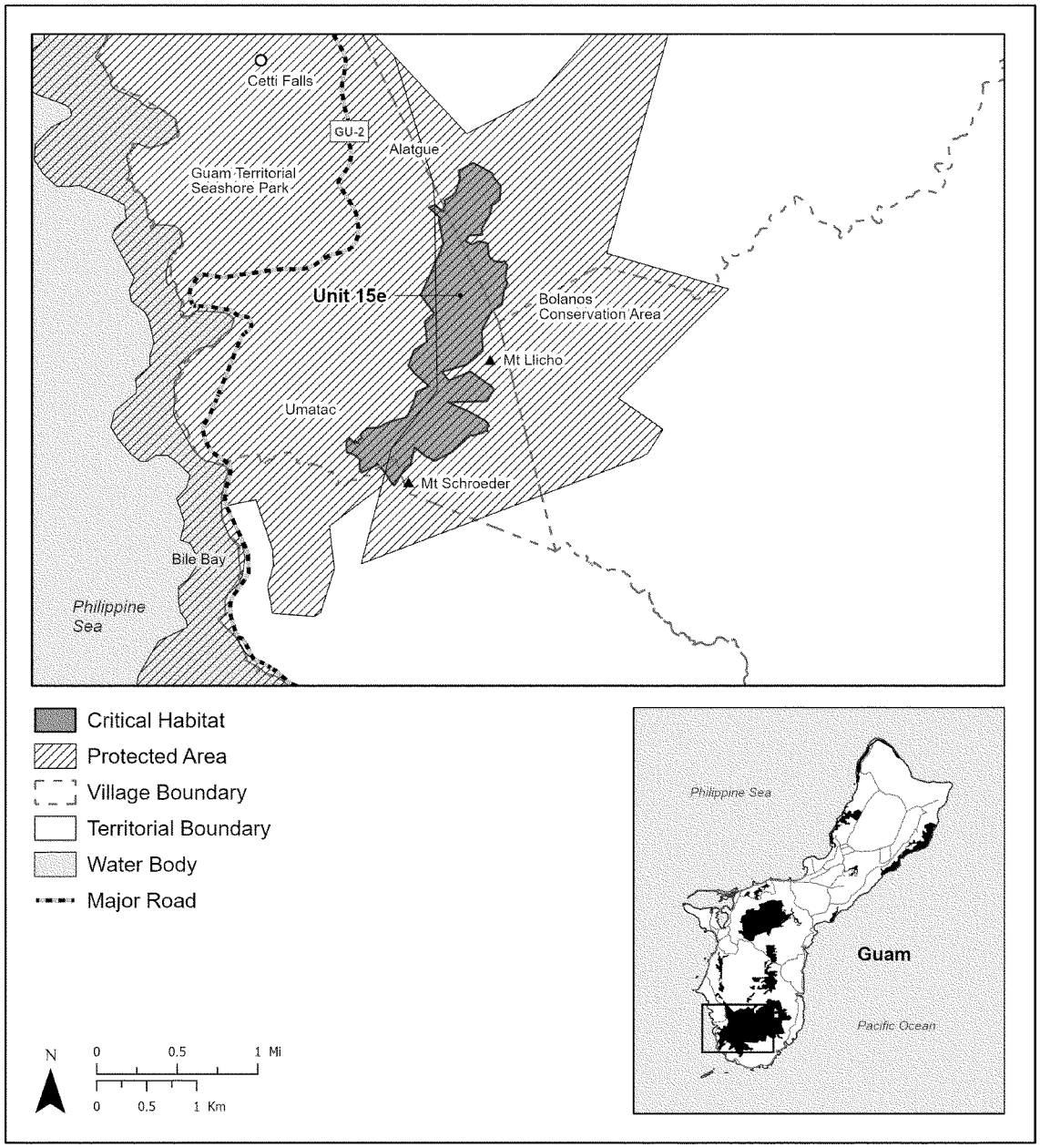
(i) Unit 15e on the island of Guam consists of 470 ac (190 ha) and is composed of limestone forests in the southwestern part of the island. The unit extends from Alatgue in the north down to Mt. Schroeder in the south. Landownership includes 181 ac (73 ha) of Territory government lands, 253 ac (103 ha) in private ownership, and 36 ac (14 ha) that are uncategorized. The

western portion of the unit overlaps the Guam Territorial Seashore Park, and the eastern portion of the unit overlaps the Bolanos Conservation Area.

(ii) Map of Guam 15–*Eugenia bryanii*–e follows:

Figure 6 to Family Myrtaceae: *Eugenia bryanii* (No Common Name) paragraph (10)(ii)

Critical Habitat for *Eugenia bryanii* (no common name)
Guam 15–*Eugenia bryanii*–e
Guam, Territory of Guam



* * * * *

Family Orchidaceae: Bulbophyllum guamense (Siboyas Halumtanu, Siboyan Halomtano)

(1) Critical habitat units are depicted for Rota within the Commonwealth of the Northern Mariana Islands and Guam within the Territory of Guam, on the maps in this entry.

(2) Within these areas, the physical or biological features essential to the conservation of *Bulbophyllum guamense* consist of the following components:

(i) Native limestone or volcanic forests with native host vegetation such as trees and tall shrubs, including forests along clifflines, forest edges, mountainous slopes and secondary/mixed and native volcanic ravine forests providing suitable host vegetation.

(ii) Pollinators such as flies, wasps, and bees, and native vegetation to support them.

(3) Critical habitat does not include manmade structures (such as buildings or paved areas including aqueducts, runways, or roads) and the land on which they are located existing within the legal boundaries on the effective date of the final rule.

(4) Data layers defining map units were created using survey and distribution data provided by multiple local and regional sources as available (*e.g.,* reports, databases, and species experts' knowledge) and as maintained by universities, local governments, and nonprofit organizations across the Mariana Islands. Landcover data (*e.g.,* soil substrate, vegetation, and elevation) were obtained and compiled from multiple Federal and local government agencies. Temperature and precipitation data were obtained and compiled from journal publications. Landforms were primarily delineated based on the most currently available aerial maps and satellite imagery. The maps in this entry, as modified by any accompanying regulatory text, establish the boundaries of the critical habitat designation. The coordinates or plot points or both on which each map is based are available to the public at the Service's internet site at *https://www.fws.gov/project/critical-habitat-mariana-islands,* at *https://www.regulations.gov* at Docket No. FWS–R1–ES–2024–0194, and at the field office responsible for this designation. You may obtain field office location information by contacting one of the Service regional offices, the addresses of which are listed at 50 CFR 2.2.

(5) The following index maps show the general locations of critical habitat units for all plant species designated on each island, with each location/area on each island identified as a specific number on the index maps. These island location/area numbers allow for comparison of overlapping critical habitat units for other listed species within the same location.

(i) Each critical habitat unit name comprises an island name, a number (*i.e.,* the geographic location/area on the applicable island) corresponding to a specific geographic location/area on the applicable island which, may include overlapping units for different species, the species name, and a letter. The letter at the end of each critical habitat unit name corresponds to the number of units present on a given island, where each escalating letter for each island corresponds to the additive number of units per island for the species. Critical habitat for *Bulbophyllum guamense* includes 2 units on the island of Rota and 8 units on the island of Guam, for a total of 10 critical habitat units.

(ii) Index maps follow:

Figure 1 to Family Orchidaceae: *Bulbophyllum guamense* (Siboyas Halumtanu, Siboyan Halomtano) paragraph (5)(ii)

Critical Habitat
Index Map for Plants on the Islands of Rota,
Commonwealth of the Northern Mariana Islands

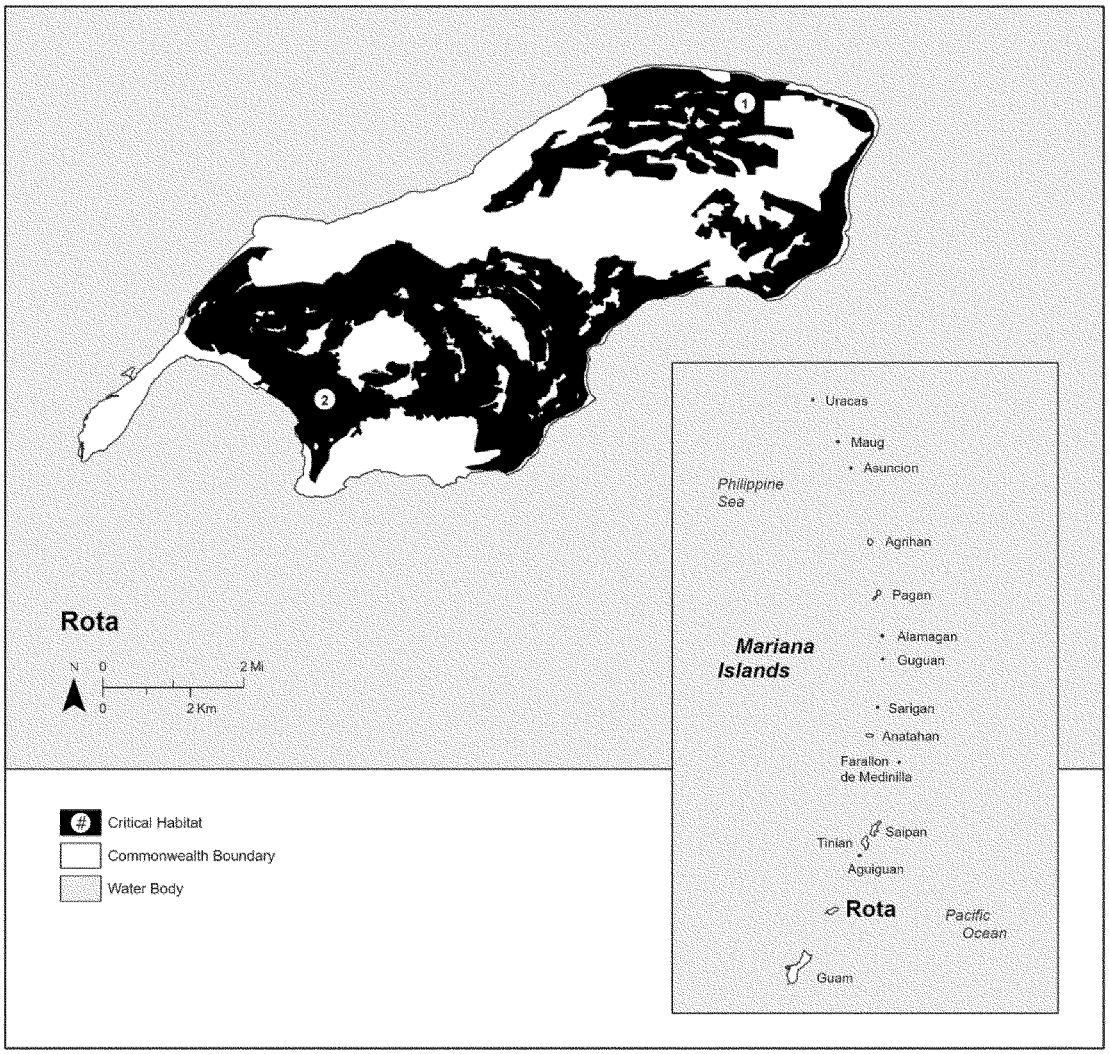
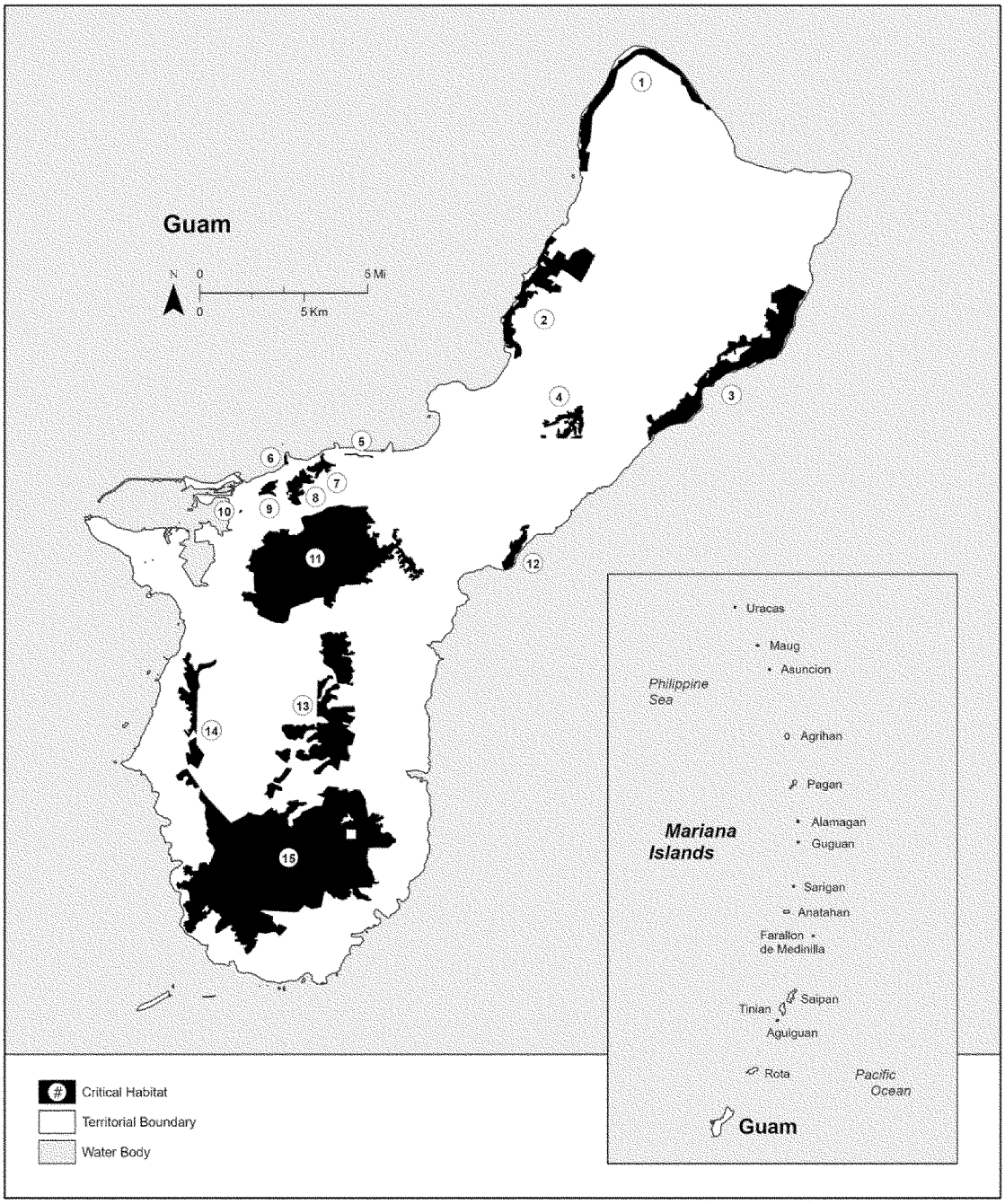


Figure 2 to Family Orchidaceae: *Bulbophyllum guamense* (Siboyas Halumtanu, Siboyan Halomtano) paragraph (5)(ii)

Critical Habitat
Index Map for Plants on the Islands of Guam,
Territory of Guam



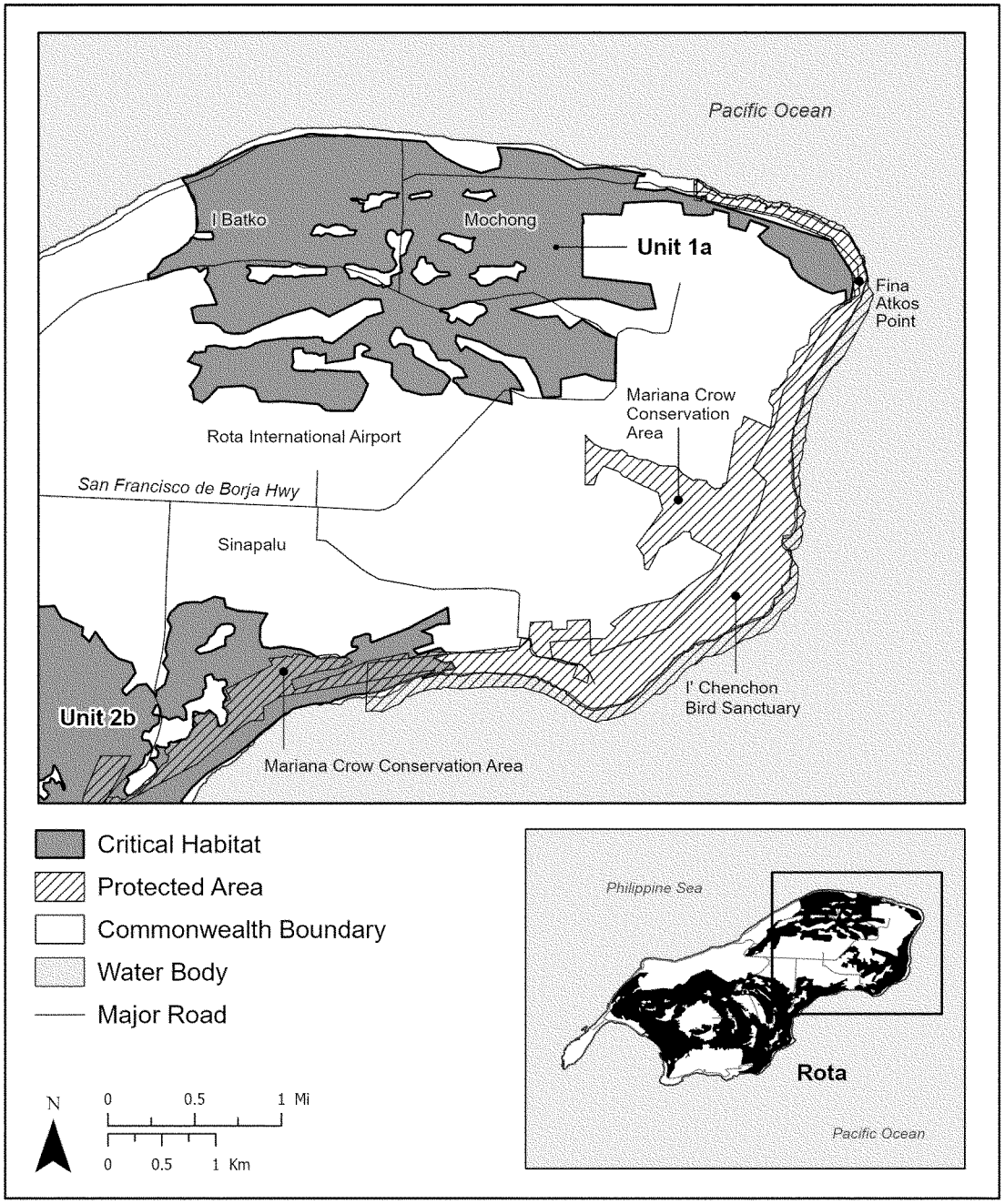
(6) Rota 1–*Bulbophyllum guamense*–a, Commonwealth of the Northern Mariana Islands.

(i) Unit 1a on the island of Rota consists of 1,930 ac (781 ha) and is composed of limestone forests in the north of the island. This unit in the north extends east through Monchong, with one arm extending along the coast to Fina Aktos Point, and lies west of the Mariana Crow Conservation Area, north of the Rota International Airport, and east of I'Batko. This area excludes several portions within Monchon and I'Batko. Landownership includes 1,397 ac (565 ha) of Commonwealth government lands and 533 ac (216 ha) in private ownership.

(ii) Map of Rota 1–*Bulbophyllum guamense*–a follows:

Figure 3 to Family Orchidaceae: *Bulbophyllum guamense* (Siboyas Halumtanu, Siboyan Halomtano) paragraph (6)(ii)

Critical Habitat for *Bulbophyllum guamense*
(Siboyas halumtanu, Siboyan halomtano)
Rota 1–*Bulbophyllum guamense*–a
Rota, Commonwealth of the Northern Mariana Islands



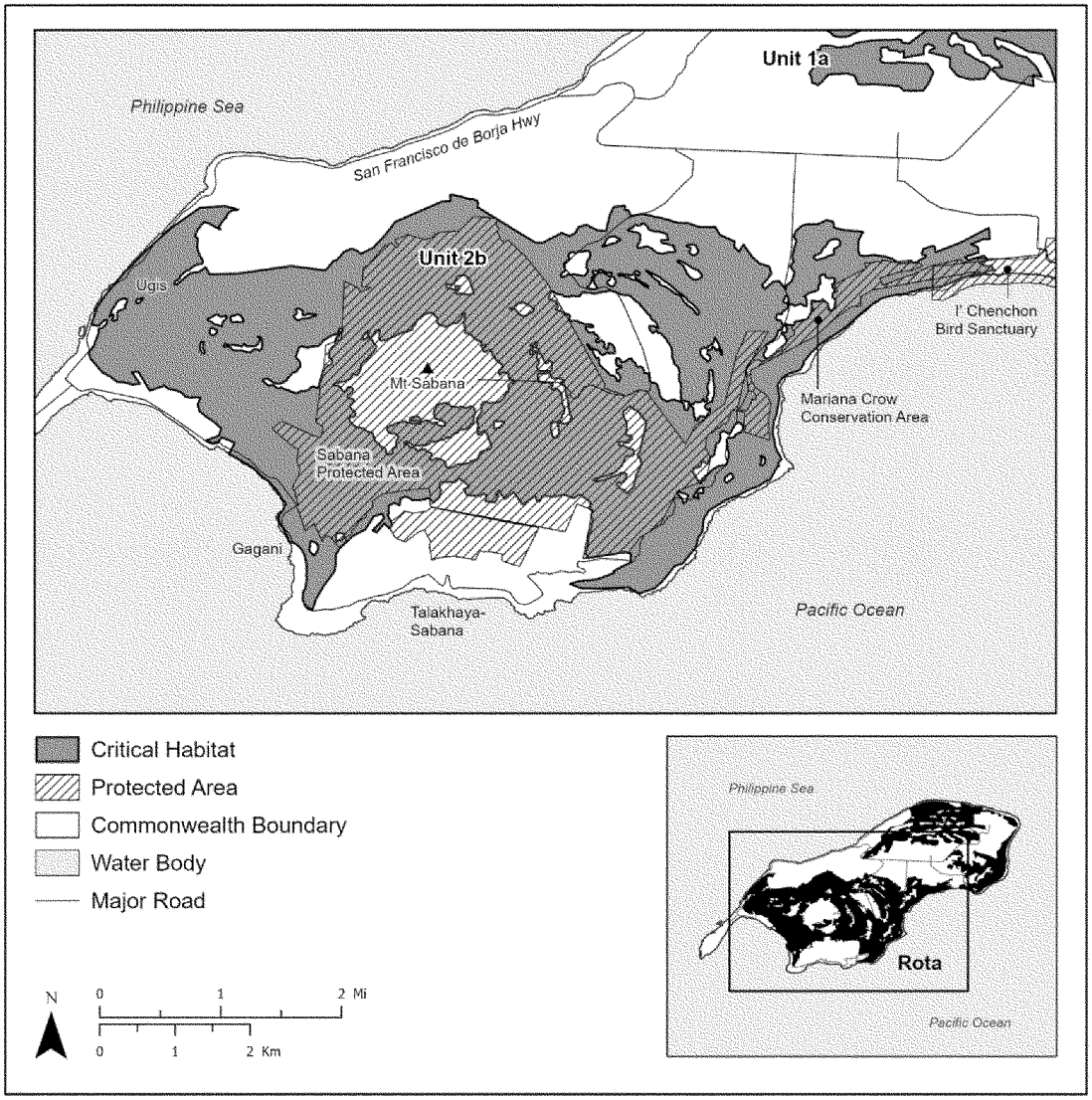
(7) Rota 2–*Bulbophyllum guamense*–b, Commonwealth of the Northern Mariana Islands.

(i) Unit 2b on the island of Rota consists of 6,875 ac (2,782 ha) and is composed of limestone forest in the south of the island. This unit extends south of the Rota International Airport, stretches east to the I'Chenchon Bird Sanctuary, and flanks the Talakhaya-Sabana watershed to the south (encompassing parts of the Sabana Protected Area, Mariana Crow Conservation Area, and I'Chenchon Bird Sanctuary) and east to Ugis. The unit does not include developed areas, grasslands, and Mt. Sabana. Landownership consists of 5,806 ac (2,350 ha) of land owned by the Commonwealth government, 1,039 ac (420 ha) in private ownership, and 30 ac (12 ha) that are uncategorized.

(ii) Map of Rota 2–*Bulbophyllum guamense*–b follows:

Figure 4 to Family Orchidaceae: *Bulbophyllum guamense* (Siboyas Halumtanu, Siboyan Halomtano) paragraph (7)(ii)

Critical Habitat for *Bulbophyllum guamense*
(Siboyas halumtanu, Siboyan halomtano)
Rota 2–*Bulbophyllum guamense*–b
Rota, Commonwealth of the Northern Mariana Islands



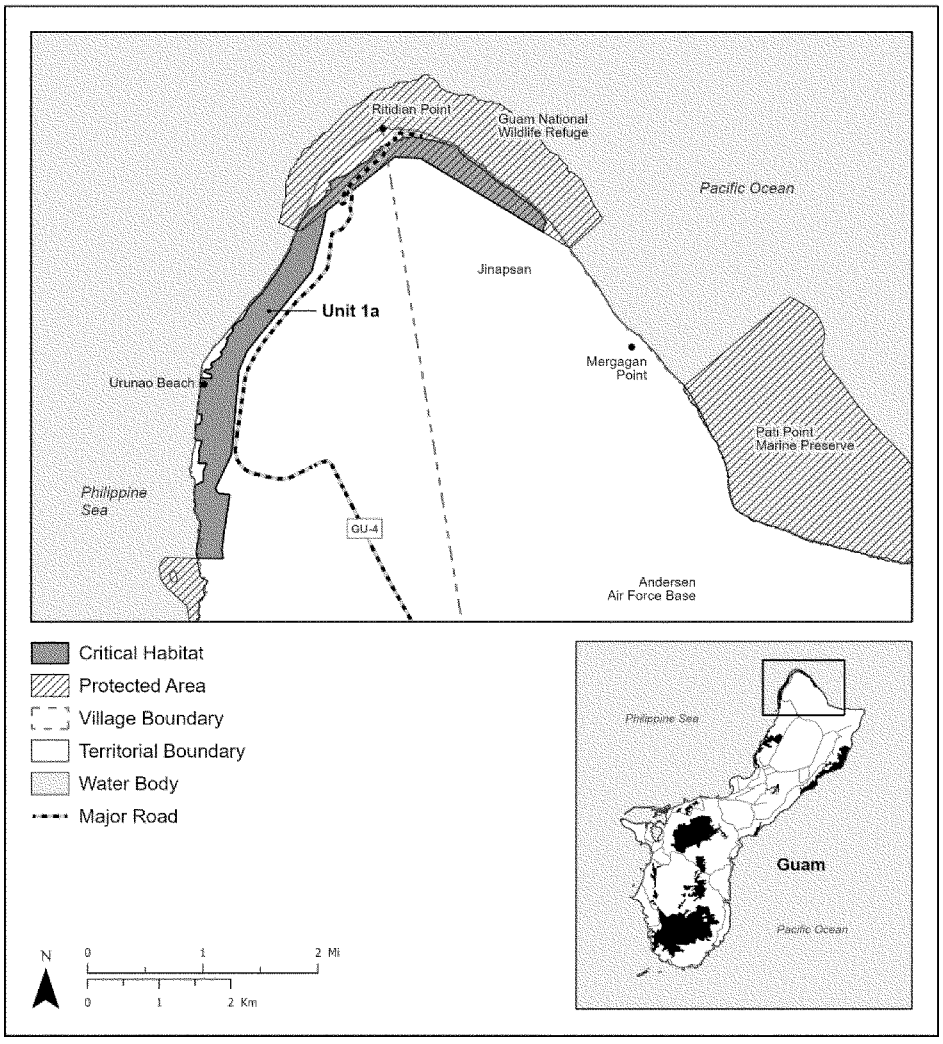
(8) Guam 1–*Bulbophyllum guamense*–a, Territory of Guam.

(i) Unit 1a on the island of Guam consists of 741 ac (300 ha) and is composed of a band of secondary limestone forest along the north point of the island (Ritidian Point). The unit extends from the southwestern boundary south of Urunao Beach and runs north along the cliffline ending at Jinapsan. Landownership includes 257 ac (104 ha) of Federal lands (Guam NWR), 68 ac (27 ha) of Territory government lands, 375 ac (152 ha) in private ownership, and 42 ac (17 ha) that are uncategorized.

(ii) Map of Guam 1–*Bulbophyllum guamense*–a follows:

Figure 5 to Family Orchidaceae: *Bulbophyllum guamense* (Siboyas Halumtanu, Siboyan Halomtano) paragraph (8)(ii)

Critical Habitat for *Bulbophyllum guamense*
(Siboyas halumtanu, siboyan halomtano)
Guam 1–*Bulbophyllum guamense*–a
Guam, Territory of Guam



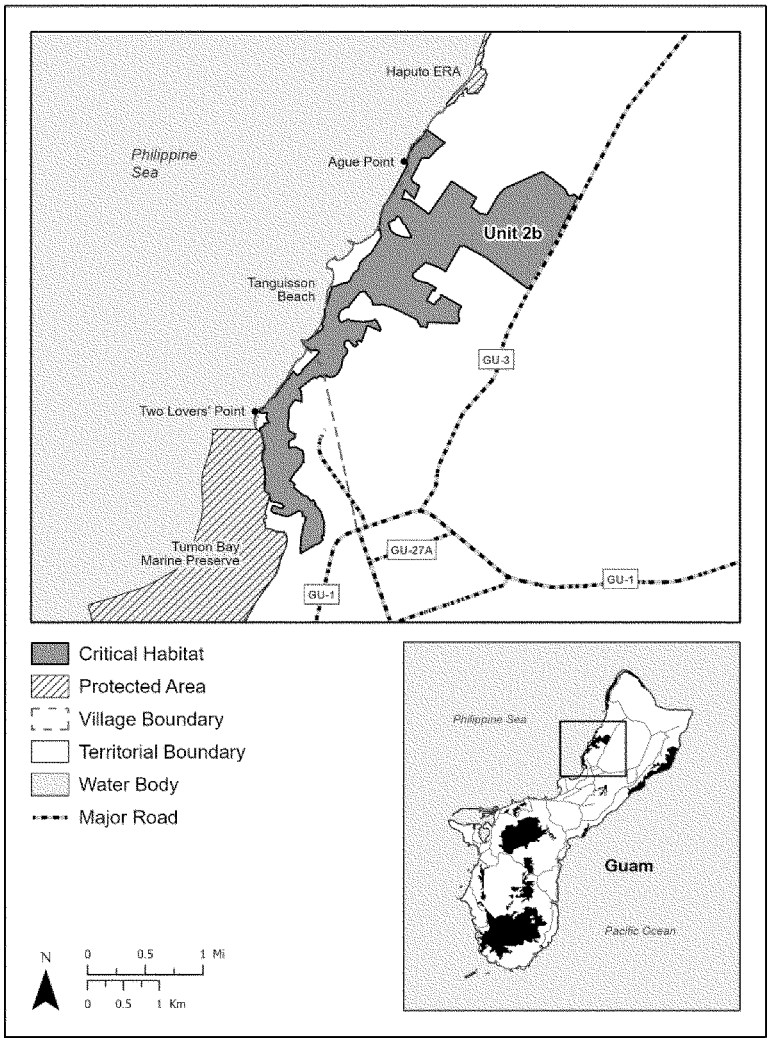
(9) Guam 2–*Bulbophyllum guamense*–b, Territory of Guam.

(i) Unit 2b on the island of Guam consists of 1,245 ac (504 ha) and is composed of limestone forests along the northwestern edge of the island. The unit lies west of Route 3 and extends from the clifflines overlooking Tumon Bay west of Route 1 and runs north to Ague Point. Landownership includes 1,081 ac (437 ha) of Territory government lands, 108 ac (44 ha) in private ownership, and 56 ac (23 ha) that are uncategorized.

(ii) Map of Guam 2–*Bulbophyllum guamense*–b follows:

Figure 6 to Family Orchidaceae: *Bulbophyllum guamense* (Siboyas Halumtanu, Siboyan Halomtano) paragraph (9)(ii)

Critical Habitat for *Bulbophyllum guamense*
(Siboyas halumtanu, siboyan halomtano)
Guam 2–*Bulbophyllum guamense*–b
Guam, Territory of Guam



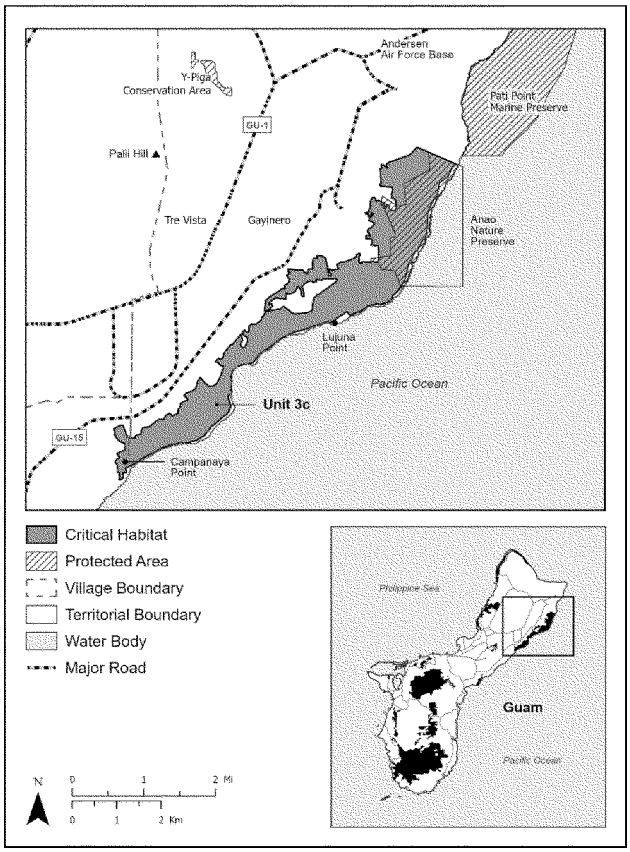
(10) Guam 3–*Bulbophyllum guamense*–c, Territory of Guam.

(i) Unit 3c on the island of Guam consists of 2,166 ac (877 ha) and is composed of limestone forests along the northeastern coastal edge of the island. The unit begins at the boundary of the Anao Nature Preserve (which is immediately adjacent to the southern end of the Guam NWR boundary) and extends southwest along the coast to Campanaya Point. Landownership includes 1,549 ac (627 ha) of Territory government lands, 270 ac (109 ha) in private ownership, and 347 ac (141 ha) that are uncategorized. The northeastern portion of this unit overlaps the Anao Nature Preserve.

(ii) Map of Guam 3–*Bulbophyllum guamense*–c follows:

Figure 7 to Family Orchidaceae: *Bulbophyllum guamense* (Siboyas Halumtanu, Siboyan Halomtano) paragraph (10)(ii)

Critical Habitat for *Bulbophyllum guamense*
(Siboyas halumtanu, siboyan halomtano)
Guam 3–*Bulbophyllum guamense*–c
Guam, Territory of Guam



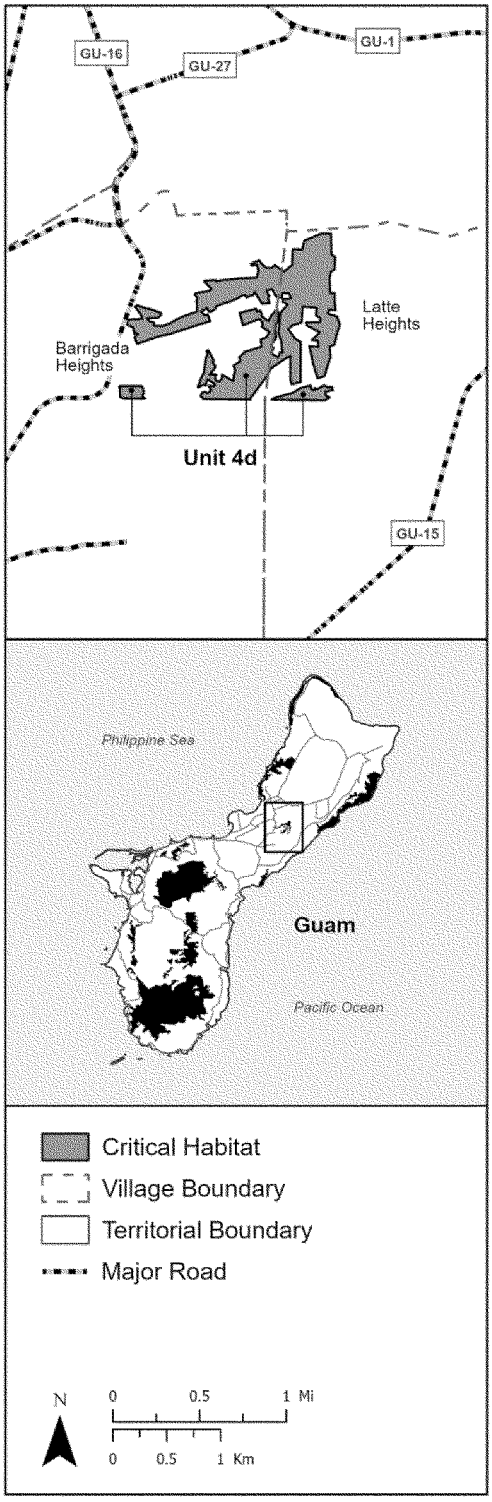
(11) Guam 4–*Bulbophyllum guamense*–d, Territory of Guam.

(i) Unit 4d on the island of Guam consists of 267 ac (108 ha) and is composed of secondary forests in the central part of the island. The unit extends from east of Route 16 in Barrigada Heights toward Latte Heights. The unit does not include developed areas. Landownership includes 171 ac (69 ha) in private ownership and 96 ac (39 ha) that are uncategorized.

(ii) Map of Guam 4—*Bulbophyllum guamense*–d follows:

Figure 8 to Family Orchidaceae: *Bulbophyllum guamense* (Siboyas Halumtanu, Siboyan Halomtano) paragraph (11)(ii)

Critical Habitat for
Bulbophyllum guamense
(Siboyas halumtanu, Siboyan halomtano)
Guam 4–*Bulbophyllum guamense*–d
Guam, Territory of Guam



(12) Guam 11—*Bulbophyllum guamense*–e, Territory of Guam.

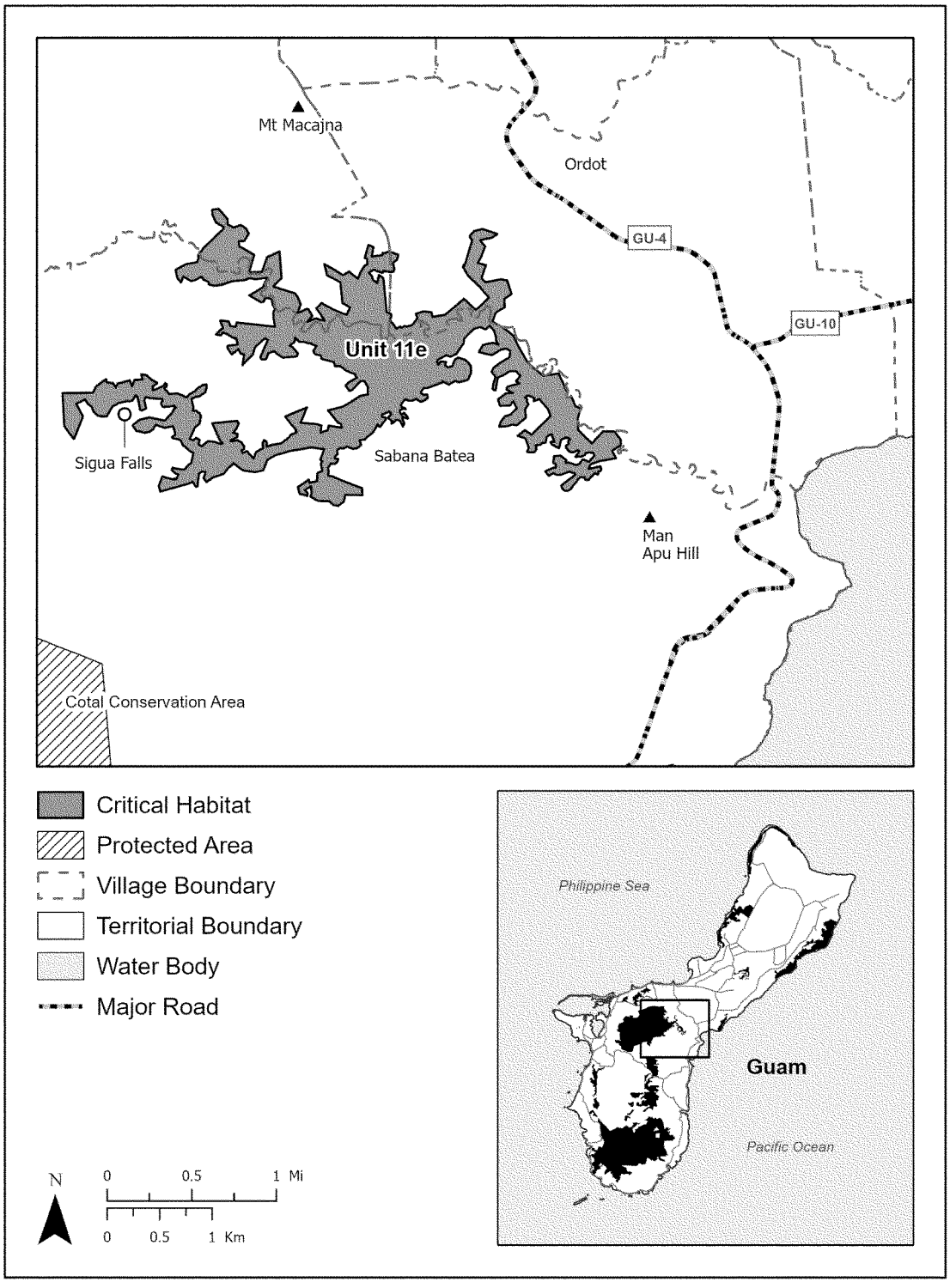
(i) Unit 11e on the island of Guam consists of 914 ac (370 ha) and is composed of secondary forests in the central part of the island. The unit lies west of Route 4 and south of Mt. Macajna and the village of Ordot, with

areas following the Sigua, Lonfit, and Pago Rivers (not represented on map due to unavailable data layer). Landownership includes 324 ac (131 ha) in private ownership and 590 ac (239 ha) that are uncategorized.

(ii) Map of Guam 11—*Bulbophyllum guamense*–e follows:

Figure 9 to Family Orchidaceae: *Bulbophyllum guamense* (Siboyas Halumtanu, Siboyan Halomtano) paragraph (12)(ii)

Critical Habitat for *Bulbophyllum guamense*
(Siboyas halumtanu, Siboyan halomtano)
Guam 11–*Bulbophyllum guamense*–e
Guam, Territory of Guam



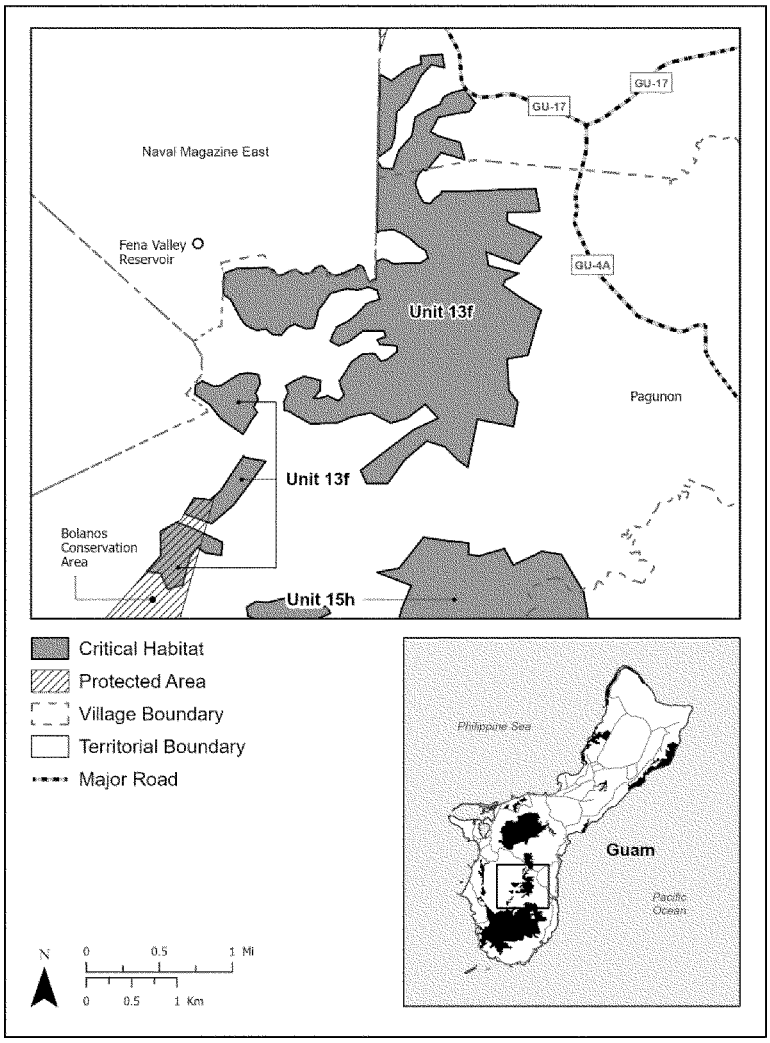
(13) Guam 13—*Bulbophyllum guamense*–f, Territory of Guam.

(i) Unit 13f on the island of Guam consists of 1,726 ac (698 ha) and is composed of four segments of volcanic forests in the southcentral part of the island. The unit extends from Route 17 south past Naval Magazine East and Fena Valley Reservoir along the western boundaries and towards Pagunon on the eastern boundary. The unit extends along the Maagas, Mahlac, and Sagge Rivers and their tributaries (which are not represented on the map due to unavailable data layers). Landownership includes 142 ac (57 ha) of Territory government lands, 859 ac (348 ha) in private ownership, and 725 ac (293 ha) that are uncategorized. The southwestern portion of the unit overlaps the Bolanos Conservation Area.

(ii) Map of Guam 13—*Bulbophyllum guamense*–f follows:

Figure 10 to *Bulbophyllum guamense* (Siboyas Halumtanu, Siboyan Halomtano) paragraph (13)(ii)

Critical Habitat for *Bulbophyllum guamense* (Siboyas halumtanu, siboyan halomtano)
Guam 13–*Bulbophyllum guamense*–f
Guam, Territory of Guam



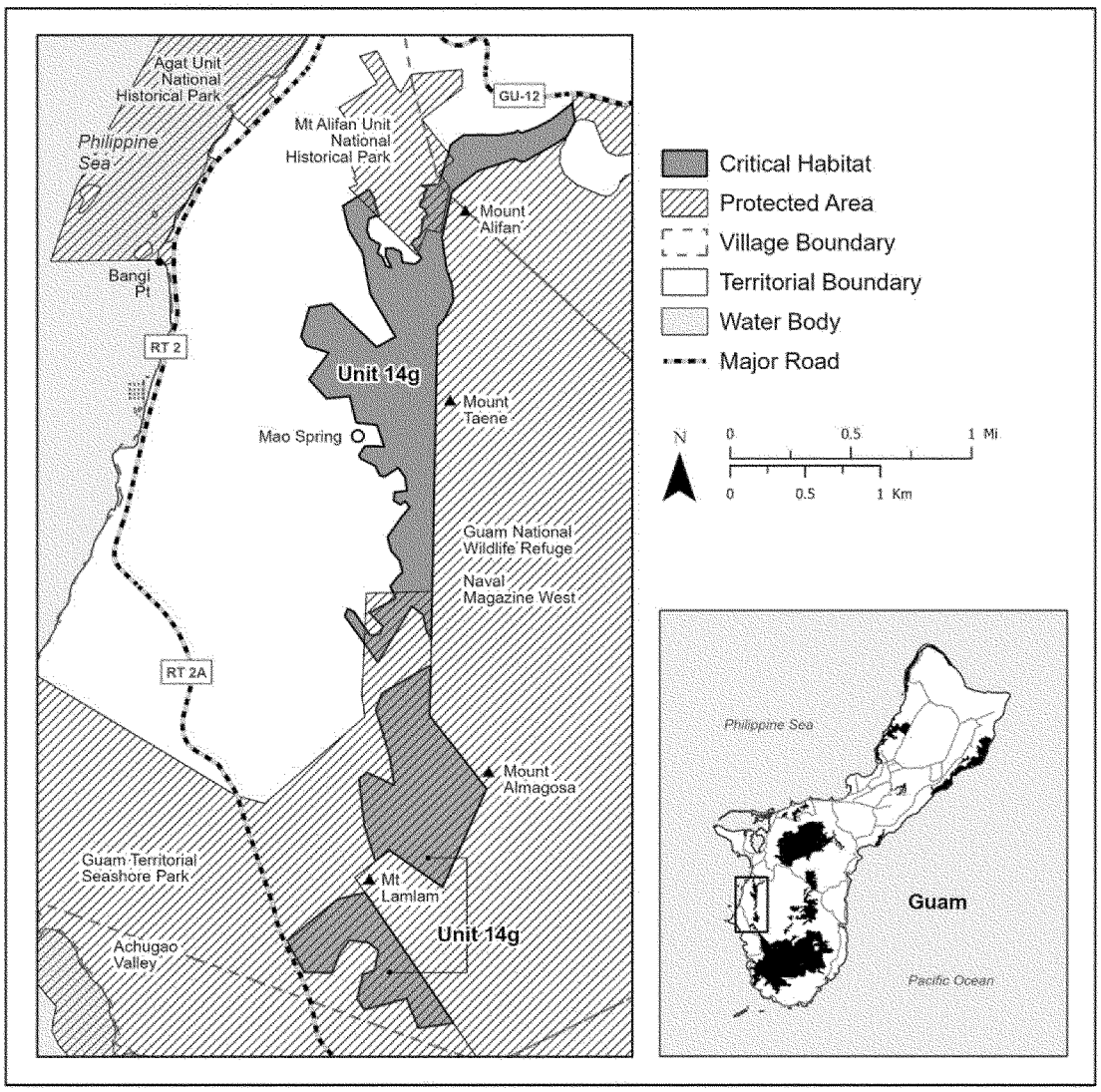
(14) Guam 14—*Bulbophyllum guamense*–g, Territory of Guam.

(i) Unit 14g on the island of Guam consists of 629 ac (254 ha) and is composed of three segments of limestone forests on the southwestern side of the island. The unit extends from Route 12 and Mt. Alifan in the north, running along the border of Naval Magazine West and ending south of Mt. Lamlam at Route 2A. Landownership includes 16 ac (6 ha) of Federal lands (War in the Pacific National Historical Park), 84 ac (34 ha) of Territory government lands, 344 ac (139 ha) in private ownership, and 185 ac (75 ha) that are uncategorized. The northern portion of the unit overlaps the Mt. Alifan Unit of War in the Pacific National Historical Park. The southern portion of the unit overlaps the Guam Territorial Seashore Park.

(ii) Map of Guam 14—*Bulbophyllum guamense*–g follows:

Figure 11 to Family Orchidaceae: *Bulbophyllum guamense* (siboyas halumtanu, siboyan halomtano) paragraph (14)(ii)

Critical Habitat for *Bulbophyllum guamense*
(Siboyas halumtanu, Siboyan halomtano)
Guam 14–*Bulbophyllum guamense*–g
Guam, Territory of Guam



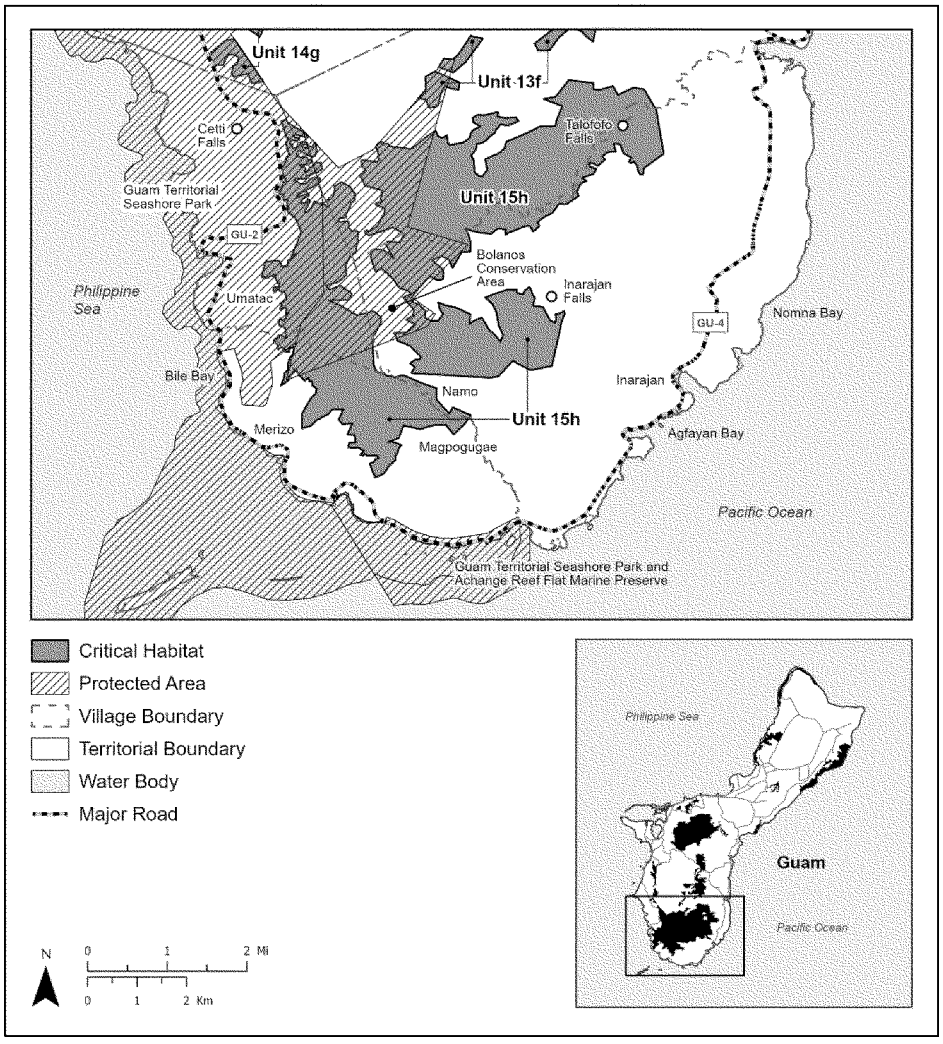
(15) Guam 15—*Bulbophyllum guamense*–h, Territory of Guam.

(i) Unit 15h on the island of Guam consists of 6,148 ac (2,488 ha) and is composed of volcanic forests in the southern part of the island. The unit runs from the north of Talofofo Falls along the Ugum and Bubulao Rivers to the south of Namo and runs from the east of Route 2 along the Dante River to Inarajan Falls; rivers are not represented on the map due to unavailable data layers. Another portion of the unit stretches from Cetti Falls in the north through the Bolanos Conservation Area to Magpogugae in the south. Landownership includes 919 ac (372 ha) of Territory government lands, 3,612 ac (1,462 ha) in private ownership, and 1,617 ac (654 ha) that are uncategorized. The central portion of the unit overlaps the Bolanos Conservation Area, and the western portion of the unit overlaps the Guam Territorial Seashore Park.

(ii) Map of Guam 15—*Bulbophyllum guamense*–h follows:

Figure 12 to Family Orchidaceae: *Bulbophyllum guamense* (Siboyas Halumtanu, Siboyan Halomtano) paragraph (15)(ii)

Critical Habitat for *Bulbophyllum guamense*
(Siboyas halumtanu, siboyan halomtano)
Guam 15–*Bulbophyllum guamense*–h
Guam, Territory of Guam



Family Orchidaceae: *Dendrobium guamense* (No Common Name)

(1) Critical habitat units are depicted for Aguiguan and Rota within the Commonwealth of the Northern Mariana Islands and Guam within the Territory of Guam, on the maps in this entry.

(2) Within these areas, the physical or biological features essential to the conservation of *Dendrobium guamense* consist of the following components:

(i) Native limestone or volcanic forests with native host vegetation such as trees and tall shrubs, including forests along cliffflines, forest edges, mountainous slopes and secondary/mixed and native volcanic ravine forests providing suitable host vegetation.

(ii) Pollinators such as flies, wasps, and bees, and native vegetation to support them.

(3) Critical habitat does not include manmade structures (such as buildings or paved areas including aqueducts, runways, or roads) and the land on which they are located existing within the legal boundaries on the effective date of the final rule.

(4) Data layers defining map units were created using survey and distribution data provided by multiple local and regional sources as available (*e.g.,* reports, databases, and species experts' knowledge) and as maintained by universities, local governments, and nonprofit organizations across the Mariana Islands. Landcover data (*e.g.,* soil substrate, vegetation, and elevation) were obtained and compiled from multiple Federal and local government agencies. Temperature and precipitation data were obtained and compiled from journal publications. Landforms were primarily delineated based on the most currently available aerial maps and satellite imagery. The maps in this entry, as modified by any accompanying regulatory text, establish the boundaries of the critical habitat designation. The coordinates or plot points or both on which each map is based are available to the public at the Service's internet site at *https://www.fws.gov/project/critical-habitat-mariana-islands,* at *https://www.regulations.gov* at Docket No. FWS–R1–ES–2024–0194, and at the field office responsible for this designation. You may obtain field office location information by contacting one of the Service regional offices, the addresses of which are listed at 50 CFR 2.2.

(5) The following index maps show the general locations of critical habitat units for all plant species designated on each island, with each location/area on each island identified as a specific number on the index maps. These island location/area numbers allow for

comparison of overlapping critical habitat units for other listed species within the same location.

(i) Each critical habitat unit name comprises an island name, a number corresponding to a specific geographic location/area on the island of Guam, which may include overlapping units for different species, the species name, and a letter. The letter at the end of each critical habitat unit name corresponds to the number of units present on a given island, where each escalating letter for each island corresponds to the additive number of units per island for the species. Critical habitat for *Dendrobium guamense* includes one unit each on the islands of Aguiguan and Rota, and six units on the island of Guam, for a total of eight critical habitat units.

(ii) Index maps follow:

Figure 1 to Family Orchidaceae: *Dendrobium guamense* (No Common Name) paragraph (5)(ii)

Critical Habitat
Index Map for Plants on the Islands of Aguiguan and Rota, Commonwealth of the Northern Mariana Islands

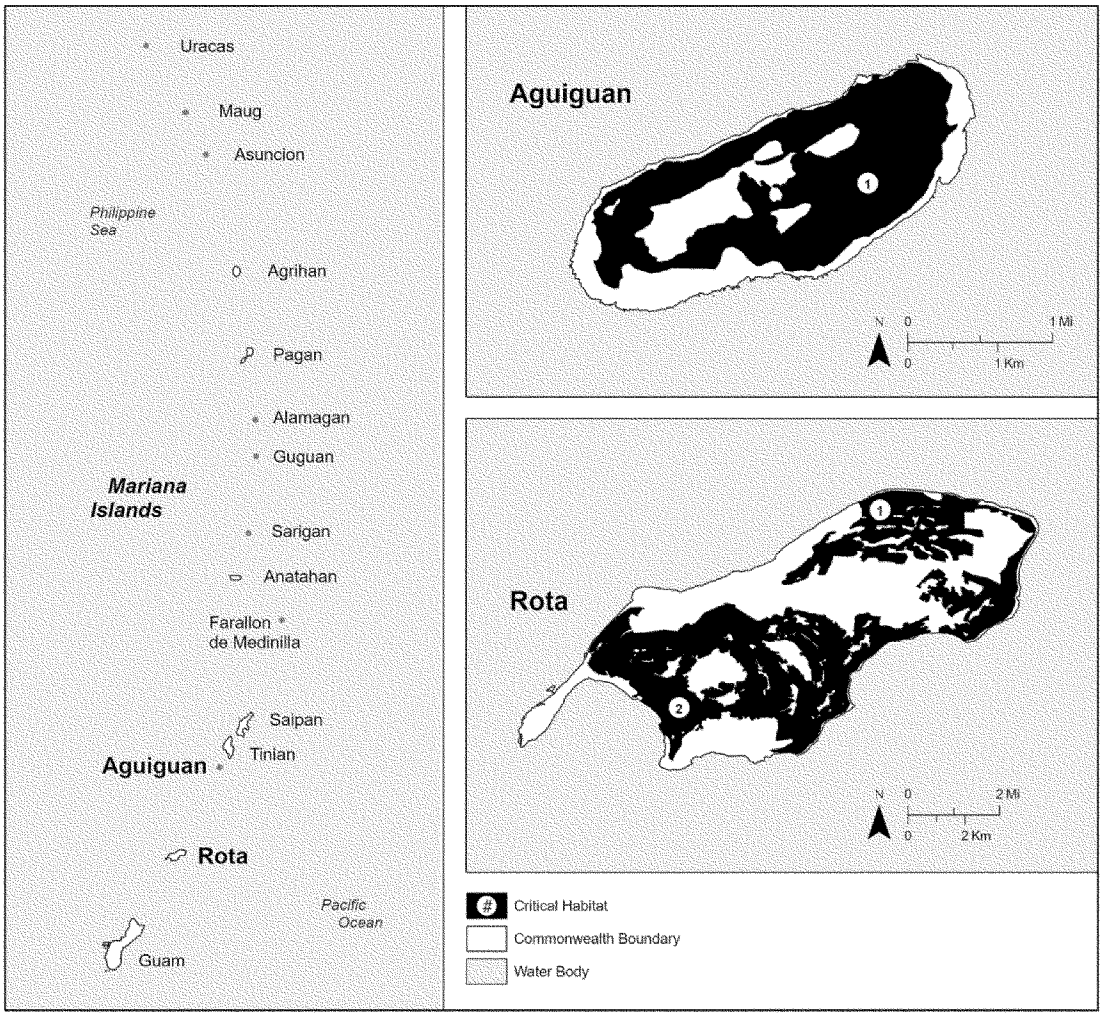
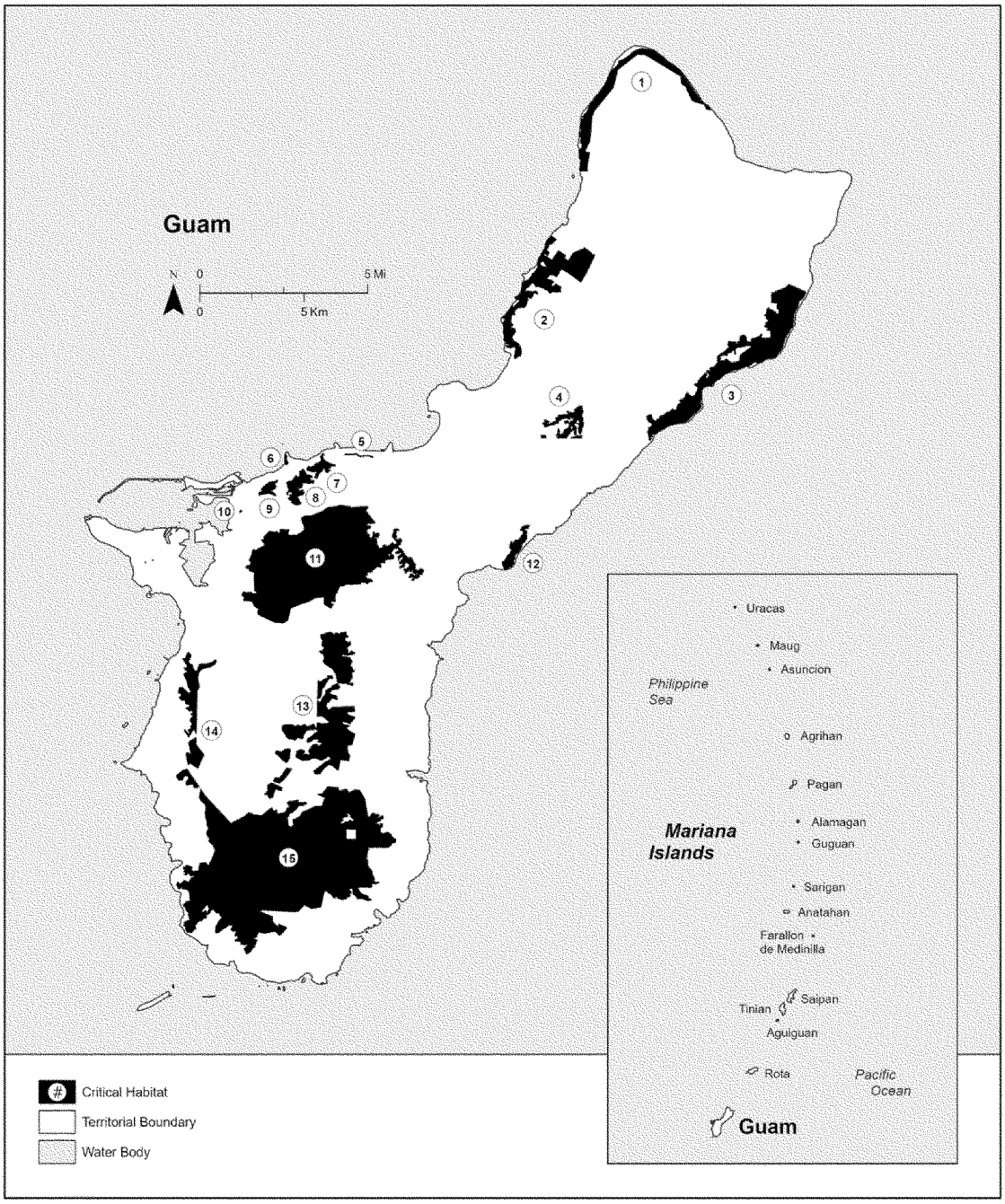


Figure 2 to Family Orchidaceae: *Dendrobium guamense* (No Common Name) paragraph (5)(ii)

Critical Habitat
Index Map for Plants on the Islands of Guam,
Territory of Guam



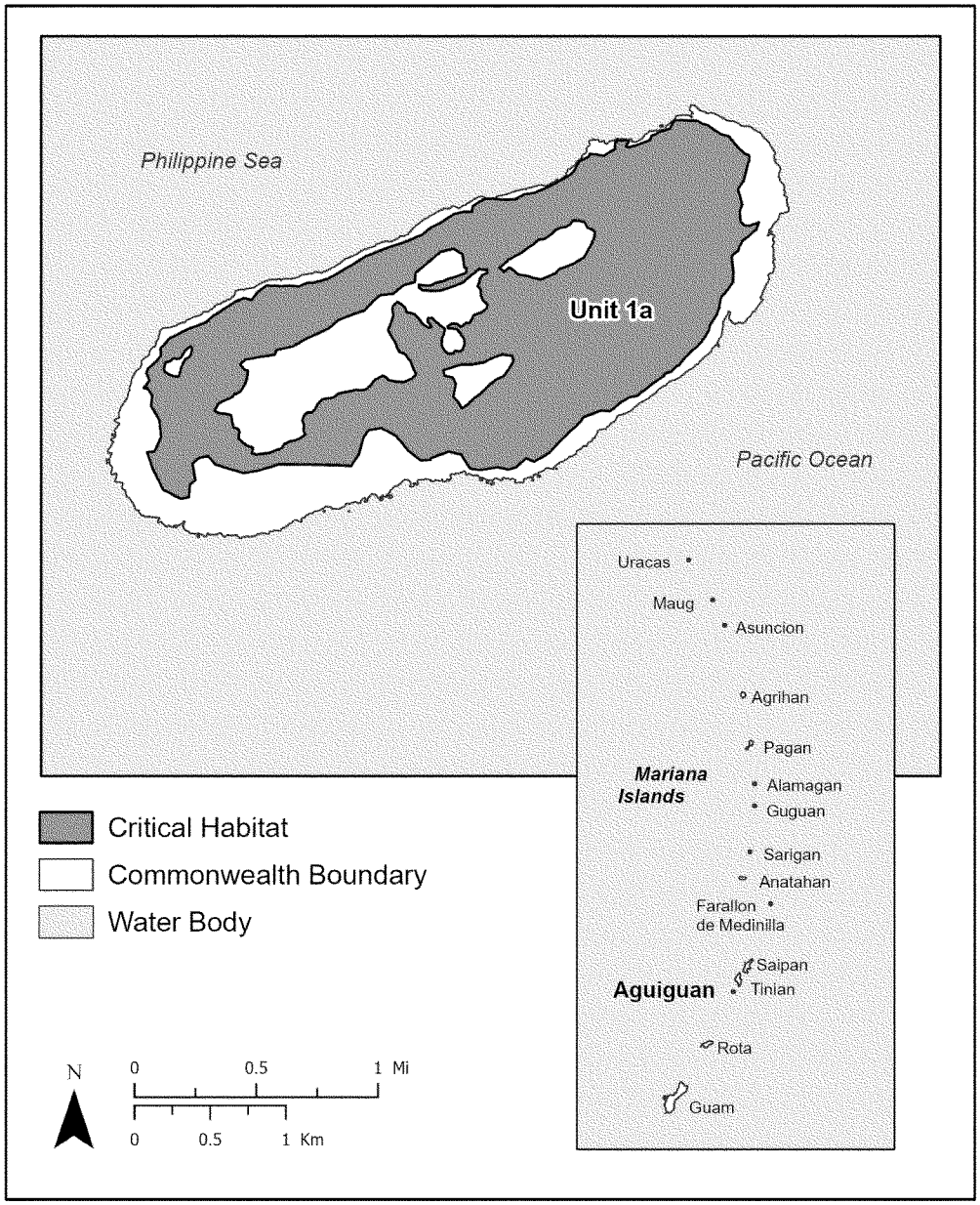
(6) Aguiguan 1—*Dendrobium guamense*–a, Commonwealth of the Northern Mariana Islands.

(i) The single unit on the uninhabited island of Aguiguan consists of 1,094 ac (443 ha) and is composed of steep limestone cliffs, limestone forests, and secondary forests. This unit encompasses most of the island with the exception of coastal areas to the west, southwest, and east, and sections in the central part of the island. All lands are owned by the Commonwealth government.

(ii) Map of Aguiguan 1—*Dendrobium guamense*–a follows:

Figure 3 to Family Orchidaceae: *Dendrobium guamense* (No Common Name) paragraph (6)(ii)

Critical Habitat for *Dendrobium guamense* (no common name)
Aguiguan 1–*Dendrobium guamense*–a
Aguiguan, Commonwealth of the Northern Mariana Islands



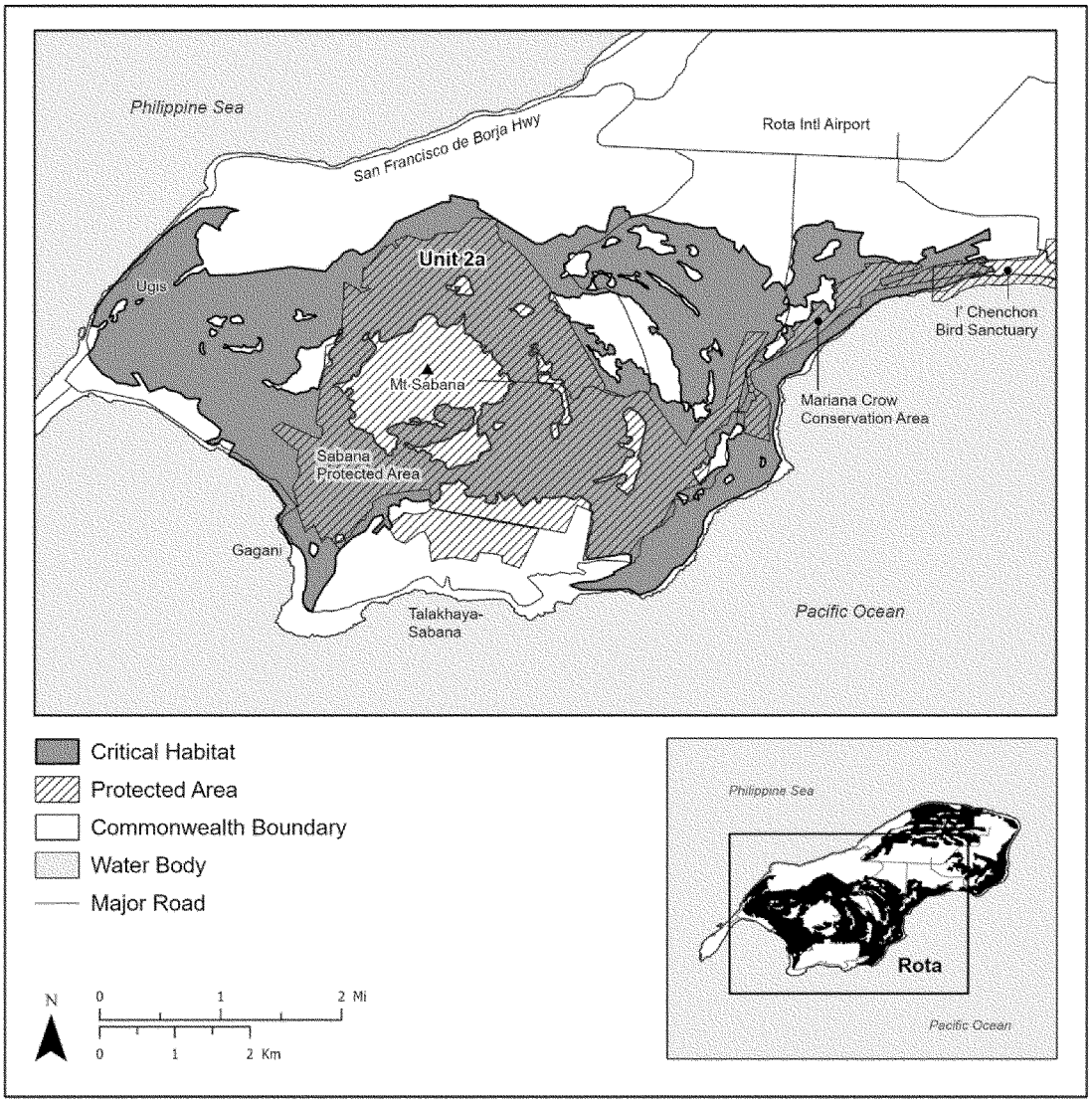
(7) Rota 2—*Dendrobium guamense*–a, Commonwealth of the Northern Mariana Islands.

(i) The single unit on the island of Rota (Unit 2a) consists of 6,875 ac (2,782 ha) and is composed of limestone forest in the south of the island. This unit extends south of the Rota International Airport, stretches east to the I'Chenchon Bird Sanctuary, and flanks the Talakhaya-Sabana watershed to the south (encompassing parts of the Sabana Protected Area, Mariana Crow Conservation Area, and I'Chenchon Bird Sanctuary) and east to Ugis. The unit does not include developed areas, grasslands, and Mt. Sabana. Landownership consists of 5,806 ac (2,350 ha) of land owned by the Commonwealth government, 1,039 ac (420 ha) in private ownership, and 30 ac (12 ha) that are uncategorized.

(ii) Map of Rota 2—*Dendrobium guamense*–a follows:

Figure 4 to Family Orchidaceae: *Dendrobium guamense* (No Common Name) paragraph (7)(ii)

Critical Habitat for *Dendrobium guamense* (no common name)
Rota 2–*Dendrobium guamense*–a
Rota, Commonwealth of the Northern Mariana Islands



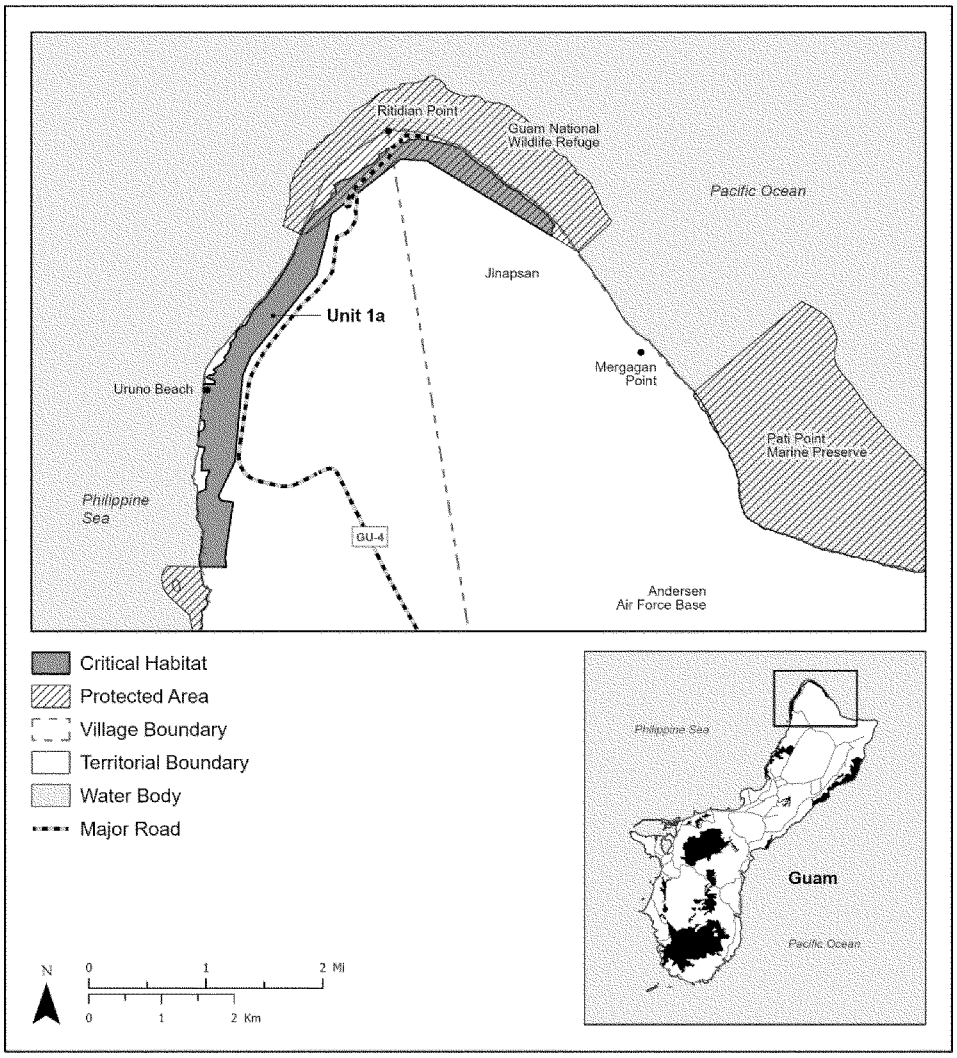
(8) Guam 1—*Dendrobium guamense*–a, Territory of Guam.

(i) Unit 1a on the island of Guam consists of 741 ac (300 ha) and is composed of a band of secondary limestone forest along the north point of the island (Ritidian Point). The unit extends from the southwestern boundary south of Urunao Beach and runs north along the cliffline ending at Jinapsan. Landownership includes 257 ac (104 ha) of Federal lands (Guam NWR), 68 ac (27 ha) of Territory government lands, 375 ac (152 ha) in private ownership, and 41 ac (17 ha) that are uncategorized.

(ii) Map of Guam 1—*Dendrobium guamense*–a follows:

Figure 5 to Family Orchidaceae: *Dendrobium guamense* (No Common Name) paragraph (8)(ii)

Critical Habitat for *Dendrobium guamense* (no common name)
Guam 1–*Dendrobium guamense*–a
Guam, Territory of Guam



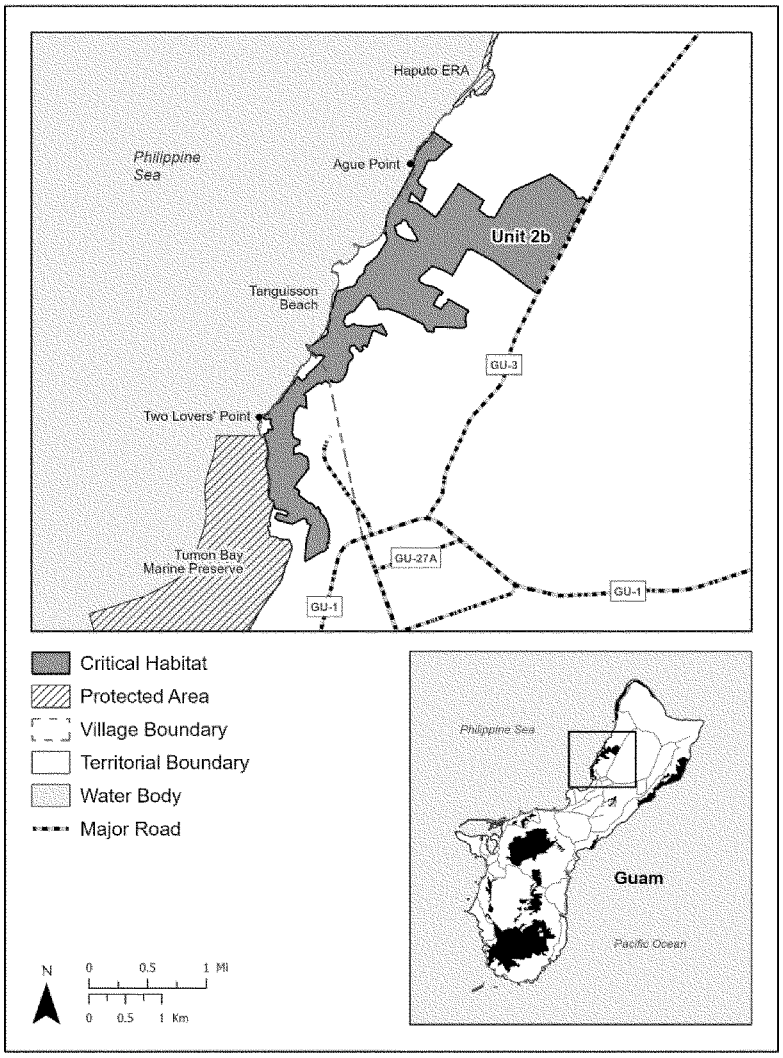
(9) Guam 2—*Dendrobium guamense*–b, Territory of Guam.

(i) Unit 2b on the island of Guam consists of 1,245 ac (504 ha) and is composed of limestone forests along the northwestern edge of the island. The unit lies west of Route 3 and extends from the clifflines overlooking Tumon Bay west of Route 1 and runs north to Ague Point. Landownership includes 1,081 ac (437 ha) of Territory government lands, 108 ac (44 ha) in private ownership, and 56 ac (23 ha) that are uncategorized.

(ii) Map of Guam 2—*Dendrobium guamense*–b follows:

Figure 6 to Family Orchidaceae: *Dendrobium guamense* (No Common Name) paragraph (9)(ii)

Critical Habitat for *Dendrobium guamense* (no common name)
Guam 2–*Dendrobium guamense*–b
Guam, Territory of Guam



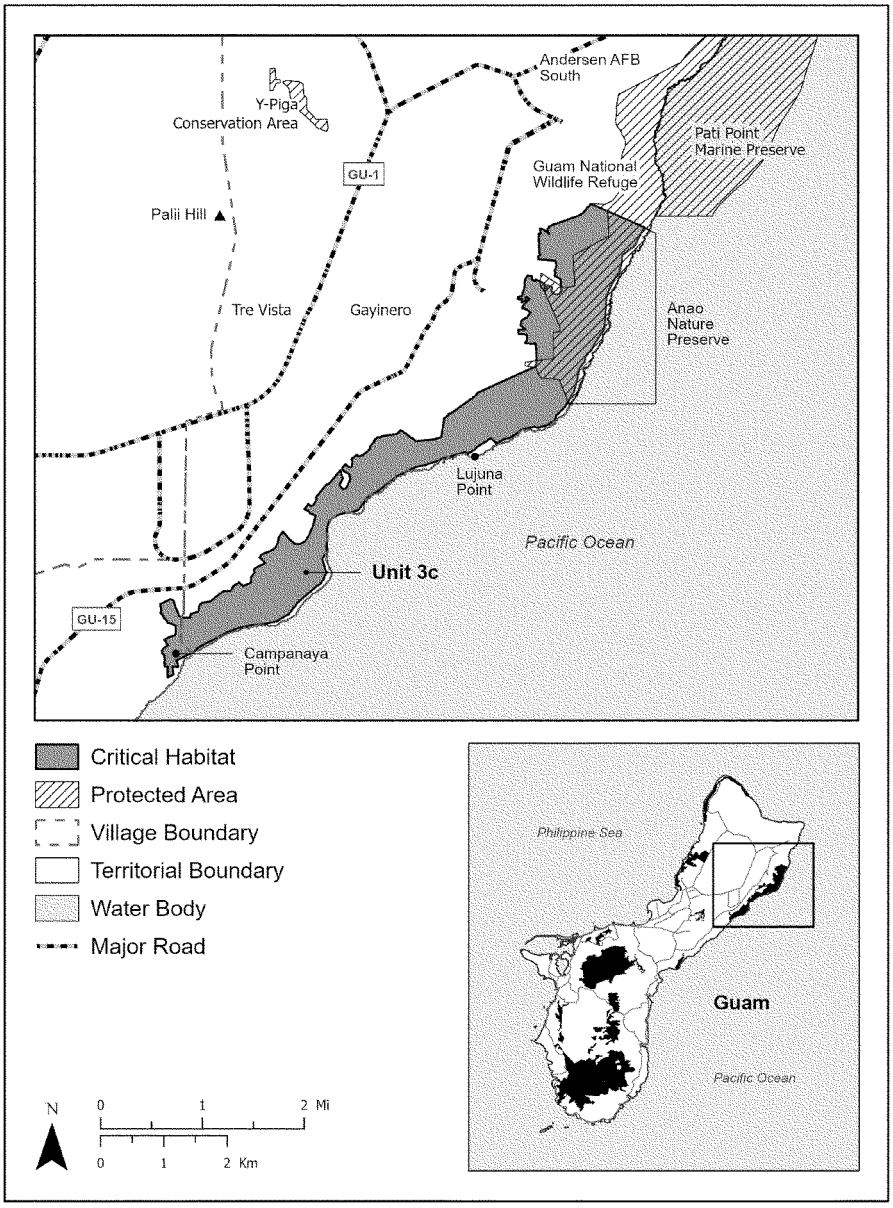
(10) Guam 3—*Dendrobium guamense*–c, Territory of Guam.

(i) Unit 3c on the island of Guam consists of 1,986 ac (804 ha) and is composed of limestone forests along the northeast coastal edge of the island. The unit begins at the boundary of the Anao Nature Preserve (which is immediately adjacent to the southern end of the Guam NWR boundary) and extends southwest along the coast to Campanaya Point. Landownership includes 1,488 ac (602 ha) of Territory government lands, 198 ac (80 ha) in private ownership, and 300 ac (122 ha) that are uncategorized. The northeastern portion of this unit overlaps the Anao Nature Preserve.

(ii) Map of Guam 3—*Dendrobium guamense*–c follows:

Figure 7 to Family Orchidaceae: *Dendrobium guamense* (No Common Name) paragraph (10)(ii)

Critical Habitat for *Dendrobium guamense* (no common name)
Guam 3–*Dendrobium guamense*–c
Guam, Territory of Guam



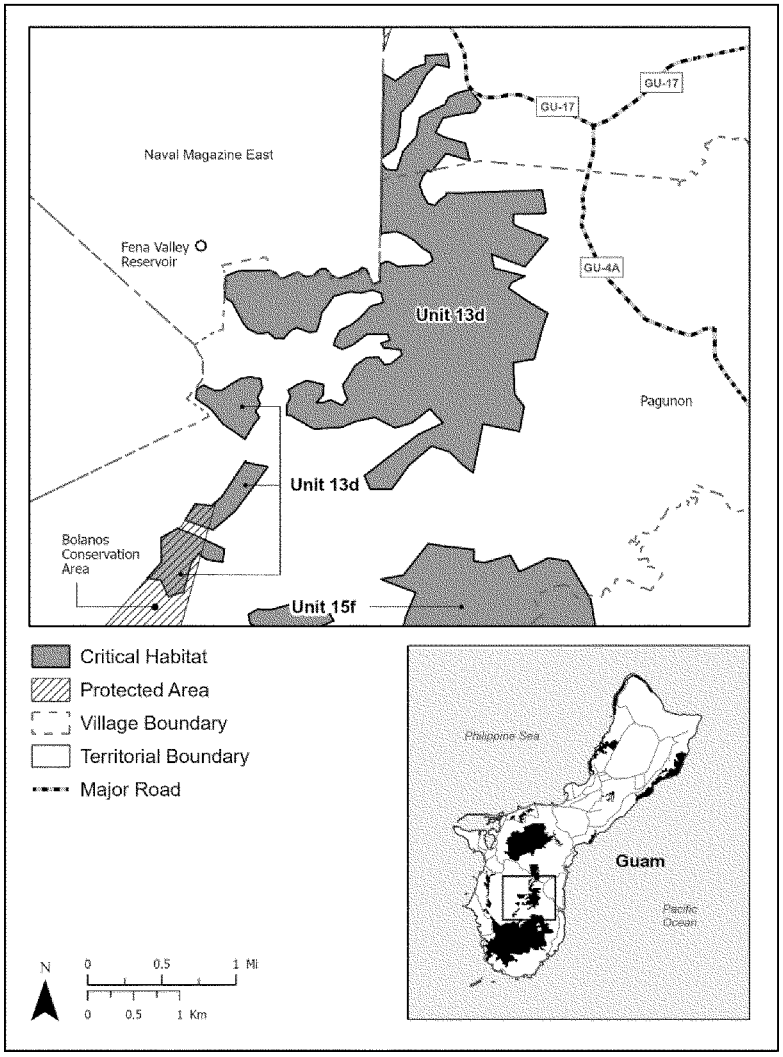
(11) Guam 13—*Dendrobium guamense*–d, Territory of Guam.

(i) Unit 13d on the island of Guam consists of 1,726 ac (698 ha) and is composed of four segments of volcanic forests in the southcentral part of the island. The unit extends from Route 17 south past Naval Magazine East and Fena Valley Reservoir along the western boundaries and towards Pagunon on the eastern boundary. The unit extends along the Maagas, Mahlac, and Sagge Rivers and their tributaries (which are not represented on the map due to unavailable data layers). Landownership includes 142 ac (57 ha) of Territory government lands, 859 ac (348 ha) in private ownership, and 725 ac (293 ha) that are uncategorized. The southwestern portion of the unit overlaps the Bolanos Conservation Area.

(ii) Map of Guam 13—*Dendrobium guamense*–d follows:

Figure 8 to Family Orchidaceae: *Dendrobium guamense* (No Common Name) paragraph (11)(ii)

Critical Habitat for *Dendrobium guamense* (no common name)
Guam 13–*Dendrobium guamense*–d
Guam, Territory of Guam



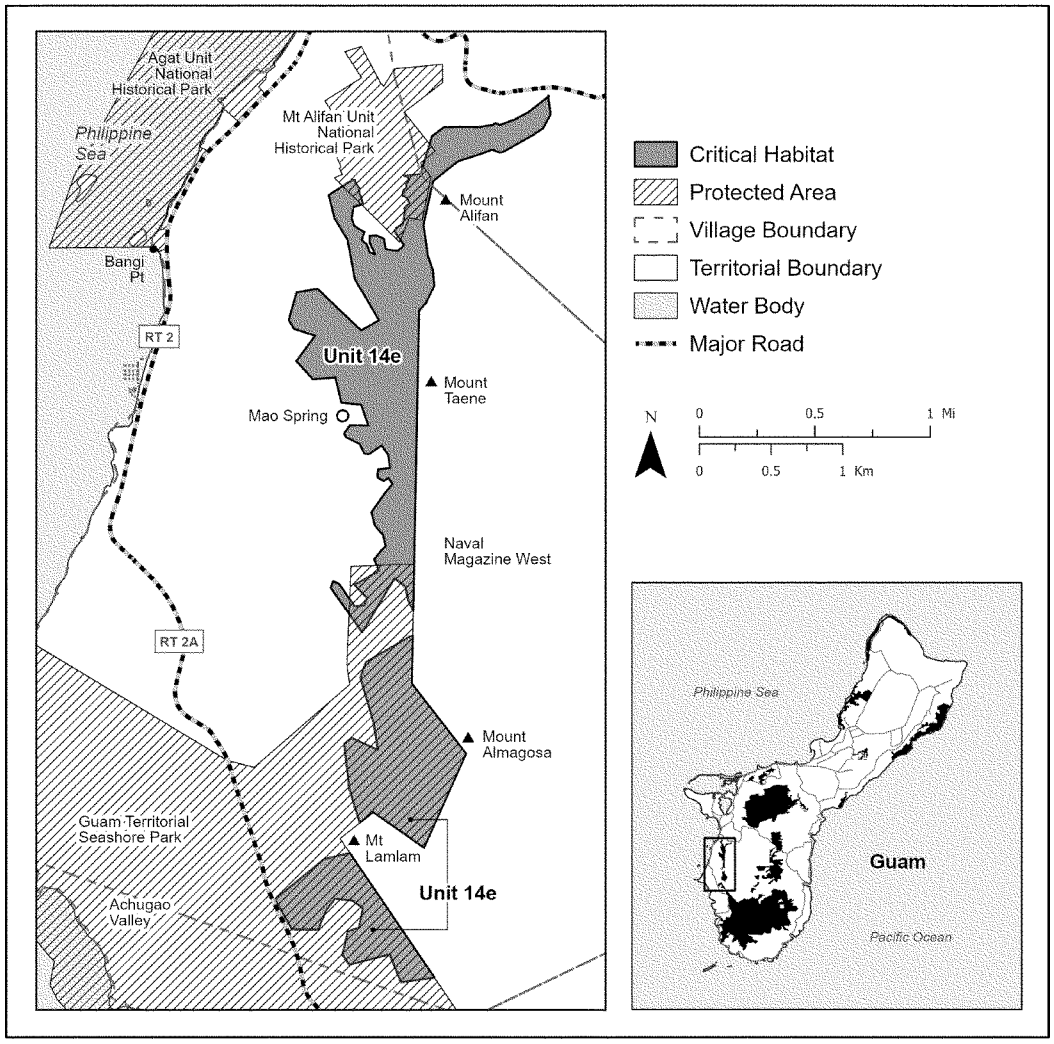
(12) Guam 14—*Dendrobium guamense*–e, Territory of Guam.

(i) Unit 14e on the island of Guam consists of 629 ac (254 ha) and is composed of three segments of limestone forests on the southwestern side of the island. The unit extends from Route 12 and Mt. Alifan in the north, running along the border of Naval Magazine West, and ending south of Mt. Lamlam at Route 2A. Landownership includes 16 ac (6 ha) of Federal lands (War in the Pacific National Historical Park), 84 ac (34 ha) of Territory government lands, 344 ac (139 ha) in private ownership, and 185 ac (75 ha) that are uncategorized. The northern portion of the unit overlaps the Mt. Alifan unit of War in the Pacific National Historical Park. The southern portion of the unit overlaps the Guam Territorial Seashore Park.

(ii) Map of Guam 14—*Dendrobium guamense*–e follows:

Figure 9 to Family Orchidaceae: *Dendrobium guamense* (No Common Name) paragraph (12)(ii)

Critical Habitat for *Dendrobium guamense* (no common name)
Guam 14–*Dendrobium guamense*–e
Guam, Territory of Guam



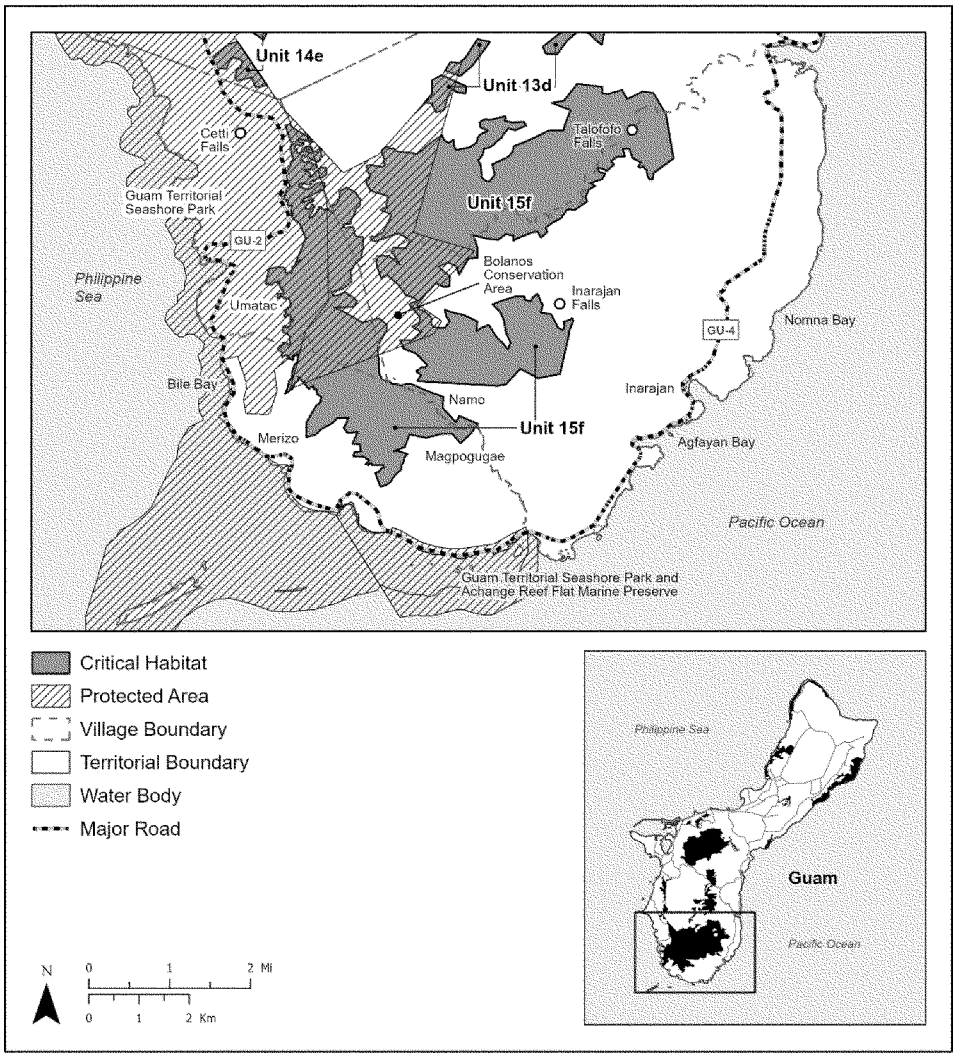
(13) Guam 15—*Dendrobium guamense*–f, Territory of Guam.

(i) Unit 15f on the island of Guam consists of 6,148 ac (2,488 ha) and is composed of volcanic forests in the southern part of the island. The unit runs from the north of Talofofo Falls along the Ugum and Bubulao Rivers to the south of Namo and runs from the east of Route 2 along the Dante River to Inarajan Falls; the rivers are not represented on the map due to unavailable data layers. Another portion of the unit stretches from Cetti Falls in the north through the Bolanos Conservation Area to Magpogugae in the south. Landownership includes 919 ac (372 ha) of Territory government lands, 3,612 ac (1,462 ha) in private ownership, and 1,617 ac (654 ha) that are uncategorized. The central portion of the unit overlaps the Bolanos Conservation Area, and the western portion of the unit overlaps the Guam Territorial Seashore Park.

(ii) Map of Guam 15—*Dendrobium guamense*–f follows:

Figure 10 to Family Orchidaceae: *Dendrobium guamense* (No Common Name) paragraph (13)(ii)

Critical Habitat for *Dendrobium guamense* (no common name)
Guam 15–*Dendrobium guamense*–f
Guam, Territory of Guam



Family Orchidaceae: *Nervilia jacksoniae* (No Common Name)

(1) Critical habitat units are depicted for Rota within the Commonwealth of the Northern Mariana Islands and Guam within the Territory of Guam, on the maps in this entry.

(2) Within these areas, the physical or biological features essential to the conservation of *Nervilia jacksoniae* consist of the following components:

(i) Connected closed-canopy native limestone, volcanic ravine, or mixed forests with leaf-littered humus or sandy forest floors, shade, minor to moderate light, and moisture.

(ii) Native limestone forest understory with plants such as (but not limited to) *Elaeocarpus joga* (yoga, joga), *Hernandia labyrinthica* (nonak, nonag, oschal), *Pandanus dubius* (pahong, bakong, or knob-fruited screwpine), *Pandanus tectorius* (kaffo, akgak, pandan, kafu, screw pine), *Pisonia umbellifera* (birdlime tree, bird-catcher tree), and *Psychotria malaspinae* (aplohkateng palaoan, applok hatting palaoan, aplokkating palaoan).

(iii) Native volcanic forest understory with plants such as (but not limited to) *Barringtonia asiatica* (puting, fish poison tree), *Hernandia sonora* (Jack-in-a-box, lantern tree, nonak), *Pandanus tectorius* (kaffo, akgak, screw pine), *Pisonia grandis* (umumu, bird-catcher tree, cabbage tree, birdlime tree), and *Terminalia catappa* (talisai, tropical almond, Pacific almond).

(iv) Pollinators including insects, such as small bees and wasps, and native vegetation to support them.

(3) Critical habitat does not include manmade structures (such as buildings or paved areas including aqueducts, runways, or roads) and the land on which they are located existing within the legal boundaries on the effective date of the final rule.

(4) Data layers defining map units were created using survey and distribution data provided by multiple local and regional sources as available (*e.g.,* reports, databases, and species experts' knowledge) and as maintained by universities, local governments, and nonprofit organizations across the Mariana Islands. Landcover data (*e.g.,* soil substrate, vegetation, and elevation) were obtained and compiled from multiple Federal and local government agencies. Temperature and precipitation data were obtained and compiled from journal publications. Landforms were primarily delineated based on the most currently available aerial maps and satellite imagery. The maps in this entry, as modified by any accompanying regulatory text, establish the boundaries of the critical habitat designation. The

coordinates or plot points or both on which each map is based are available to the public at the Service's internet site at *https://www.fws.gov/project/critical-habitat-mariana-islands,* at *https://www.regulations.gov* at Docket No. FWS–R1–ES–2024–0194, and at the field office responsible for this designation. You may obtain field office location information by contacting one of the Service regional offices, the addresses of which are listed at 50 CFR 2.2.

(5) The following index maps show the general locations of critical habitat units for all plant species designated on each island, with each location/area on each island identified as a specific number on the index maps. These island location/area numbers allow for comparison of overlapping critical habitat units for other listed species within the same location.

(i) Each critical habitat unit name comprises an island name, a number corresponding to a specific geographic location/area on the applicable island, which may include overlapping units for different species, the species name, and a letter. The letter at the end of each critical habitat unit name corresponds to the number of units present on a given island, where each escalating letter for each island corresponds to the additive number of units per island for the species. Critical habitat for *Nervilia jacksoniae* includes one unit on the island of Rota and one unit on the island of Guam, for a total of two critical habitat units.

(ii) Index maps follow:

Figure 1 to Family Orchidaceae: *Nervilia jacksoniae* (No Common Name) paragraph (5)(ii)

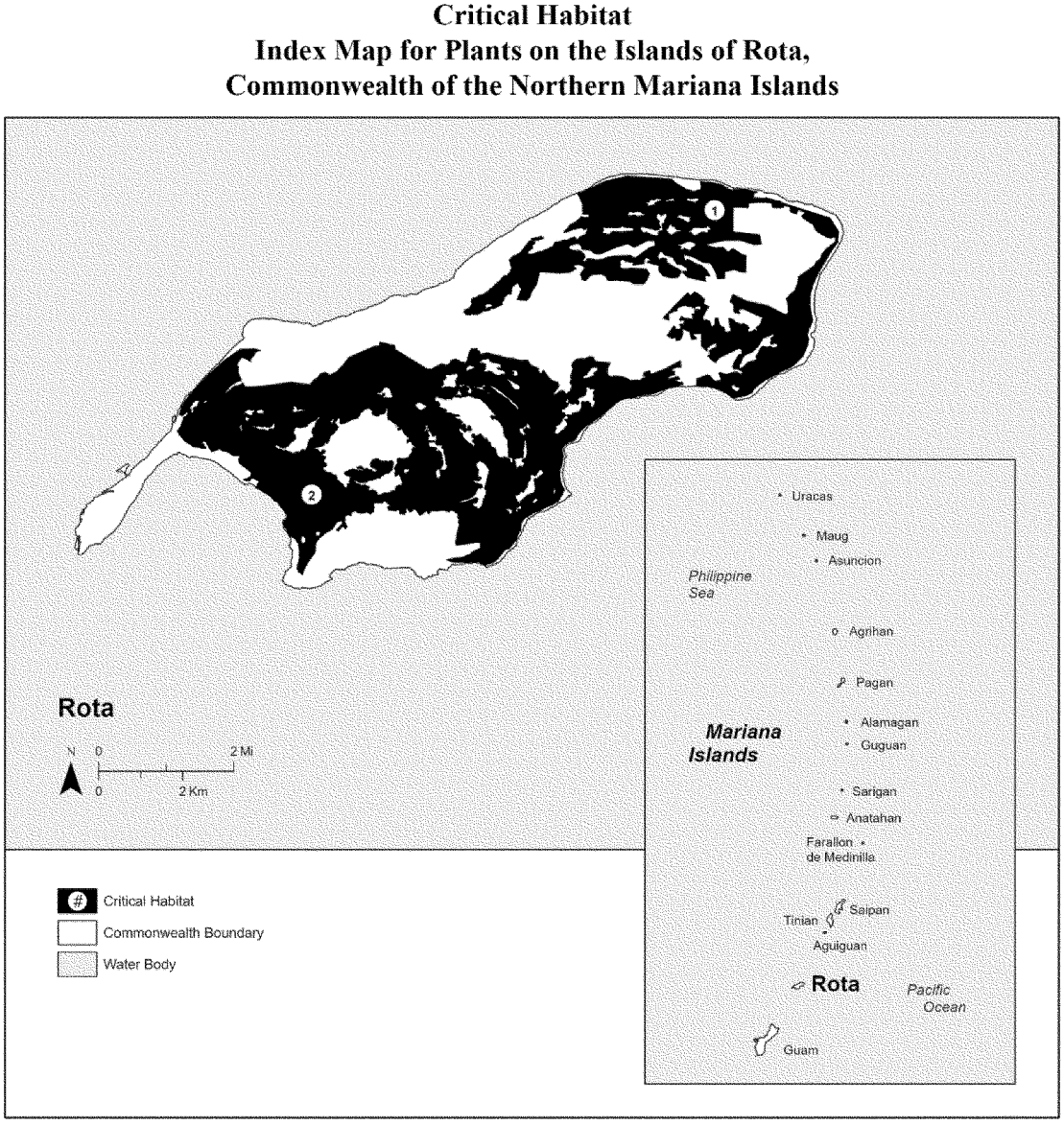
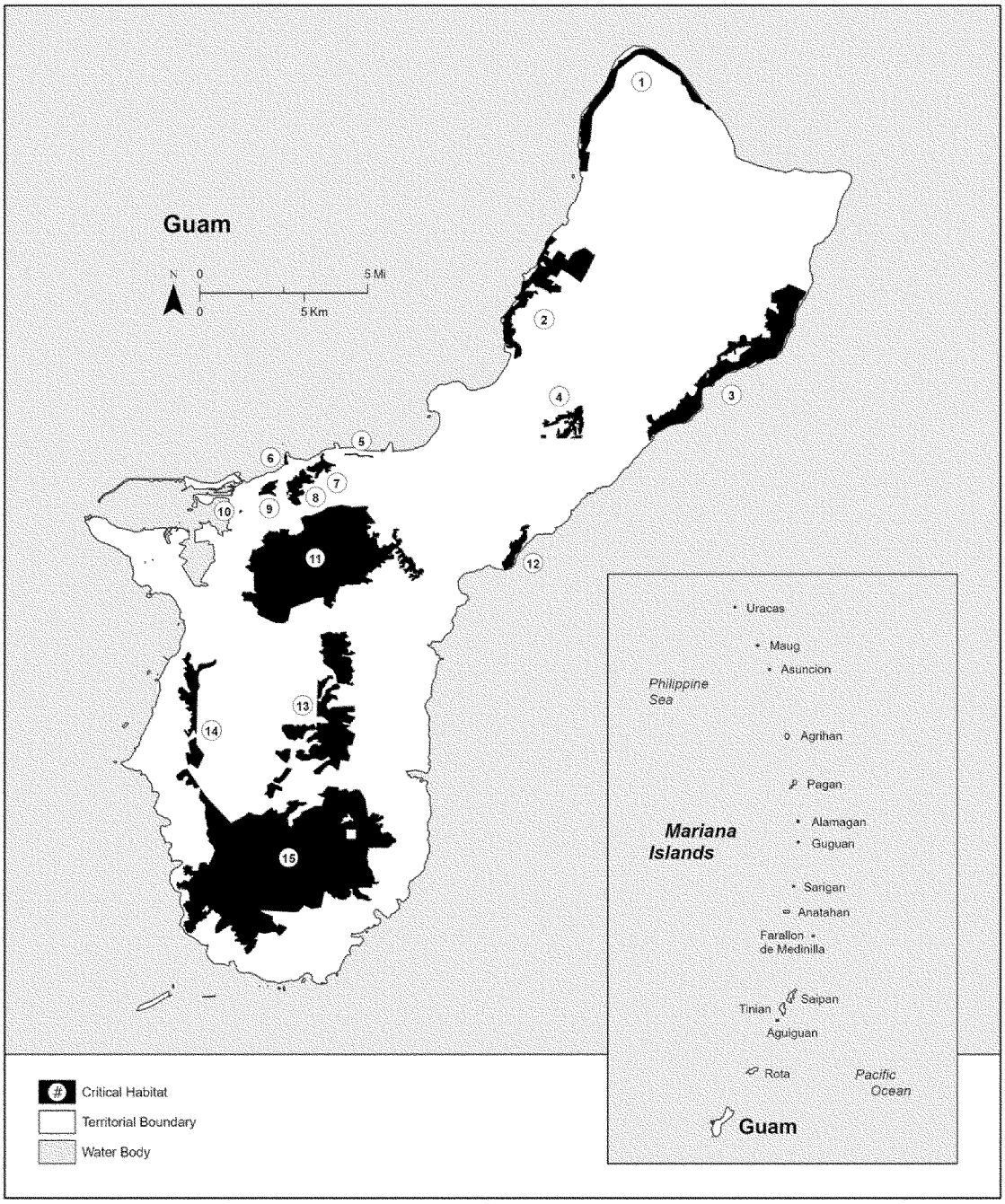


Figure 2 to Family Orchidaceae: *Nervilia jacksoniae* (No Common Name) paragraph (5)(ii)

Critical Habitat
Index Map for Plants on the Islands of Guam,
Territory of Guam



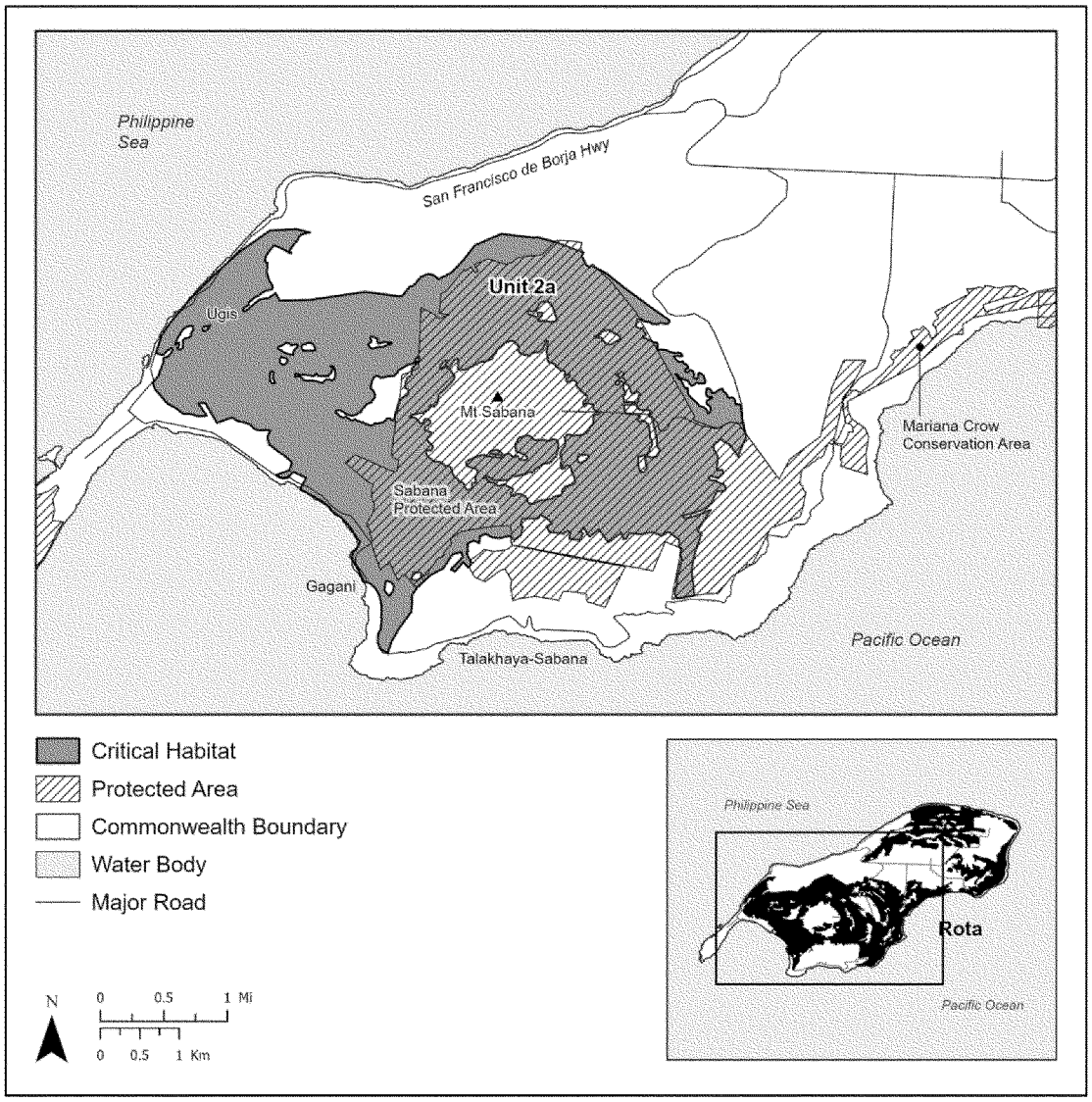
(6) Rota 2–*Nervilia jacksoniae*–a, Commonwealth of the Northern Mariana Islands.

(i) This single critical habitat unit on the island of Rota consists of 4,368 ac (1,768 ha) of limestone forest and is located on the southern section of the island. The unit lies south of the San Francisco De Borja Highway in the north, stretches to the east flank of Mt. Sabana, continues to the upper potions of the Talakhaya-Sabana watershed and the village of Gagani to the south, and extends west to Ugis. Land-ownership consists of 3,585 ac (1,451 ha) of land owned by the Commonwealth government, 753 ac (305 ha) in private ownership, and 30 ac (12 ha) that are uncategorized. This unit overlaps the Sabana Protected Area.

(ii) Map of Rota 2–*Nervilia jacksoniae*–a follows:

Figure 3 to Family Orchidaceae: *Nervilia jacksoniae* (No Common Name) paragraph (6)(ii)

Critical Habitat for *Nervilia jacksoniae* (no common name)
Rota 2–*Nervilia jacksoniae*–a
Rota, Commonwealth of the Northern Mariana Islands



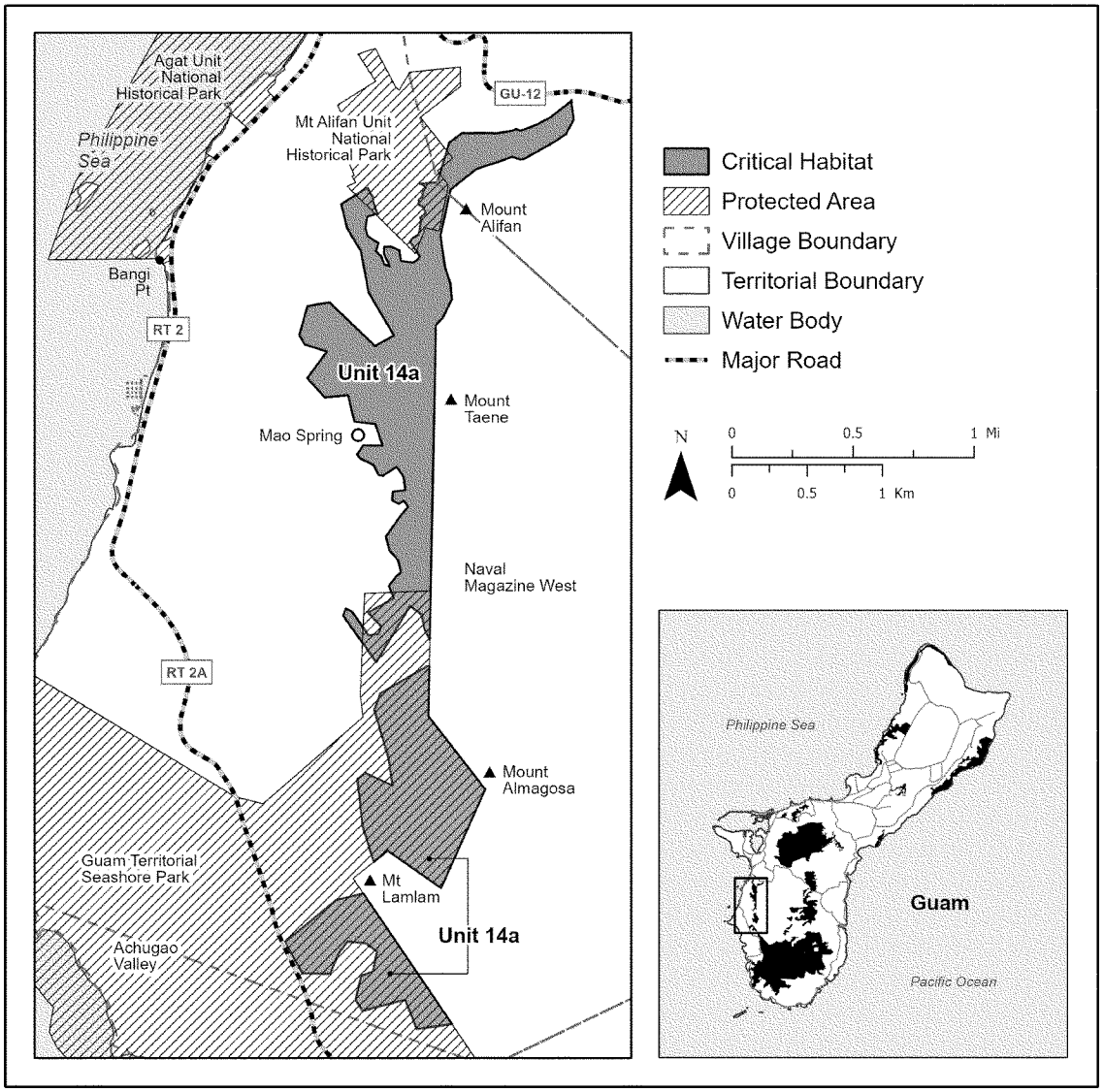
(7) Guam 14–*Nervilia jacksoniae*–a, Territory of Guam.

(i) This single critical habitat unit on the island of Guam consists of 629 ac (254 ha) and is composed of three segments of limestone forests on the southwestern side of the island. It extends from Route 12 and Mt. Alifan in the north, running along the border of Naval Magazine West and ending south of Mt. Lamlam at Route 2A. Landownership includes 16 ac (6 ha) of Federal lands (War in the Pacific National Historical Park), 84 ac (34 ha) of Territory government lands, 344 ac (139 ha) in private ownership, and 185 ac (75 ha) that are uncategorized. The northern portion of the unit overlaps the Mt. Alifan Unit of War in the Pacific National Historical Park. The southern portion of the unit overlaps the Guam Territorial Seashore Park.

(ii) Map of Guam 14–*Nervilia jacksoniae*–a follows:

Figure 4 to Family Orchidaceae: *Nervilia jacksoniae* (No Common Name) paragraph (7)(ii)

Critical Habitat for *Nervilia jacksoniae* (no common name)
Guam 14–*Nervilia jacksoniae*–a
Guam, Territory of Guam



* * * * *

Family Orchidaceae: *Tuberolabium guamense* (No Common Name)

(1) Critical habitat units are depicted for Rota within the Commonwealth of the Northern Mariana Islands and Guam within the Territory of Guam, on the maps in this entry.

(2) Within these areas, the physical or biological features essential to the conservation of *Tuberolabium guamense* consist of the following components:

(i) Native limestone or volcanic forests with native host vegetation such as trees and tall shrubs, including forests along clifflines, forest edges, mountainous slopes and secondary/mixed and native volcanic ravine forests providing suitable host vegetation.

(ii) Pollinators such as flies, wasps, and bees, and native vegetation to support them.

(3) Critical habitat does not include manmade structures (such as buildings or paved areas including aqueducts, runways, or roads) and the land on which they are located existing within the legal boundaries on the effective date of the final rule.

(4) Data layers defining map units were created using survey and distribution data provided by multiple local and regional sources as available (*e.g.,* reports, databases, and species experts' knowledge) and as maintained by universities, local governments, and nonprofit organizations across the Mariana Islands. Landcover data (*e.g.,* soil substrate, vegetation, and elevation) were obtained and compiled from multiple Federal and local government agencies. Temperature and precipitation data were obtained and compiled from journal publications. Landforms were primarily delineated based on the most currently available aerial maps and satellite imagery. The maps in this entry, as modified by any accompanying regulatory text, establish the boundaries of the critical habitat designation. The coordinates or plot points or both on which each map is based are available to the public at the Service's internet site at *https://www.fws.gov/project/critical-habitat-mariana-islands,* at *https://www.regulations.gov* at Docket

No. FWS–R1–ES–2024–0194, and at the field office responsible for this designation. You may obtain field office location information by contacting one of the Service regional offices, the addresses of which are listed at 50 CFR 2.2.

(5) The following index maps show the general locations of critical habitat units for all plant species designated on each island, with each location/area on each island identified as a specific number on the index maps. These island location/area numbers allow for comparison of overlapping critical habitat units for other listed species within the same location.

(i) Each critical habitat unit name comprises an island name, a number corresponding to a specific geographic location/area on the applicable island, which may include overlapping units for different species, the species name, and a letter. The letter at the end of each critical habitat unit name corresponds to the number of units present on a given island, where each escalating letter for each island corresponds to the additive number of units per island for the species. Critical habitat for *Tuberolabium guamense* includes one unit on the island of Rota and six units on the island of Guam, for a total of seven critical habitat units.

(ii) Index maps follow:

Figure 1 to Family Orchidaceae: *Tuberolabium guamense* (No Common Name) paragraph (5)(ii)

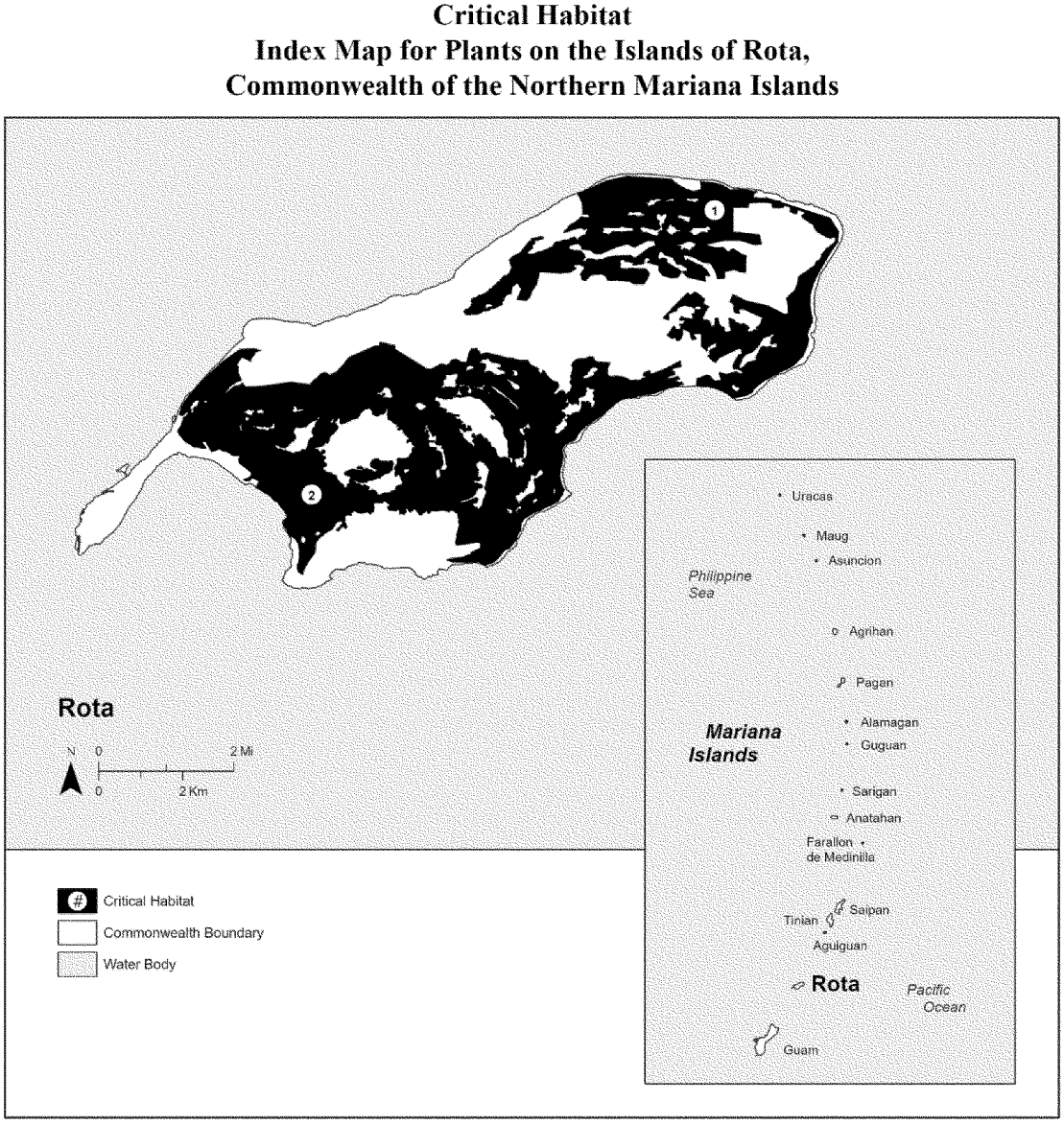
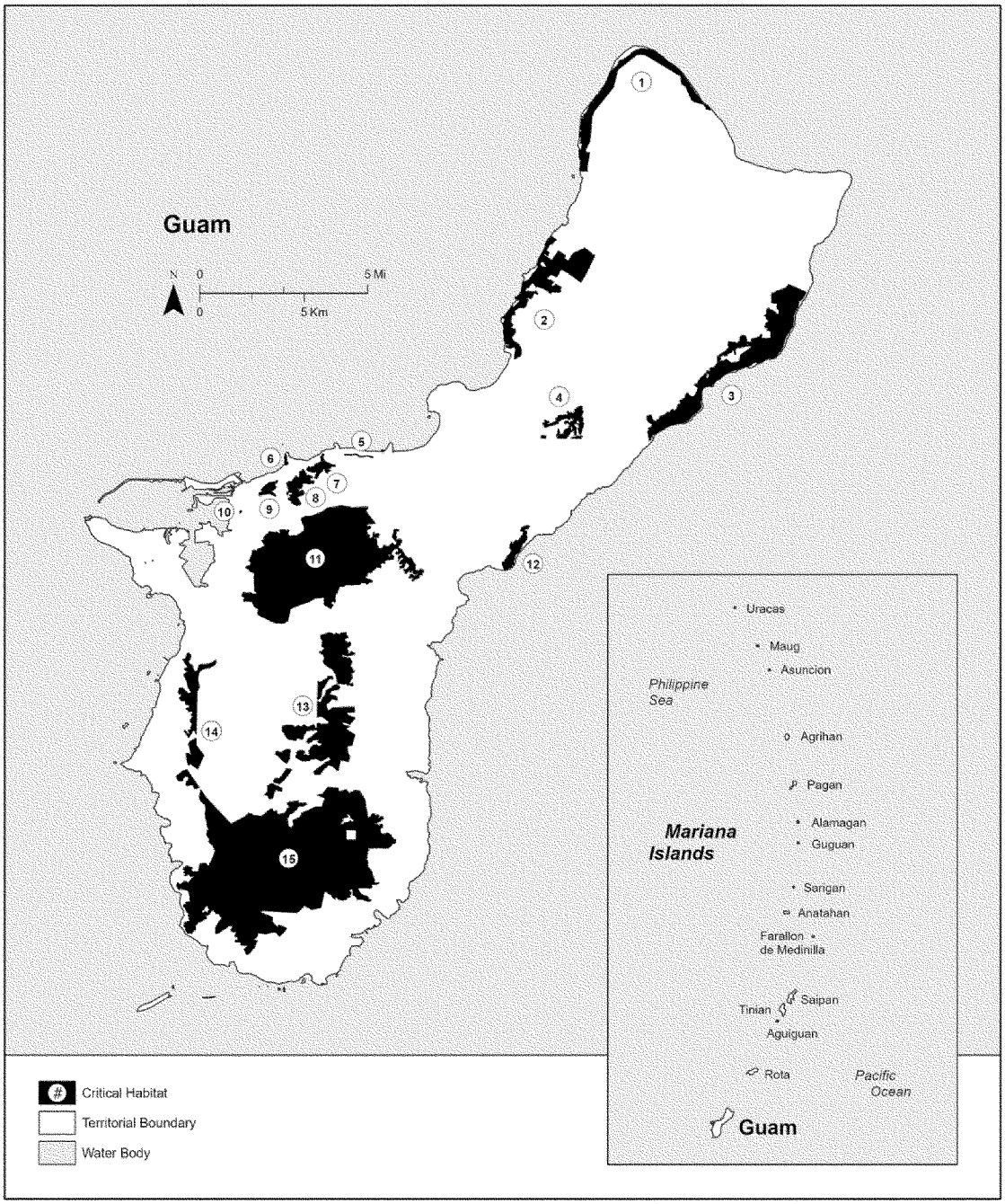


Figure 2 to Family Orchidaceae: *Tuberolabium guamense* (No Common Name) paragraph (5)(ii)

Critical Habitat
Index Map for Plants on the Islands of Guam,
Territory of Guam



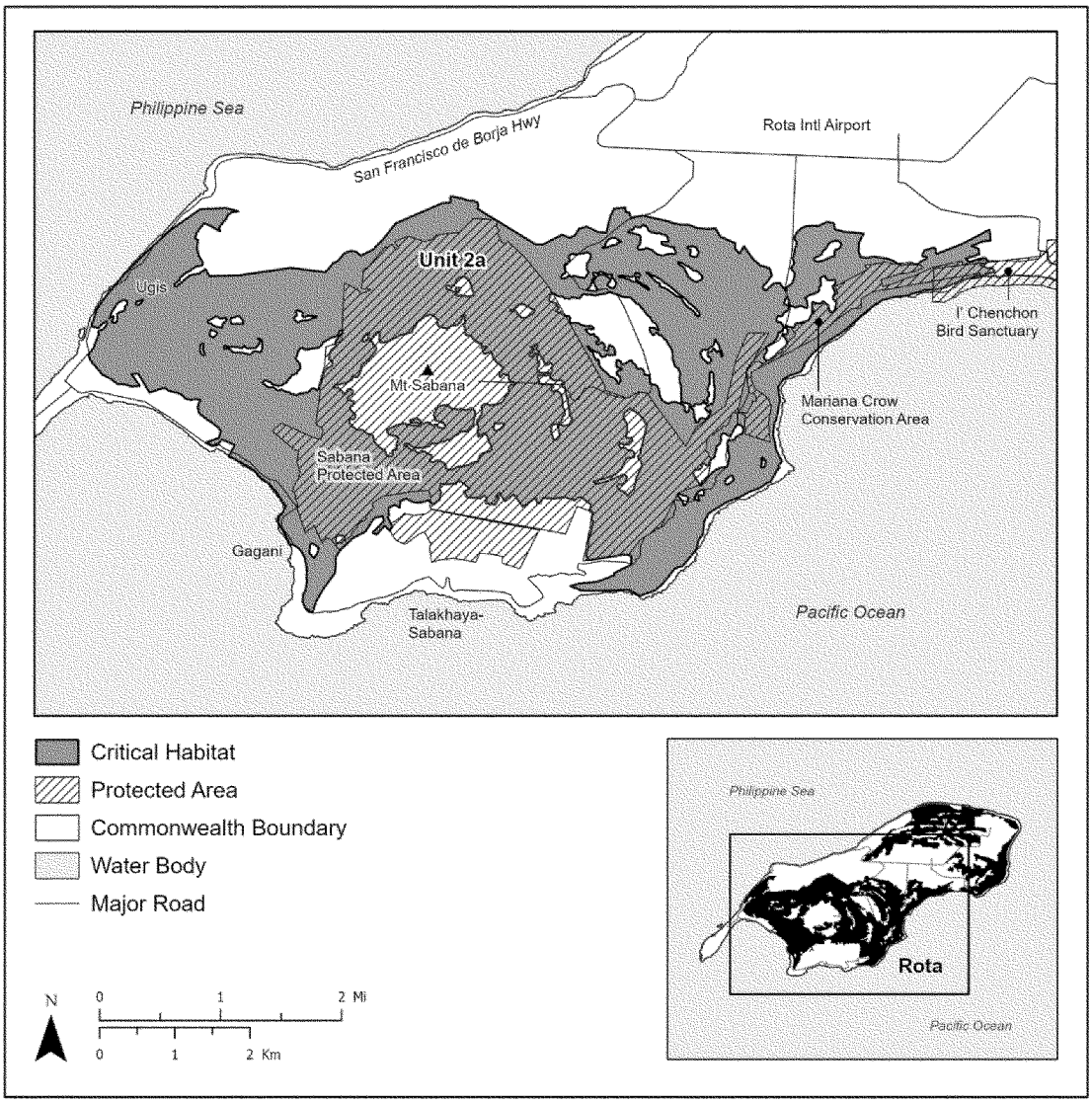
(6) Rota 2—*Tuberolabium guamense*–a, Commonwealth of the Northern Mariana Islands.

(i) This single critical habitat unit on the island of Rota consists of 6,875 ac (2,782 ha) and is composed of limestone forest in the south of the island. This unit extends south of the Rota International Airport, stretches east to the I'Chenchon Bird Sanctuary, and flanks the Talakhaya-Sabana watershed to the south (encompassing parts of the Sabana Protected Area, Mariana Crow Conservation Area, and I'Chenchon Bird Sanctuary) and east to Ugis. The unit does not include developed areas, grasslands, or Mt. Sabana. Land-ownership includes 5,806 ac (2,350 ha) of land owned by the Commonwealth government, 1,039 ac (420 ha) in private ownership, and 30 ac (12 ha) that are uncategorized.

(ii) Map of Rota 2—*Tuberolabium guamense*–a follows:

Figure 3 to Family Orchidaceae: *Tuberolabium guamense* (No Common Name) paragraph (6)(ii)

Critical Habitat for *Tuberolabium guamense* (no common name)
Rota 2–*Tuberolabium guamense*–a
Rota, Commonwealth of the Northern Mariana Islands



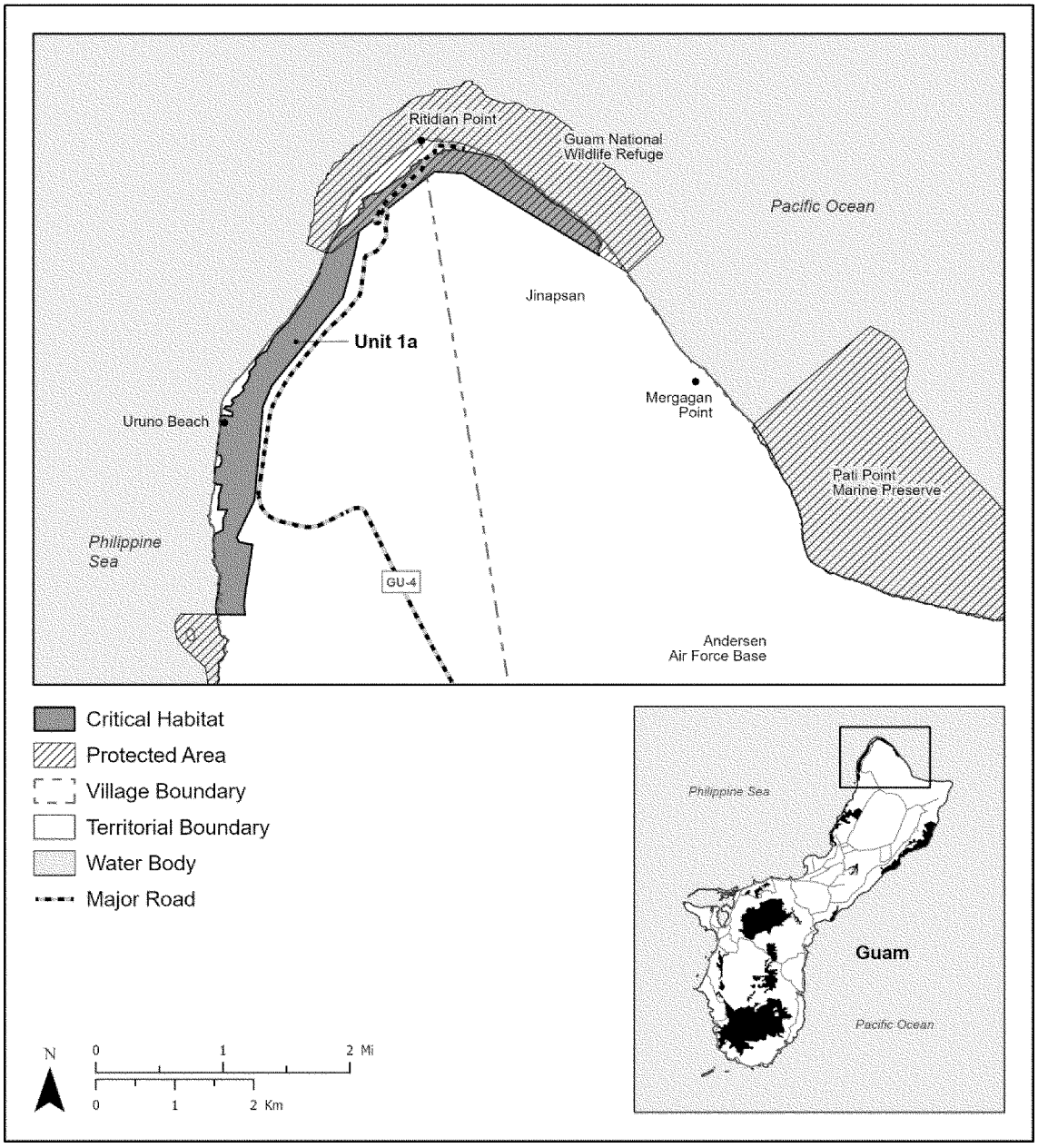
(7) Guam 1—*Tuberolabium guamense*–a, Territory of Guam.

(i) Unit 1 on the island of Guam consists of 741 ac (300 ha) and is composed of a band of secondary limestone forest along the north point of the island (Ritidian Point). The unit extends from the southwestern boundary south of Urunao Beach and runs north along the cliffline ending at Jinapsan. Landownership includes 257 ac (104 ha) of Federal lands (Guam NWR), 68 ac (27 ha) of Territory government lands, 375 ac (152 ha) in private ownership, and 41 ac (17 ha) that are uncategorized.

(ii) Map of Guam 1—*Tuberolabium guamense*–a follows:

Figure 4 to Family Orchidaceae: *Tuberolabium guamense* (No Common Name) paragraph (7)(ii)

Critical Habitat for *Tuberolabium guamense* (no common name)
Guam 1–*Tuberolabium guamense*–a
Guam, Territory of Guam



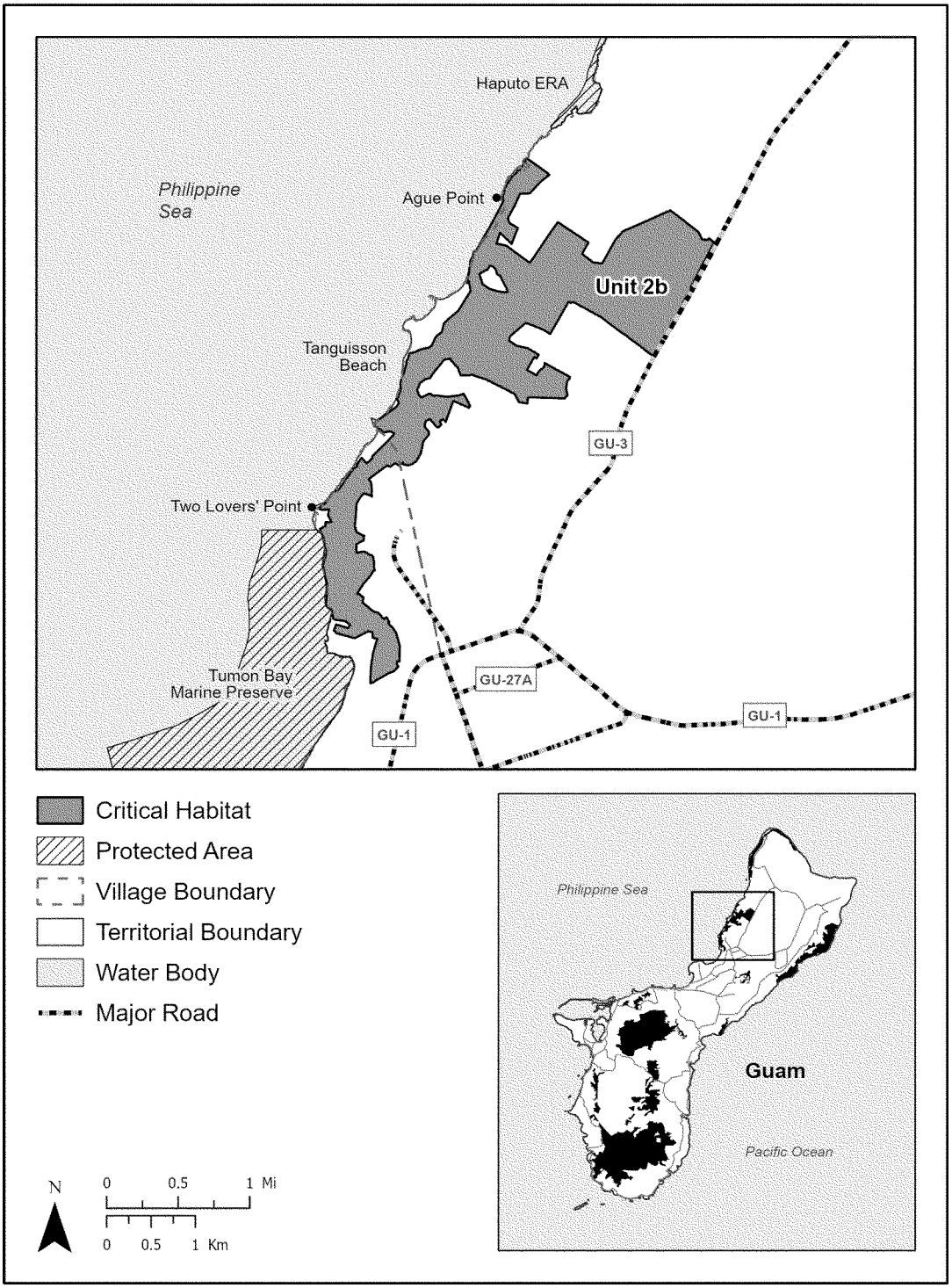
(8) Guam 2—*Tuberolabium guamense*–b, Territory of Guam.

(i) Unit 2b on the island of Guam consists of 1,245 ac (504 ha) and is composed of limestone forests along the northwestern edge of the island. The unit lies west of Route 3 and extends from the clifflines overlooking Tumon Bay west of Route 1 and runs north to Ague Point. Landownership includes 1,081 ac (437 ha) of Territory government lands, 108 ac (44 ha) in private ownership, and 56 ac (23 ha) that are uncategorized.

(ii) Map of Guam 2—*Tuberolabium guamense*–b follows:

Figure 5 to Family Orchidaceae: *Tuberolabium guamense* (No Common Name) paragraph (8)(ii)

Critical Habitat for *Tuberolabium guamense* (no common name)
Guam 2–*Tuberolabium guamense*–b
Guam, Territory of Guam



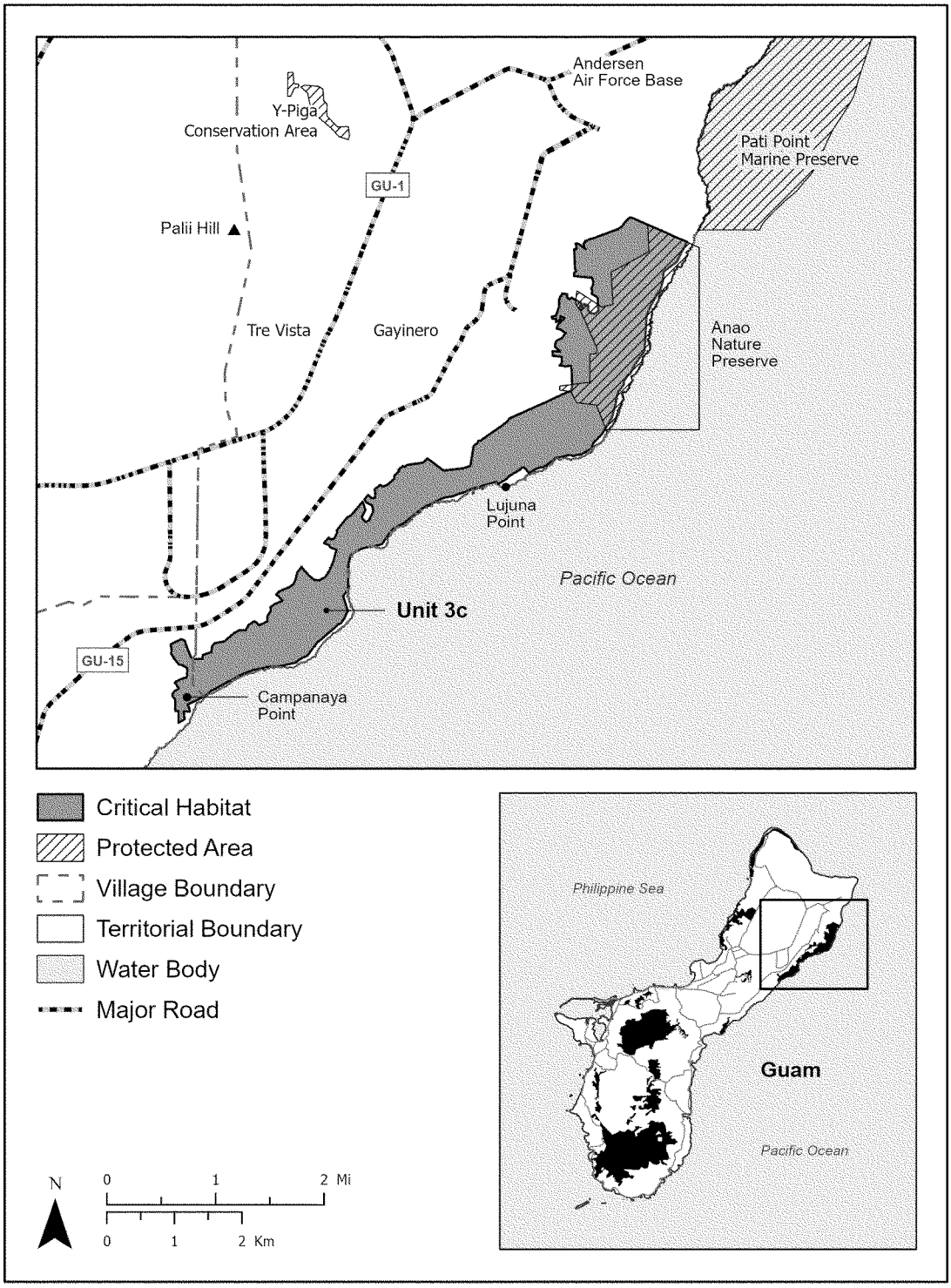
(9) Guam 3—*Tuberolabium guamense*–c, Territory of Guam.

(i) Unit 3c on the island of Guam consists of 1,986 ac (804 ha) and is composed of limestone forests along the northeast coastal edge of the island. The unit begins at the boundary of the Anao Nature Preserve, immediately adjacent to the southern end of the Guam NWR boundary and extends southwest along the coast to Campanaya Point. Landownership includes 1,488 ac (602 ha) of Territory government lands, 198 ac (80 ha) in private ownership, and 300 ac (122 ha) that are uncategorized. The northeastern portion of this unit overlaps the Anao Nature Preserve.

(ii) Map of Guam 3—*Tuberolabium guamense*–c follows:

Figure 6 to Family Orchidaceae: *Tuberolabium guamense* (No Common Name) paragraph (9)(ii)

Critical Habitat for *Tuberolabium guamense* (no common name)
Guam 3–*Tuberolabium guamense*–c
Guam, Territory of Guam



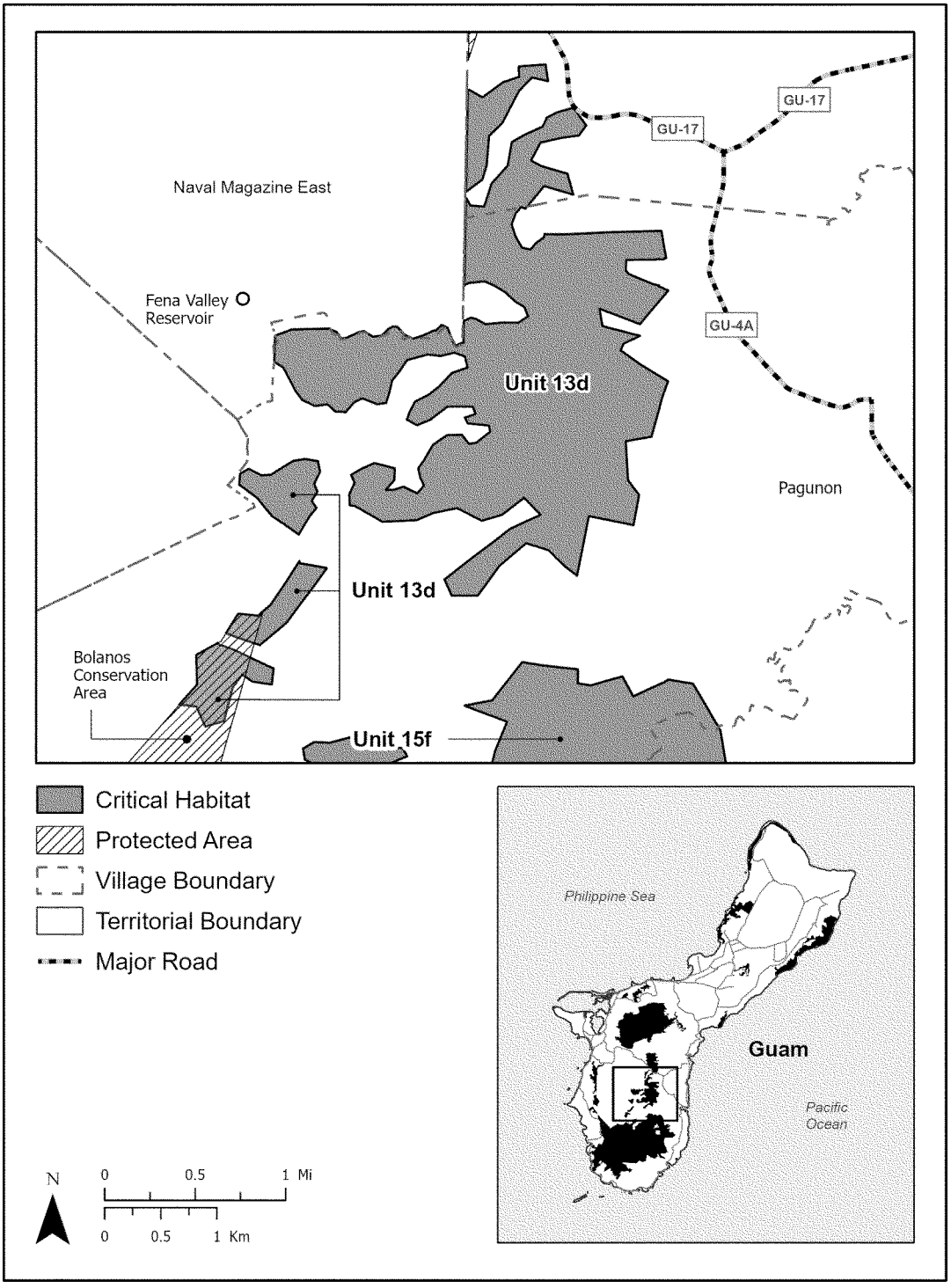
(10) Guam 13—*Tuberolabium guamense*–d, Territory of Guam.

(i) Unit 13d on the island of Guam consists of 1,726 ac (698 ha) and is composed of four segments of volcanic forests in the southcentral part of the island. The unit extends from Route 17 south past Naval Magazine East and Fena Valley Reservoir along the western boundaries and towards Pagunon on the eastern boundary. The unit extends along the Maagas, Mahlac, and Sagge Rivers and their tributaries (which are not represented on the map due to unavailable data layers). Landownership includes 142 ac (57 ha) of Territory government lands, 859 ac (348 ha) in private ownership, and 725 ac (293 ha) that are uncategorized. The southwestern portion of the unit overlaps the Bolanos Conservation Area.

(ii) Map of Guam 13—*Tuberolabium guamense*–d follows:

Figure 7 to Family Orchidaceae: *Tuberolabium guamense* (No Common Name) paragraph (10)(ii)

Critical Habitat for *Tuberolabium guamense* (no common name)
Guam 13–*Tuberolabium guamense*–d
Guam, Territory of Guam



(11) Guam 14–*Tuberolabium guamense*–e, Territory of Guam.

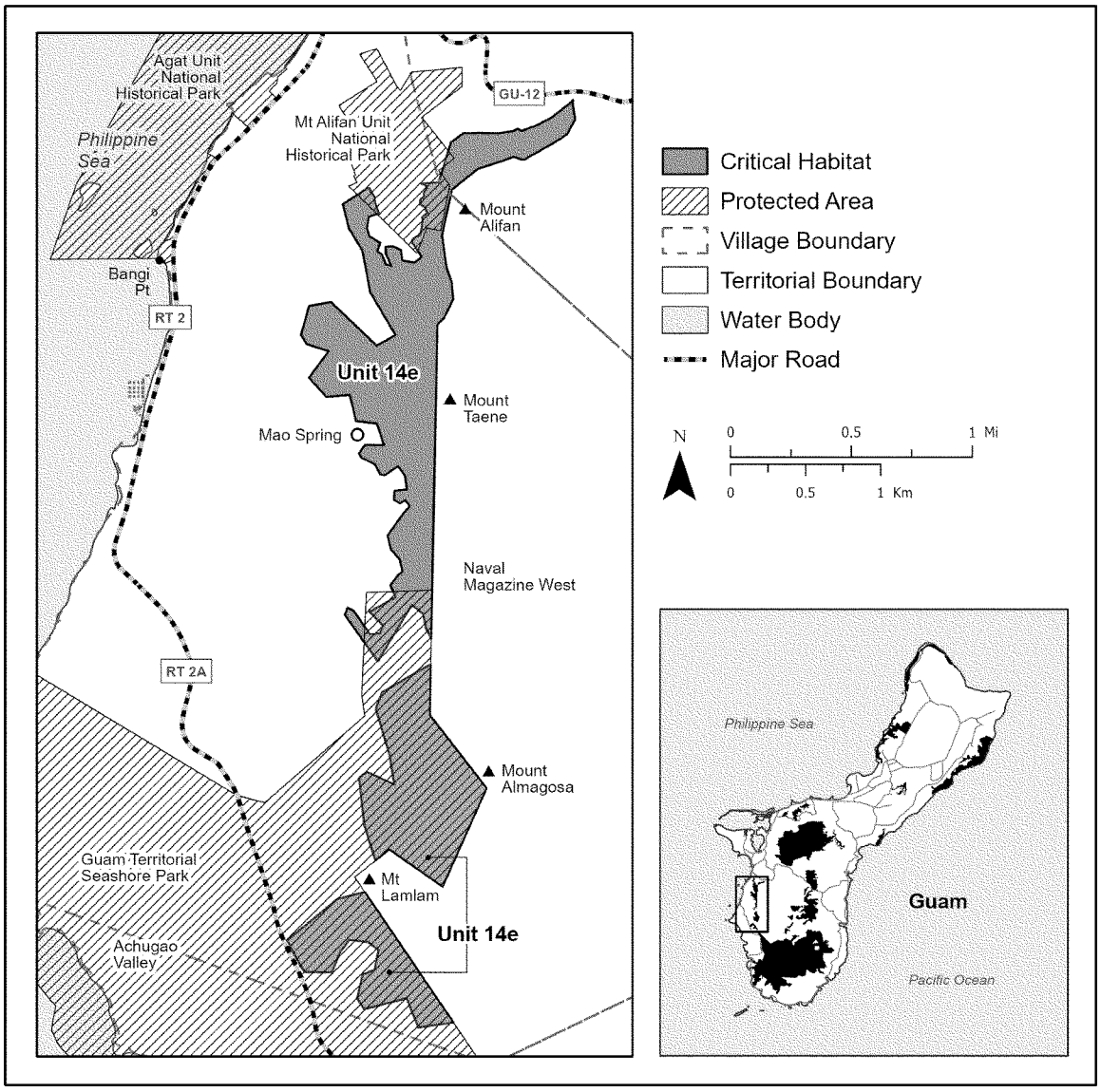
(i) Unit 14e on the island of Guam consists of 629 ac (254 ha) and is composed of three segments of limestone forests on the southwestern side of the island. The unit extends from Route 12 and Mt. Alifan in the north, running along the border of Naval Magazine West, and ending south of Mt. Lamlam at Route 2A. Landownership includes 16 ac (6 ha) of Federal lands (War in the Pacific National Historical Park), 84 ac (34 ha) of Territory government lands, 344 ac (139 ha) in private ownership, and 185 ac (75 ha) that are uncategorized. The northern portion of the unit overlaps the Mt.

Alifan unit of War in the Pacific National Historical Park. The southern portion of the unit overlaps the Guam Territorial Seashore Park.

(ii) Map of Guam 14—*Tuberolabium guamense*–e follows:

Figure 8 to Family Orchidaceae: *Tuberolabium guamense* (No Common Name) paragraph (11)(ii)

Critical Habitat for *Tuberolabium guamense* (no common name)
Guam 14–*Tuberolabium guamense*–e
Guam, Territory of Guam



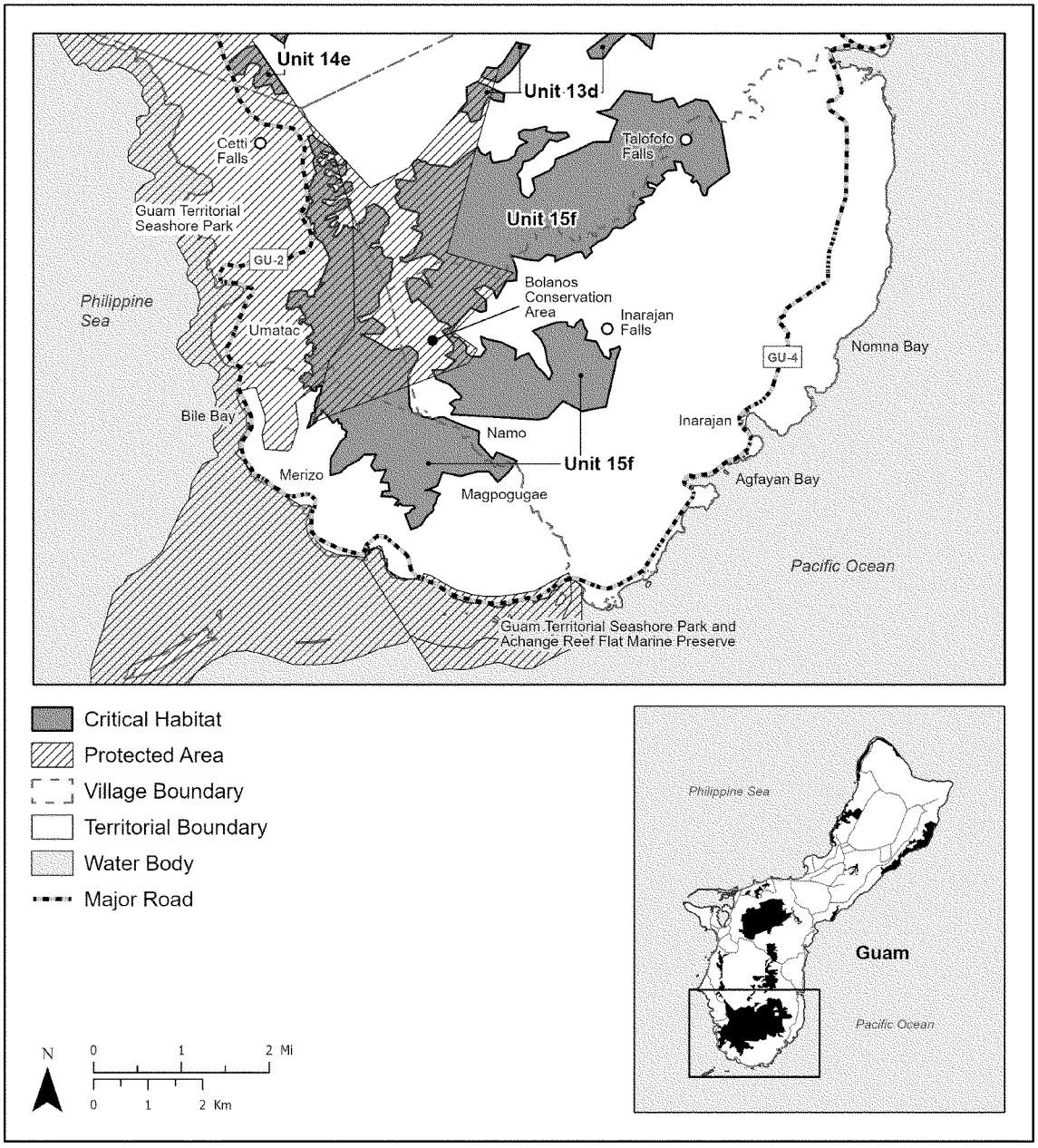
(12) Guam 15—*Tuberolabium guamense*–f, Territory of Guam.

(i) Unit 15f on the island of Guam consists of 6,148 ac (2,488 ha) and is composed of volcanic forests in the southern part of the island. The unit runs from the north of Talofofo Falls along the Ugum and Bubulao Rivers to the south of Namo and runs from the east of Route 2 along the Dante River to Inarajan Falls; rivers are not represented on the map due to unavailable data layers. Another portion of the unit stretches from Cetti Falls in the north through the Bolanos Conservation Area to Magpogugae in the south. Landownership includes 919 ac (372 ha) of Territory government lands, 3,612 ac (1,462 ha) in private ownership, and 1,617 ac (654 ha) that are uncategorized. The central portion of the unit overlaps the Bolanos Conservation Area, and the western portion of the unit overlaps the Guam Territorial Seashore Park.

(ii) Map of Guam 15—*Tuberolabium guamense*–f follows:

Figure 9 to Family Orchidaceae: *Tuberolabium guamense* (no common name) paragraph (12)(ii)

Critical Habitat for *Tuberolabium guamense* (no common name)
Guam 15–*Tuberolabium guamense*–f
Guam, Territory of Guam



* * * * *

Family Phyllanthaceae: *Phyllanthus saffordii* (Maigo lalo)

(1) Critical habitat units are depicted for Guam within the Territory of Guam, on the maps in this entry.

(2) Within these areas, the physical or biological features essential to the conservation of *Phyllanthus saffordii* consist of the following components:

(i) Savanna habitats with volcanic substrates containing lateritic soils, including (but not limited to) *Dimeria* spp. communities and erosion scar communities.

(ii) Forest edges, steep slopes, and eroded soils on volcanic substrates containing lateritic soils.

(iii) Savanna vegetation such as (but not limited to) *Decaspermum fruticosum* (no common name), *Dicranopteris linearis* (Old World forked fern, uluhe, chacha), *Dimeria chloridiformis* (no common name), *Fimbristylis* spp., *Geniostoma micranthum* (no common name), *Melastoma malabathricum* var. *mariannum* (melastoma, gafao, gafau), *Myrtella benningseniana* (no common name), *Machaerina mariscoides* (tropical twigrush), *Lycopodium cernuum* (patas nganga, staghorn clubmoss, nodding clubmoss), *Phyllanthus saffordii* (no common name), and *Rhynchospora rubra* (sweet broom, macao tea).

(iv) Native pollinators, such as bees, ants, moths, butterflies, and other generalist pollinators and native vegetation to support them.

(v) Native seed dispersers such as birds and fruit bats.

(3) Critical habitat does not include manmade structures (such as buildings or paved areas including aqueducts, runways, or roads) and the land on which they are located existing within the legal boundaries on the effective date of the final rule.

(4) Data layers defining map units were created using survey and distribution data provided by multiple local and regional sources as available (*e.g.,* reports, databases, and species experts' knowledge) and as maintained by universities, local governments, and nonprofit organizations across the Mariana Islands. Landcover data (*e.g.,* soil substrate, vegetation, and elevation) were obtained and compiled from multiple Federal and local government agencies. Temperature and precipitation data were obtained and compiled from journal publications. Landforms were primarily delineated based on the most currently available aerial maps and satellite imagery. The maps in this entry, as modified by any accompanying regulatory text, establish the boundaries of the critical habitat designation. The coordinates or plot points or both on which each map is based are available to the public at the Service's internet site at *https://www.fws.gov/project/critical-habitat-mariana-islands,* at *https://www.regulations.gov* at Docket No. FWS–R1–ES–2024–0194, and at the field office responsible for this designation. You may obtain field office location information by contacting one of the Service regional offices, the addresses of which are listed at 50 CFR 2.2.

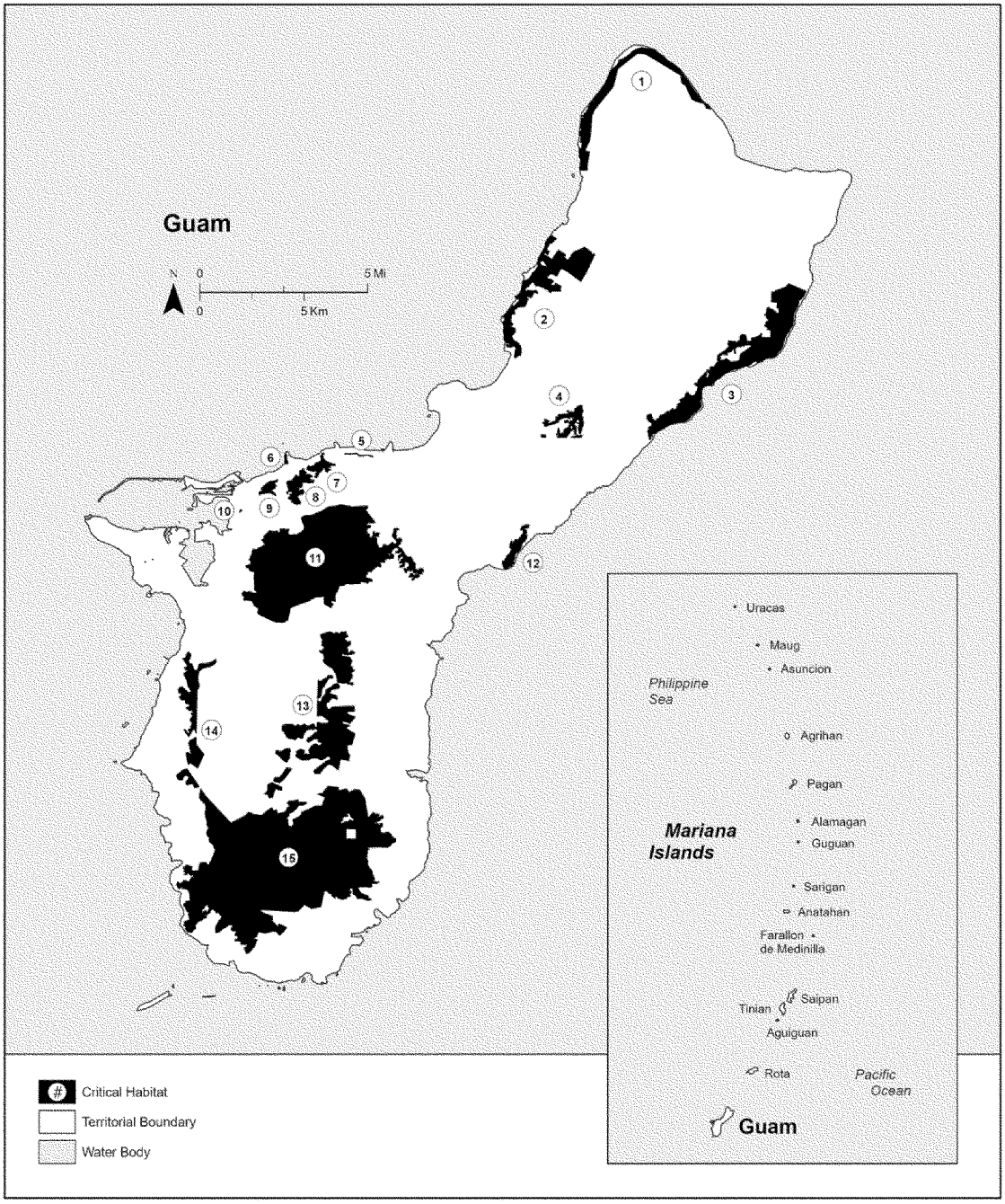
(5) The following index map shows the general locations of critical habitat units for all plant species designated on the island of Guam, with each location/area on the island identified as a specific number on the index map. These island location/area numbers allow for comparison of overlapping critical habitat units for other listed species within the same location.

(i) Each critical habitat unit name comprises the island name, a number corresponding to a specific geographic location/area on the island of Guam, which may include overlapping units for different species, the species name, and a letter. The letter at the end of each critical habitat unit name corresponds to the number of units present on the island, where each escalating letter corresponds to the additive number of units on the island for the species. Critical habitat for *Phyllanthus saffordii* includes a total of six critical habitat units.

(ii) Index map follows:

Figure 1 to Family Phyllanthaceae: *Phyllanthus saffordii* (Maigo lalo) paragraph (5)(ii)

Critical Habitat
Index Map for Plants on the Islands of Guam,
Territory of Guam



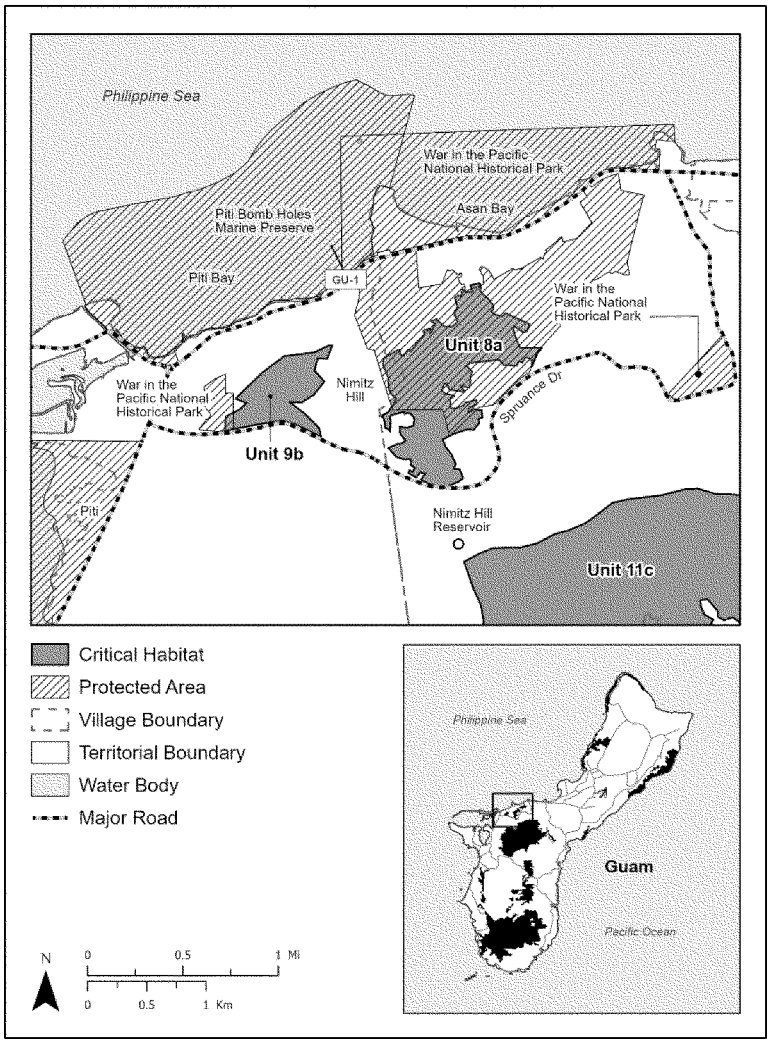
(6) Guam 8—*Phyllanthus saffordii*–a, Territory of Guam.

(i) Unit 8a on the island of Guam consists of 236 ac (95 ha) and is composed of savanna habitat near the central-west coast of the island. The unit lies between Route 1 and Spruance Drive. The western border of the unit runs along the community of Nimitz Hill. Landownership includes 169 ac (68 ha) of Federal lands (War in the Pacific National Historical Park, 55 ac (22 ha) in private ownership, and 12 ac (5 ha) that are uncategorized. The northern portion of the unit overlaps the Asan Inland unit of War in the Pacific National Historical Park.

(ii) Map of Guam 8—*Phyllanthus saffordii*–a follows:

Figure 2 to Family Phyllanthaceae: *Phyllanthus saffordii* (Maigo lalo) paragraph (6)(ii)

Critical Habitat for *Phyllanthus saffordii* (Maigo lalo)
Guam 8–*Phyllanthus saffordii*–a
Guam 9–*Phyllanthus saffordii*–b
Guam, Territory of Guam



(7) Guam 9—*Phyllanthus saffordii*–b, Territory of Guam.

(i) Unit 9b on the island of Guam consists of 82 ac (33 ha) and is composed of savanna habitat near the central-west coast of the island. The unit lies between Route 1 and Spruance Drive. The eastern border of the unit runs along the community of Nimitz Hill. Landownership includes 2 ac (1 ha) of Federal lands (War in the Pacific National Historical Park), 18 ac (7 ha) in private ownership, and 62 ac (25 ha) that are uncategorized. A small part of the western portion of the unit overlaps the Piti Guns Unit of War in the Pacific National Historical Park.

(ii) Map of Guam 9—*Phyllanthus saffordii*–b is provided at paragraph 6 (ii) of this entry.

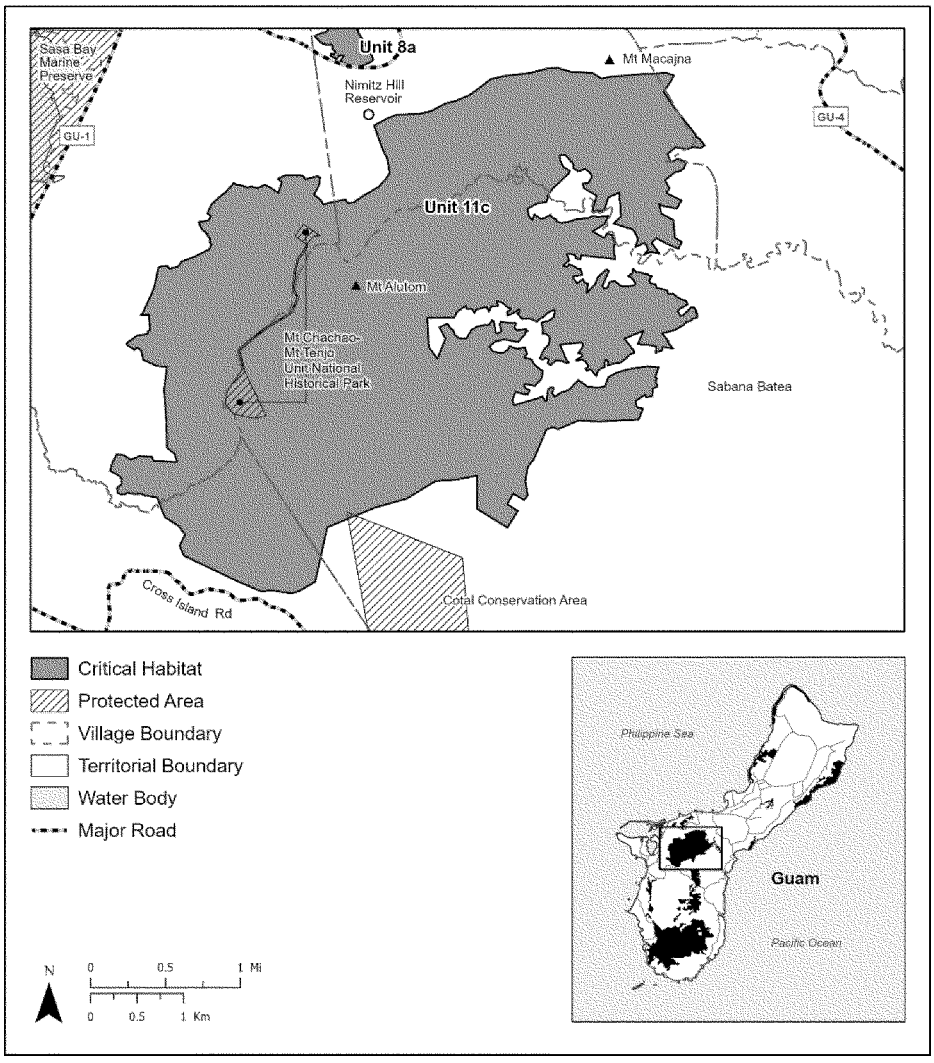
(8) Guam 11—*Phyllanthus saffordii*–c, Territory of Guam.

(i) Unit 11c on the island of Guam consists of 5,024 ac (2,033 ha) and is composed of savanna habitat in the southcentral part of the island. The unit extends from Mt. Macajna near Route 4 on the northern end to Cross Island Road on the southern end. The unit does not include forested areas along the Sigua and Lonfit Rivers (which are not represented on the map due to unavailable data layers). Landownership includes 45 ac (18 ha) of Federal lands (War in the Pacific National Historical Park), 3,031 (1,227 ha) in private ownership, and 1,948 ac (788 ha) that are uncategorized. The central portion of the unit overlaps the Mt. Chachao-Mt. Tenjo Unit of War in the Pacific National Historical Park, and a small portion of the southeastern part of the unit overlaps the Cotal Conservation Area.

(ii) Map of Guam 11—*Phyllanthus saffordii*–c follows:

Figure 3 to Family Phyllanthaceae: *Phyllanthus saffordii* (Maigo lalo) paragraph (8)(ii)

Critical Habitat for *Phyllanthus saffordii* (Maigo lalo)
Guam 11–*Phyllanthus saffordii*–c
Guam, Territory of Guam



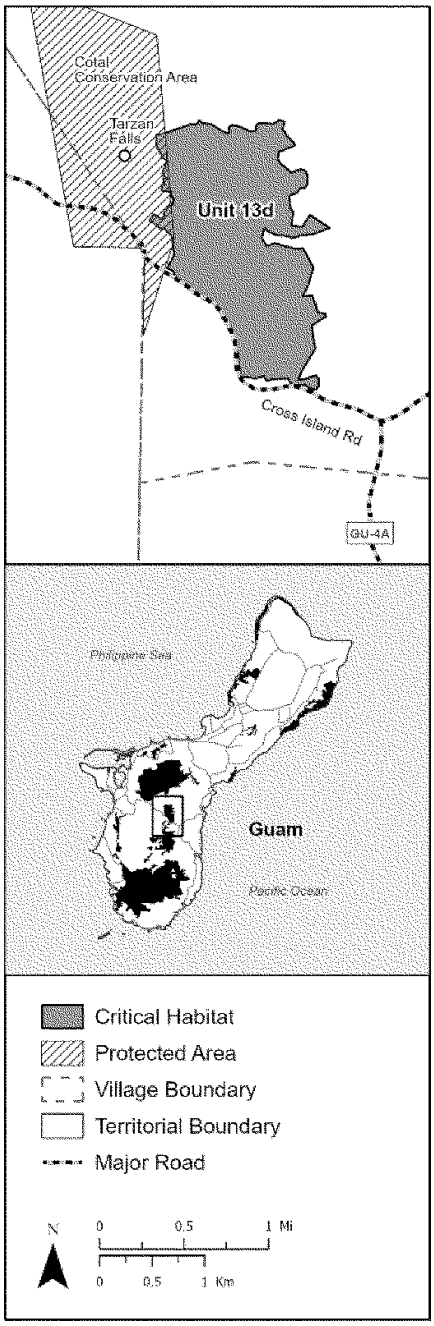
(9) Guam 13—*Phyllanthus saffordii*–d, Territory of Guam.

(i) Unit 13d on the island of Guam consists of 652 ac (264 ha) and is composed of savanna habitat in the southcentral part of the island. The unit is bounded on the north by the Ylig River (which is not represented on the map due to unavailable data layers), on the south by Cross Island Road, and on the west by the Cotal Conservation Area. The unit extends from east of Tarzan Falls and ends near the junction of Cross Island Road and Route 4A. Landownership includes 651 ac (264 ha) in private ownership and 1 ac (less than 1 ha) of uncategorized lands. The western edge of the unit overlaps the Cotal Conservation Area.

(ii) Map of Guam 13—*Phyllanthus saffordii*–d follows:

Figure 4 to Family Phyllanthaceae: *Phyllanthus saffordii* (Maigo lalo) paragraph (9)(ii)

Critical Habitat for
Phyllanthus saffordii
(Maigo lalo)
Guam 13–*Phyllanthus saffordii*–d
Guam, Territory of Guam

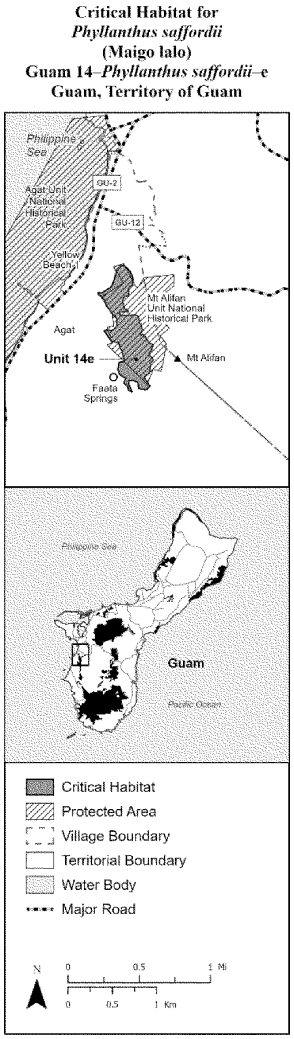


(10) Guam 14—*Phyllanthus saffordii*–e, Territory of Guam.

(i) Unit 14e on the island of Guam consists of 91 ac (37 ha) and is composed of savanna habitat in the southwestern part of the island. The unit begins south of the junction of Route 12 and Route 2 and ends at Faata Springs to the south. Mt. Alifan lies to the east of the unit and the village of Agat lies to the west. Landownership includes 73 ac (30 ha) of Federal lands (War in the Pacific National Historical Park), 17 ac (7 ha) in private ownership, and 1 ac (less than 1 ha) of uncategorized lands. The majority of the unit overlaps the Mt. Alifan unit of War in the Pacific National Historical Park.

(ii) Map of Guam 14–*Phyllanthus saffordii*–e follows:

Figure 5 to Family Phyllanthaceae: *Phyllanthus saffordii* (Maigo lalo) paragraph (10)(ii)



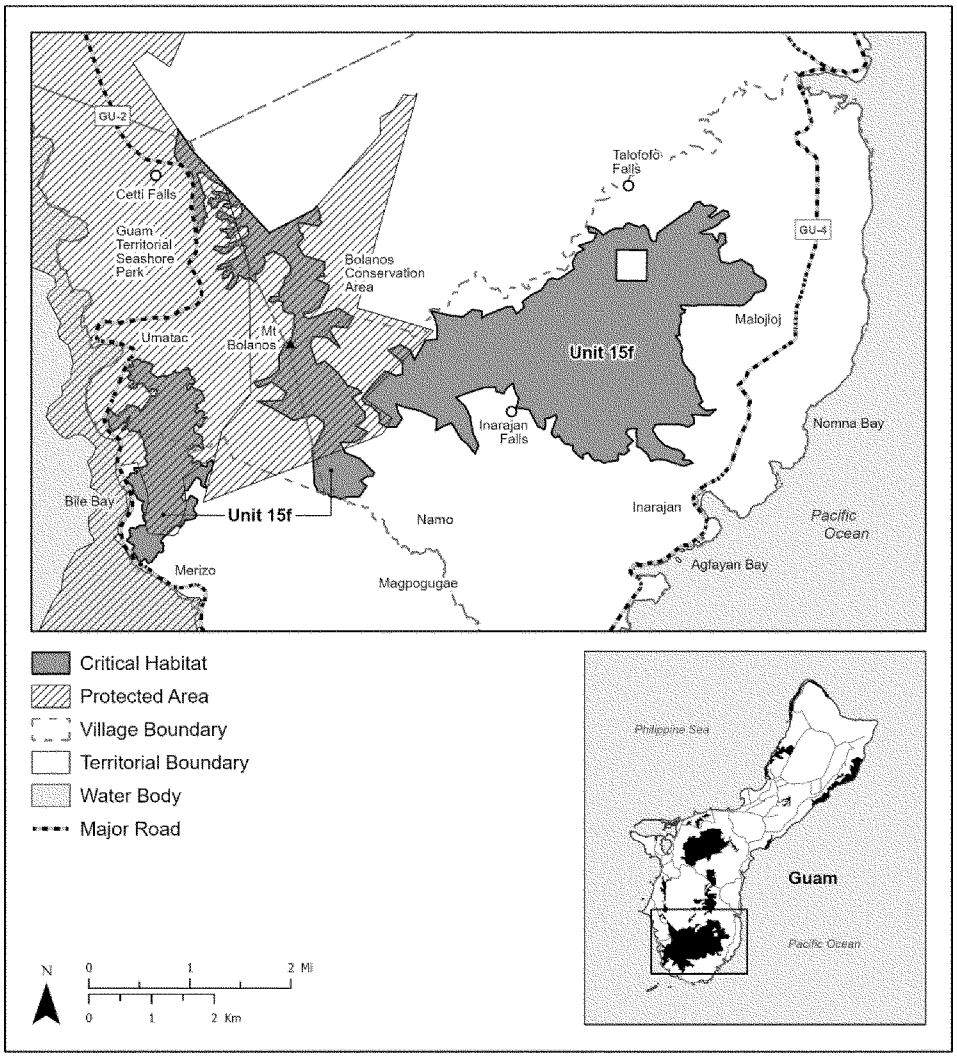
(11) Guam 15—*Phyllanthus saffordii*–f, Territory of Guam.

(i) Unit 15f on the island of Guam consists of 4,726 ac (1,912 ha) and is composed of three segments of savanna habitat in the southern part of the island. The first segment lies between Bile Bay and Mt. Bolanos, extending from the village of Umatac in the north to the village of Merizo in the south. The second segment extends from Cetti Falls in the north to Namo in the south. The third segment stretches from Mt. Bolanos in the west to the village of Malojloj in the east, bounded by the Ugum River (which is not represented on the map due to unavailable data layers) in the north and the village of Inarajan in the south. Landownership includes 550 ac (223 ha) of Territory government lands, 3,532 ac (1,429 ha) in private ownership, and 644 ac (260 ha) that are uncategorized. The first segment overlaps the Guam Territorial Seashore Park. The majority of the second segment and the western edge of the third segment overlap the Bolanos Conservation Area.

(ii) Map of Guam 15—*Phyllanthus saffordii*–f follows:

Figure 6 to Family Phyllanthaceae: *Phyllanthus saffordii* (Maigo lalo) paragraph (11)(ii)

Critical Habitat for *Phyllanthus saffordii* (Maigo lalo)
Guam 15–*Phyllanthus saffordii*–f
Guam, Territory of Guam



* * * * *

Family Rubiaceae: *Hedyotis megalantha* (Pau Dedo, Pao Doodu)

(1) Critical habitat units are depicted for Guam within the Territory of Guam, on the maps in this entry.

(2) Within these areas, the physical or biological features essential to the conservation of *Hedyotis megalantha* consist of the following components:

(i) Native savanna habitats with volcanic soils.

(ii) Grasses, ferns, shrubs, and other savanna vegetation such as (but not limited to) *Decaspermum fruticosum* (no common name), *Dicranopteris linearis* (Old World forked fern, uluhe, chacha), *Dimeria* spp., *Fimbristylis* spp., *Geniostoma micranthum* (no common name), *Lycopodium cernuum* (patas nganga, staghorn clubmoss, nodding clubmoss), *Machaerina mariscoides* (tropical twigrush), *Melastoma malabathricum* var. *mariannum* (melastoma, gafao, gafau), *Myrtella benningseniana* (no common name), *Phyllanthus saffordii* (no common name), and *Rhynchospora rubra* (sweet broom, macao tea).

(iii) Native pollinators, such as butterflies and other generalist pollinators, and native vegetation to support them.

(3) Critical habitat does not include manmade structures (such as buildings or paved areas including aqueducts, runways, or roads) and the land on which they are located existing within the legal boundaries on the effective date of the final rule.

(4) Data layers defining map units were created using survey and distribution data provided by multiple local and regional sources as available (*e.g.,* reports, databases, and species experts' knowledge) and as maintained by universities, local governments, and nonprofit organizations across the Mariana Islands. Landcover data (*e.g.,* soil substrate, vegetation, and elevation) were obtained and compiled from multiple Federal and local government agencies. Temperature and precipitation data were obtained and compiled from journal publications. Landforms were primarily delineated based on the most currently available aerial maps and satellite imagery. The maps in this entry, as modified by any accompanying regulatory text, establish the boundaries of the critical habitat designation. The coordinates or plot points or both on which each map is based are available to the public at the Service's internet site at *https://www.fws.gov/project/critical-habitat-mariana-islands,* at *https://www.regulations.gov* at Docket No. FWS–R1–ES–2024–0194, and at the

field office responsible for this designation. You may obtain field office location information by contacting one of the Service regional offices, the addresses of which are listed at 50 CFR 2.2.

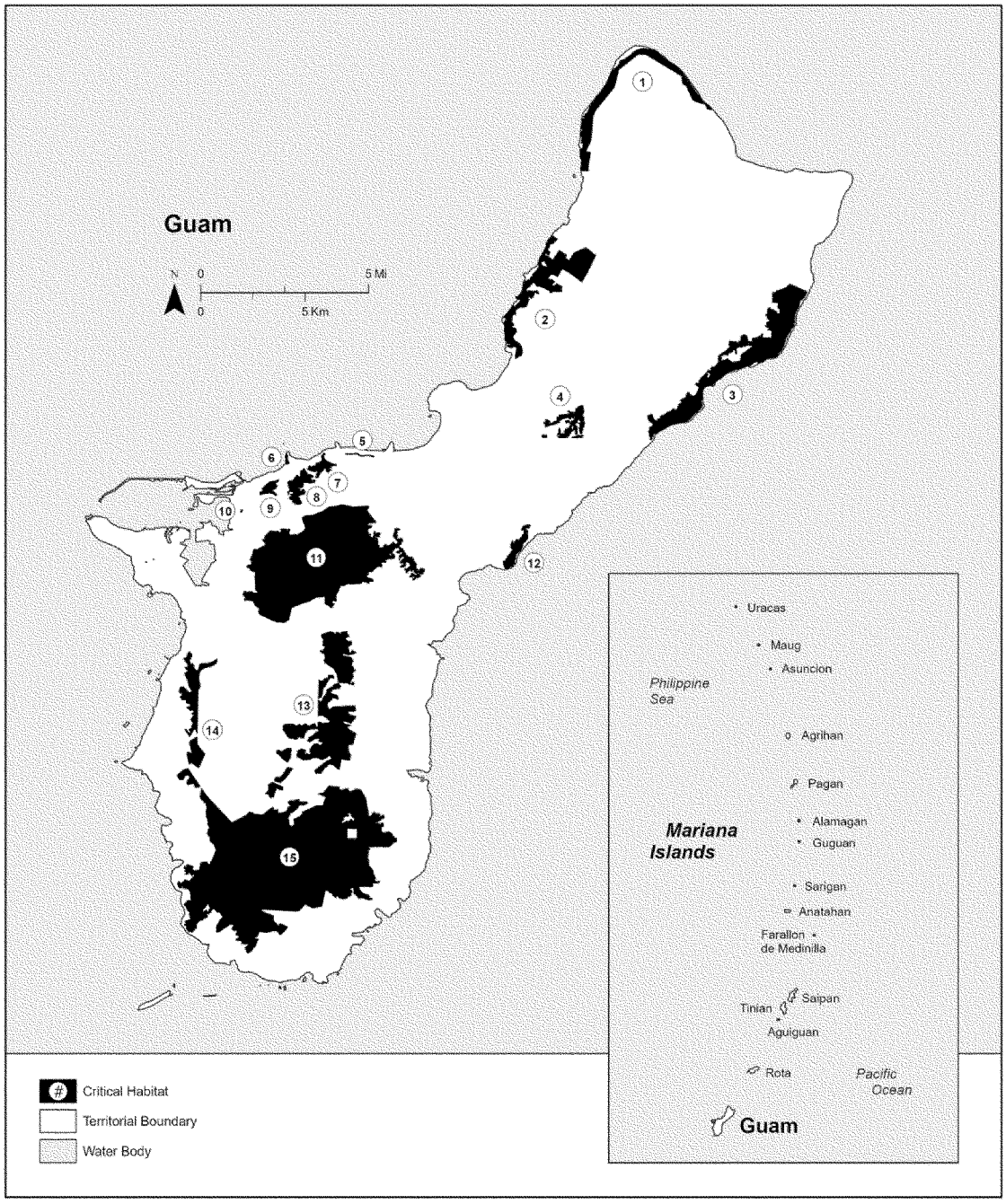
(5) The following index map shows the general locations of critical habitat units for all plant species designated on the island of Guam, with each location/area on the island identified as a specific number on the index map. These island location/area numbers allow for comparison of overlapping critical habitat units for other listed species within the same location.

(i) Each critical habitat unit name comprises the island name, a number corresponding to a specific geographic location/area on the island of Guam, which may include overlapping units for different species, the species name, and a letter. The letter at the end of each critical habitat unit name corresponds to the number of units present on the island, where each escalating letter corresponds to the additive number of units on the island for the species. Critical habitat for *Hedyotis megalantha* includes a total of three critical habitat units.

(ii) Index map follows:

Figure 1 to Family Rubiaceae: *Hedyotis megalantha* (Pau Dedo, Pao Doodu) paragraph (5)(ii)

Critical Habitat
Index Map for Plants on the Islands of Guam, Territory of Guam



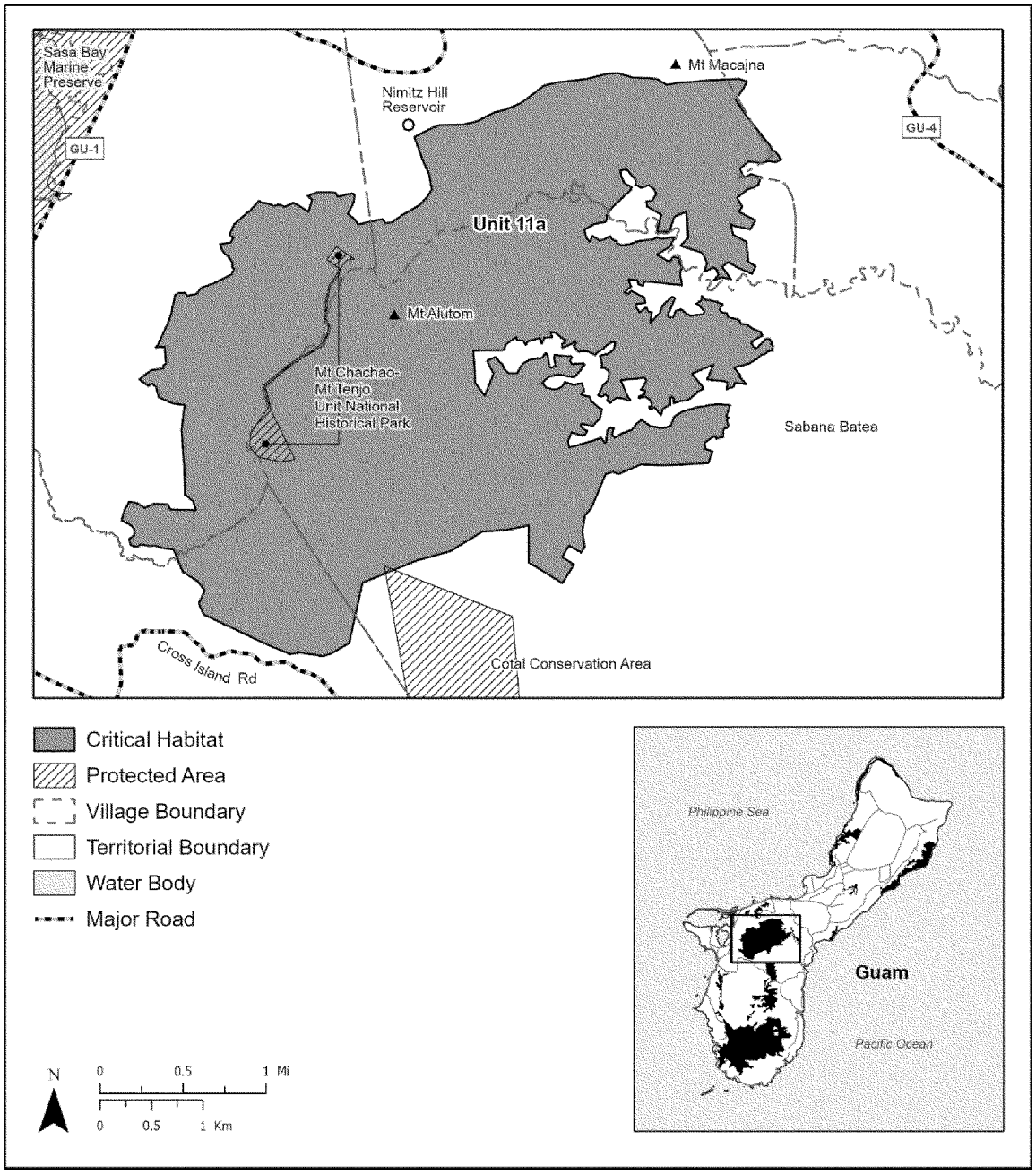
(6) Guam 11—*Hedyotis megalantha*–a, Territory of Guam.

(i) Unit 11a on the island of Guam consists of 5,024 ac (2,033 ha) and is composed of savanna habitat in the southcentral part of the island. The unit extends from Mt. Macajna near Route 4 on the northern end to Cross Island Road on the southern end. The unit does not include forested areas along the Sigua and Lonfit Rivers (which are not represented on the map due to unavailable data layers). Landownership includes 45 ac (18 ha) of Federal lands (War in the Pacific National Historical Park), 3,031 (1,227 ha) in private ownership, and 1,948 ac (788 ha) that are uncategorized. The central portion of the unit overlaps the Mt. Chachao-Mt. Tenjo unit of War in the Pacific National Historical Park, and a small portion of the southeastern part of the unit overlaps the Cotal Conservation Area.

(ii) Map of Guam 11—*Hedyotis megalantha*–a follows:

Figure 2 to Family Rubiaceae: *Hedyotis megalantha* (Pau Dedo, Pao Doodu) paragraph (6)(ii)

Critical Habitat for *Hedyotis megalantha* (Pau dedo, Pao doodu)
Guam 11–*Hedyotis megalantha*–a
Guam, Territory of Guam



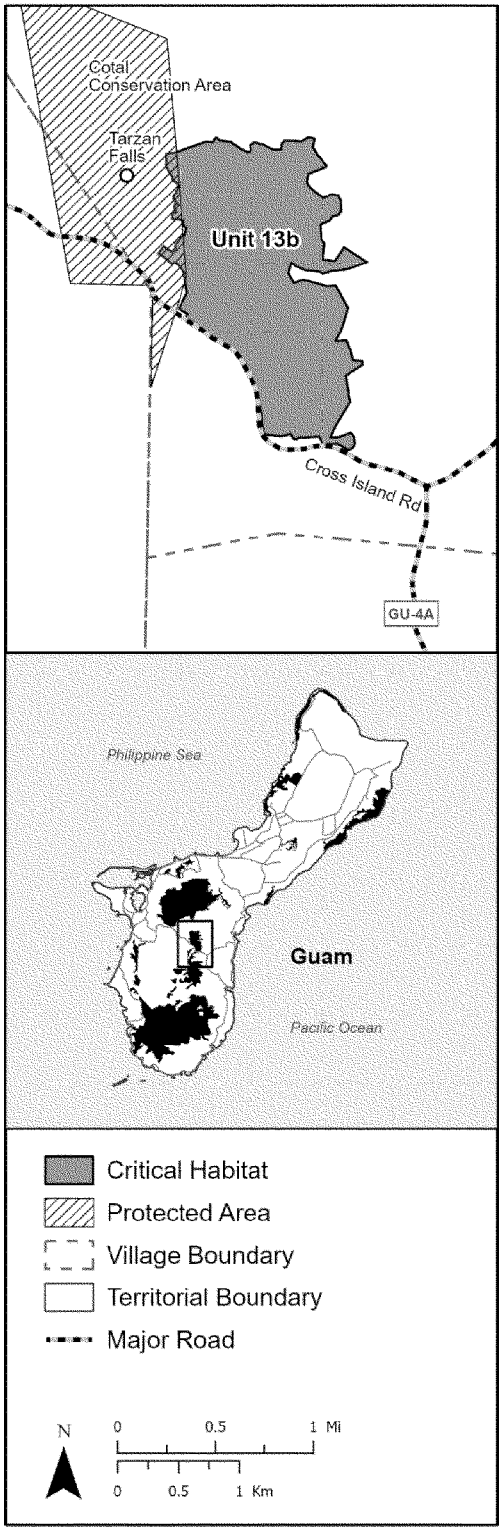
(7) Guam 13—*Hedyotis megalantha*–b, Territory of Guam.

(i) Unit 13b on the island of Guam consists of 652 ac (264 ha) and is composed of savanna habitat in the southcentral part of the island. The unit is bounded on the north by the Ylig River (which is not represented on the map due to unavailable data layers), on the south by Cross Island Road, and on the west by the Cotal Conservation Area. It extends from east of Tarzan Falls and ends near the junction of Cross Island Road and Route 4A. Landownership includes 651 ac (264 ha) in private ownership and 1 ac (less than 1 ha) of uncategorized lands. The western edge of the unit overlaps the Cotal Conservation Area.

(ii) Map of Guam 13—*Hedyotis megalantha*–b follows:

Figure 3 to Family Rubiaceae: *Hedyotis megalantha* (Pau Dedo, Pao Doodu) paragraph (7)(ii)

Critical Habitat for
Hedyotis megalantha
(Pau dedo, Pao doodu)
Guam 13–*Hedyotis megalantha*–b
Guam, Territory of Guam



(8) Guam 15—*Hedyotis megalantha*–c, Territory of Guam.

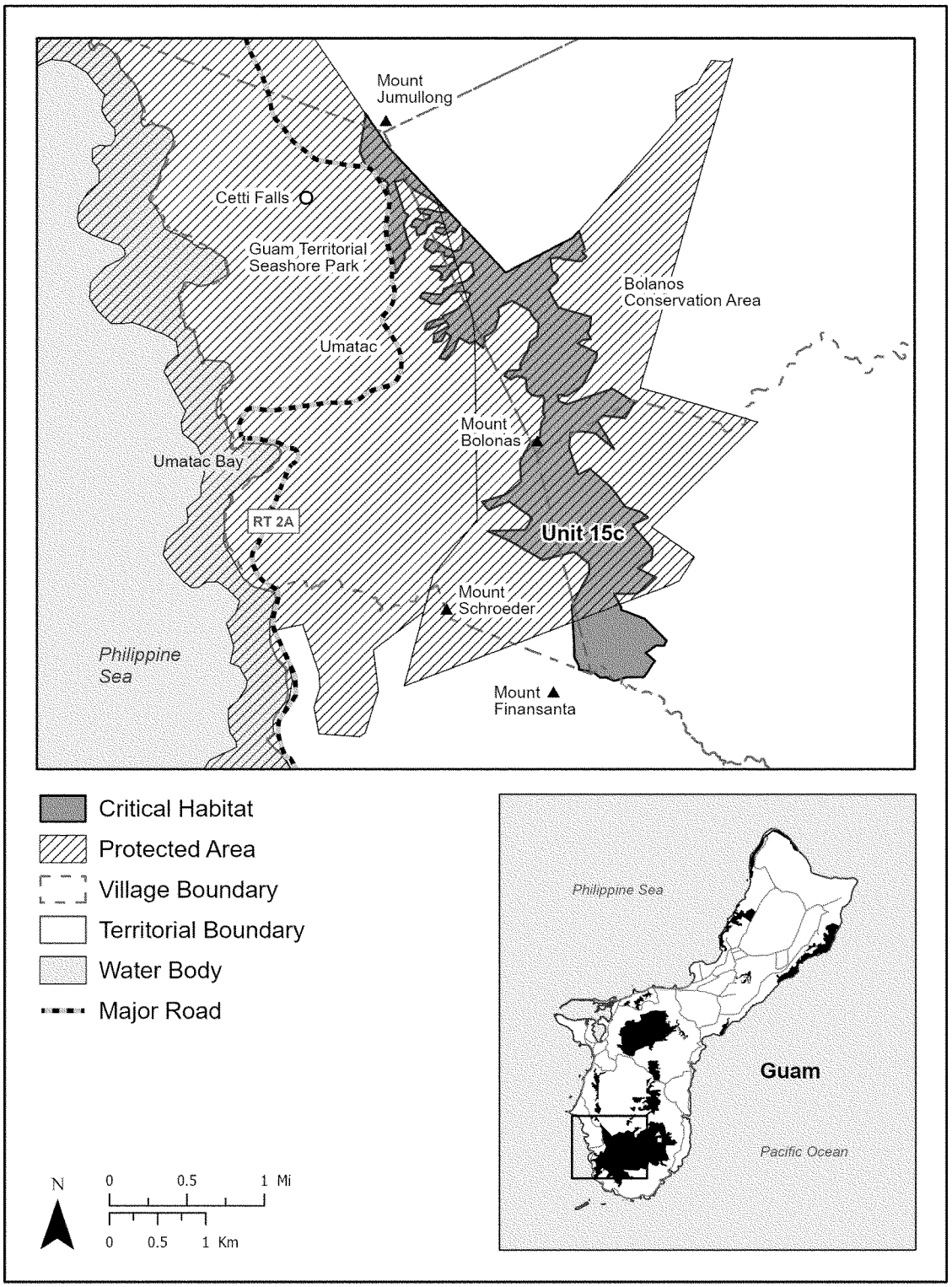
(i) Unit 15c on the island of Guam consists of 1,045 ac (423 ha) and is composed of savanna habitat in the southwestern part of the island. The

unit extends from Mt. Jumullong Manglo near Route 2A in the north and runs southeast along the eastern side of Mt. Bolanas, ending at Mt. Finansanta in the south. Landownership includes 510 ac (206 ha) of Territory government lands, 334 (135 ha) in private ownership, and 201 ac (82 ha) that are uncategorized. The northwestern portion of the unit overlaps the Guam Territorial Seashore Park, and the central portion of the unit overlaps the Bolanos Conservation Area.

(ii) Map of Guam 15—*Hedyotis megalantha*–c follows:

Figure 4 to Family Rubiaceae: *Hedyotis megalantha* (Pau Dedo, Pao Doodu) paragraph (8)(ii)

Critical Habitat for *Hedyotis megalantha* (Pau dedo, Pao doodu)
Guam 15–*Hedyotis megalantha*–c
Guam, Territory of Guam



Family Rubiaceae: *Psychotria malaspinae* (Aplokhating Palaoan)

(1) Critical habitat units are depicted for Guam within the Territory of Guam, on the maps in this entry.

(2) Within these areas, the physical or biological features essential to the conservation of *Psychotria malaspinae* consist of the following components:

(i) Interconnected native limestone forest habitat.

(ii) Sufficient space within a vegetation community where there is closed canopy or where partial to full sunlight is available with plants such as (but not limited to) *Abrus* spp., *Aglaia marianensis* (mapunyao, mapunao, fischil liyoos), *Aidia cochinchinensis* (sumak), *Asplenium nidus* (galak, fedda, bird's nest fern), *Ficus* spp., *Freycinetia* spp., *Hibiscus tiliaceus* (sea hibiscus, pago), *Melanolepis multiglandulosa* (alom), *Morinda citrifolia* (lada, noni, Indian mulberry), *Operculina* spp., *Pandanus* spp., *Phymatosorus scolopendria* (monarch fern, kahlao), *Pipturus argenteus* (amahayan, atmahayan, amahadyan, ghasooso, native mulberry), and *Psychotria mariana* (applok hating, aplohkateng, aplu kati, gathemach, aploghating, aplokhating).

(iii) Native seed dispersers such as birds and fruit bats.

(iv) Native pollinators and native vegetation to support them.

(3) Critical habitat does not include manmade structures (such as buildings or paved areas including aqueducts, runways, or roads) and the land on which they are located existing within the legal boundaries on the effective date of the final rule.

(4) Data layers defining map units were created using survey and distribution data provided by multiple local and regional sources as available (*e.g.,* reports, databases, and species experts' knowledge) and as maintained by universities, local governments, and nonprofit organizations across the Mariana Islands. Landcover data (*e.g.,* soil substrate, vegetation, and elevation) were obtained and compiled from multiple Federal and local government agencies. Temperature and precipitation data were obtained and compiled from journal publications. Landforms were primarily delineated based on the most currently available aerial maps and satellite imagery. The maps in this entry, as modified by any accompanying regulatory text, establish the boundaries of the critical habitat designation. The coordinates or plot points or both on which each map is based are available to the public at the Service's internet site at *https://www.fws.gov/project/critical-habitat-mariana-islands,* at *https://www.regulations.gov* at Docket No. FWS–R1–ES–2024–0194, and at the field office responsible for this designation. You may obtain field office location information by contacting one of the Service regional offices, the addresses of which are listed at 50 CFR 2.2.

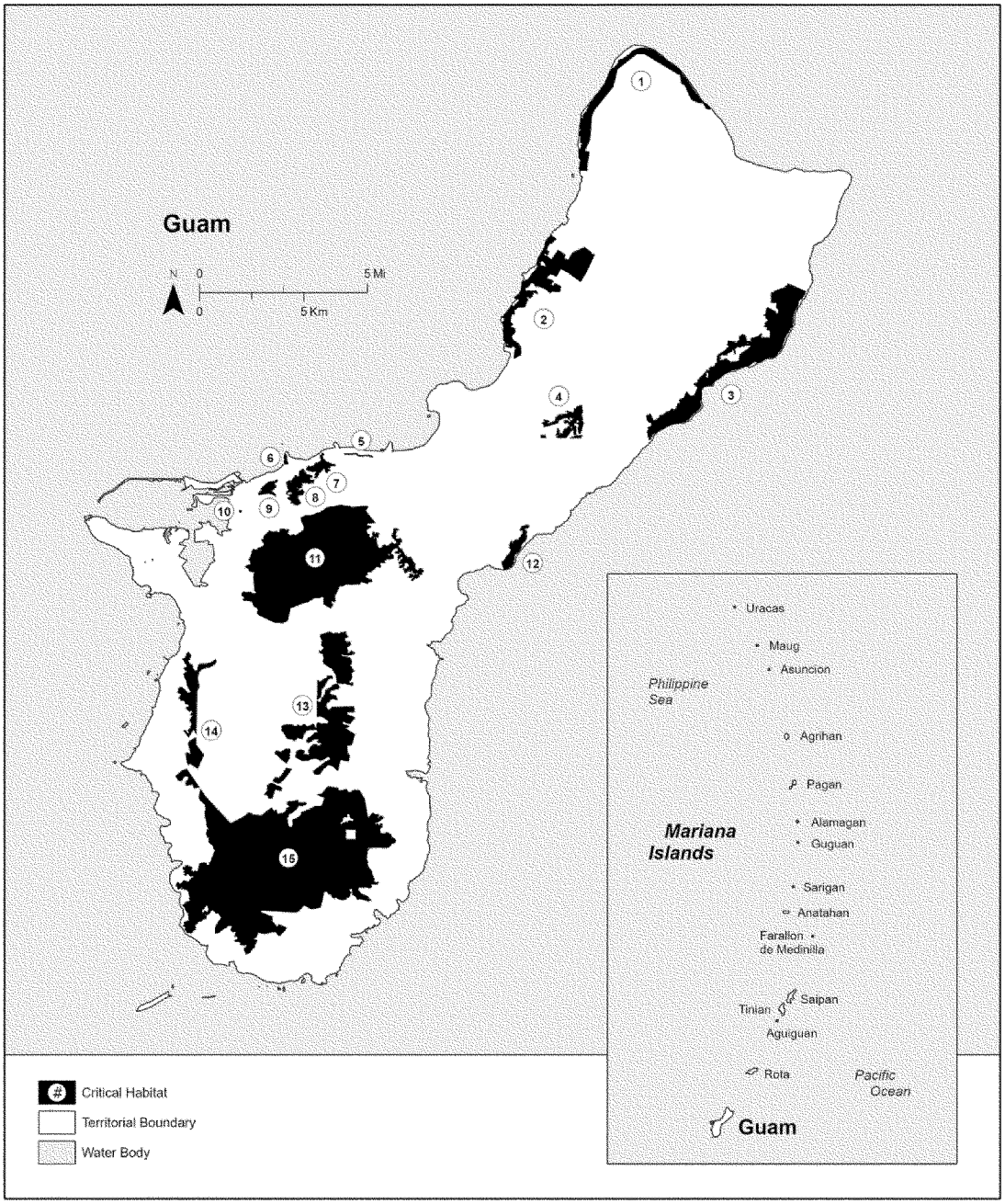
(5) The following index map shows the general locations of critical habitat units for all plant species designated on the island of Guam, with each location/area on the island identified as a specific number on the index map. These island location/area numbers allow for comparison of overlapping critical habitat units for other listed species within the same location.

(i) Each critical habitat unit name comprises the island name, a number corresponding to a specific geographic location/area on the island of Guam, which may include overlapping units for different species, the species name, and a letter. The letter at the end of each critical habitat unit name corresponds to the number of units present on the island, where each escalating letter corresponds to the additive number of units on the island for the species. Critical habitat for *Psychotria malaspinae* includes a total of two critical habitat units.

(ii) Index map follows:

Figure 1 to Family Rubiaceae: *Psychotria malaspinae* (Aplokhating Palaoan) paragraph (5)(ii)

Critical Habitat
Index Map for Plants on the Islands of Guam,
Territory of Guam



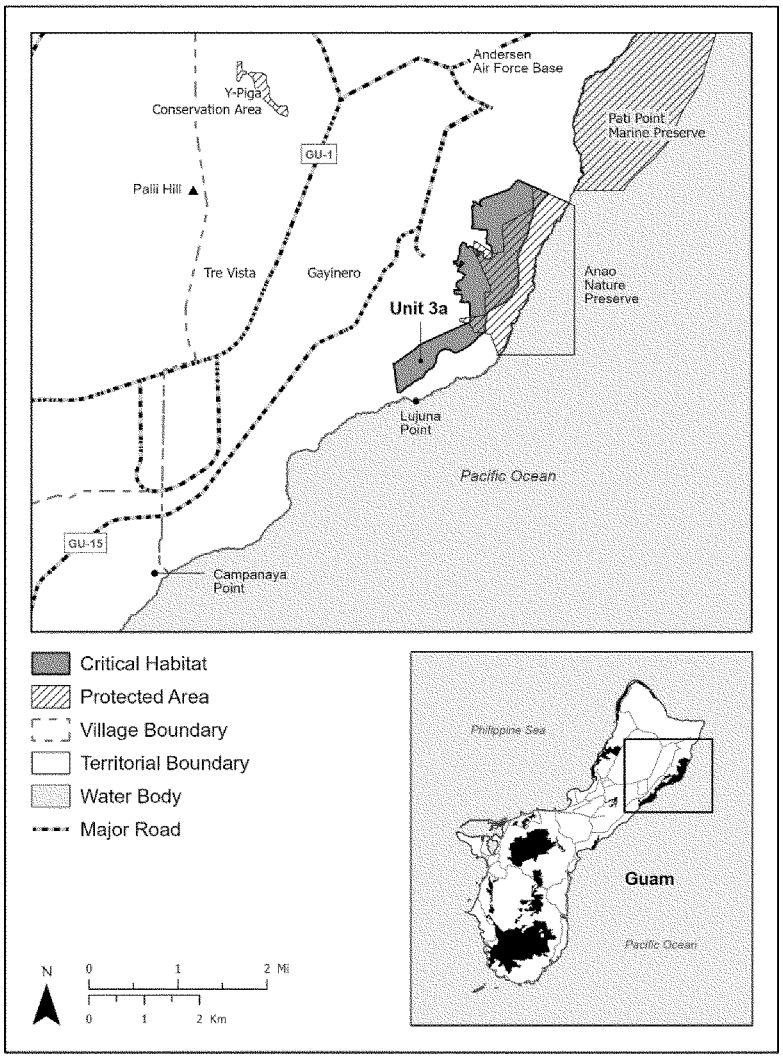
(6) Guam 3—*Psychotria malaspinae*–a, Territory of Guam.

(i) Unit 3a on the island of Guam consists of 711 ac (288 ha) and is composed of limestone forests along the northeast coastal edge of the island. The unit begins at the boundary of the Anao Nature Preserve immediately adjacent to the southern end of the Guam NWR boundary and extends southwest inland of the coast to Lujuna Point. Landownership includes 468 ac (189 ha) of Territory government lands, 79 ac (32 ha) in private ownership, and 164 ac (67 ha) that are uncategorized. The northeastern portion of this unit overlaps the Anao Nature Preserve.

(ii) Map of Guam 3—*Psychotria malaspinae*–a follows:

Figure 2 to Family Rubiaceae: *Psychotria malaspinae* (Aplokhating Palaoan) paragraph (6)(ii)

Critical Habitat for *Psychotria malaspinae* (Aplokhating palaoan)
Guam 3–*Psychotria malaspinae*–a
Guam, Territory of Guam



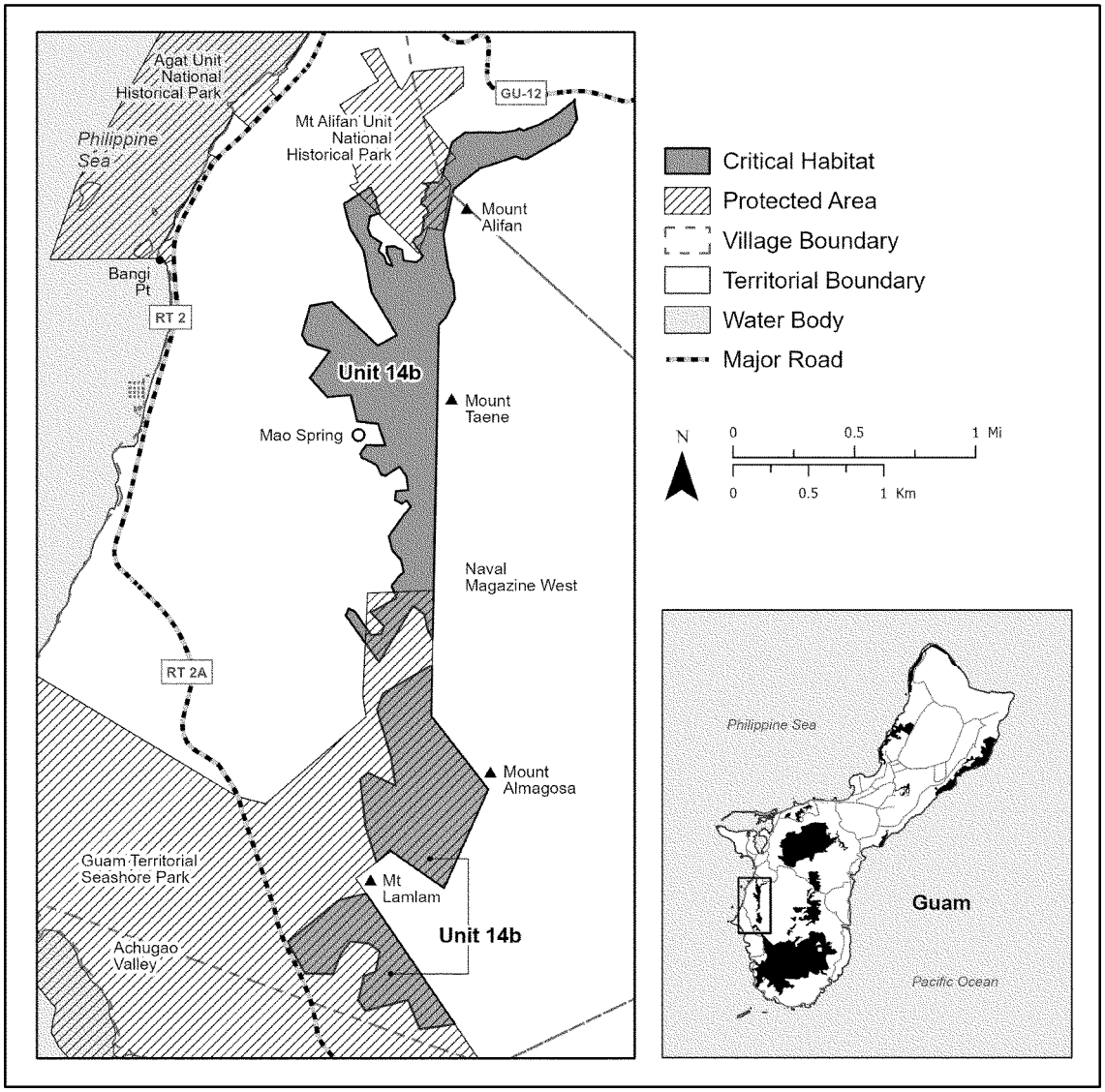
(7) Guam 14–*Psychotria malaspinae*–b, Territory of Guam.

(i) Unit 14b on the island of Guam consists of 629 ac (254 ha) and is composed of three segments of limestone forests on the southwestern side of the island. The unit extends from Route 12 and Mt. Alifan in the north, running along the border of Naval Magazine West and ending south of Mt. Lamlam at Route 2A. Landownership includes 16 ac (6 ha) of Federal lands (War in the Pacific National Historical Park), 84 ac (34 ha) of Territory government lands, 344 ac (139 ha) in private ownership, and 185 ac (75 ha) that are uncategorized. The northern portion of the unit overlaps the Mt. Alifan unit of War in the Pacific National Historical Park. The southern portion of the unit overlaps the Guam Territorial Seashore Park.

(ii) Map of Guam 14—*Psychotria malaspinae*–b follows:

Figure 3 to Family Rubiaceae: *Psychotria malaspinae* (Aplokhating Palaoan) paragraph (7)(ii)

Critical Habitat for *Psychotria malaspinae* (Aplokhating palaoan)
Guam 14–*Psychotria malaspinae*–b
Guam, Territory of Guam



* * * * *

(b) * * *

Family Cycadaceae: *Cycas micronesica* (Fadang, Faadang).

(i) Critical habitat units are depicted for Rota within the Commonwealth of the Northern Mariana Islands and Guam within the Territory of Guam, on the maps in this entry.

(ii) Within these areas, the physical or biological features essential to the conservation of *Cycas micronesica* consist of the following components:

(A) Closed-canopy native limestone or volcanic forests with native vegetation such as (but not limited to) *Hibiscus tiliaceus* (sea hibiscus, pago), *Morinda citrifolia* (lada, noni, Indian mulberry), *Psychotria mariana* (aploghating, aplokhating), *Aidia* spp., *Aglaia* spp., *Ficus* spp., *Melanolepis multiglandulosa* (alom), *Pandanus* spp., and *Pipturus* spp.

(B) Closed-canopy native coastal strand forest with sandy soils and native vegetation such as *Barringtonia asiatica* (puting, fish poison tree), *Bikkia tetrandra* (torchwood, gausali), *Casuarina equisetifolia* (gagu, gago, weighu, beach sheoak, or common ironwood), *Cocos nucifera* (niyok, coconut), *Hernandia nymphaeifolia* (doko, Hernandia, Jack-in-the-box, lantern tree, nonak), *Hibiscus tiliaceus, Ipomoea pes-caprae* (halaihai, goats foot morning glory, bayhops, beach morning glory, railroad vine), *Mammea odorata* (chopak, chopag), *Pemphis acidula* (bantigue, nigas), *Scaevola taccada* (*beach naupaka,* beach cabbage), *Sesuvium portulacastrum* (sea purslane), *Sporobolus virginicus* (seashore dropseed), *Thespesia populnea* (banalo, binalo, Pacific rosewood, Portia tree), *Thuarea involuta* (kuroiwa grass, tropical beachgrass, bird's beak grass), and *Vigna marina* (akankang manulasa, akangkang malolusa, nanea, beach pea).

(C) Native pollinators such as moths and beetles, and native vegetation to support them.

(D) Native seed dispersers such as birds and fruit bats.

(iii) Critical habitat does not include manmade structures (such as buildings or paved areas including aqueducts, runways, or roads) and the land on which they are located existing within

the legal boundaries on the effective date of the final rule.

(iv) Data layers defining map units were created using survey and distribution data provided by multiple local and regional sources as available (*e.g.,* reports, databases, and species experts' knowledge) and as maintained by universities, local governments, and nonprofit organizations across the Mariana Islands. Landcover data (*e.g.,* soil substrate, vegetation, and elevation) were obtained and compiled from multiple Federal and local government agencies. Temperature and precipitation data were obtained and compiled from journal publications. Landforms were primarily delineated based on the most currently available aerial maps and satellite imagery. The maps in this entry, as modified by any accompanying regulatory text, establish the boundaries of the critical habitat designation. The coordinates or plot points or both on which each map is based are available to the public at the Service's internet site at *https://www.fws.gov/project/critical-habitat-mariana-islands,* at *https://www.regulations.gov* at Docket No. FWS–R1–ES–2024–0194, and at the field office responsible for this designation. You may obtain field office location information by contacting one of the Service regional offices, the addresses of which are listed at 50 CFR 2.2.

(v) The following index maps show the general locations of critical habitat units for all plant species designated on each island, with each location/area on each island identified as a specific number on the index maps. These island location/area numbers allow for comparison of overlapping critical habitat units for other listed species within the same location.

(A) Each critical habitat unit name comprises an island name, a number corresponding to a specific geographic location/area on the applicable island, which may include overlapping units for different species, the species name, and a letter. The letter at the end of each critical habitat unit name corresponds to the number of units present on a given island, where each escalating letter for each island corresponds to the additive number of units per island for the species. Critical habitat for *Cycas micronesica* includes one unit on the island of Rota and six units on the island of Guam, for a total of seven critical habitat units.

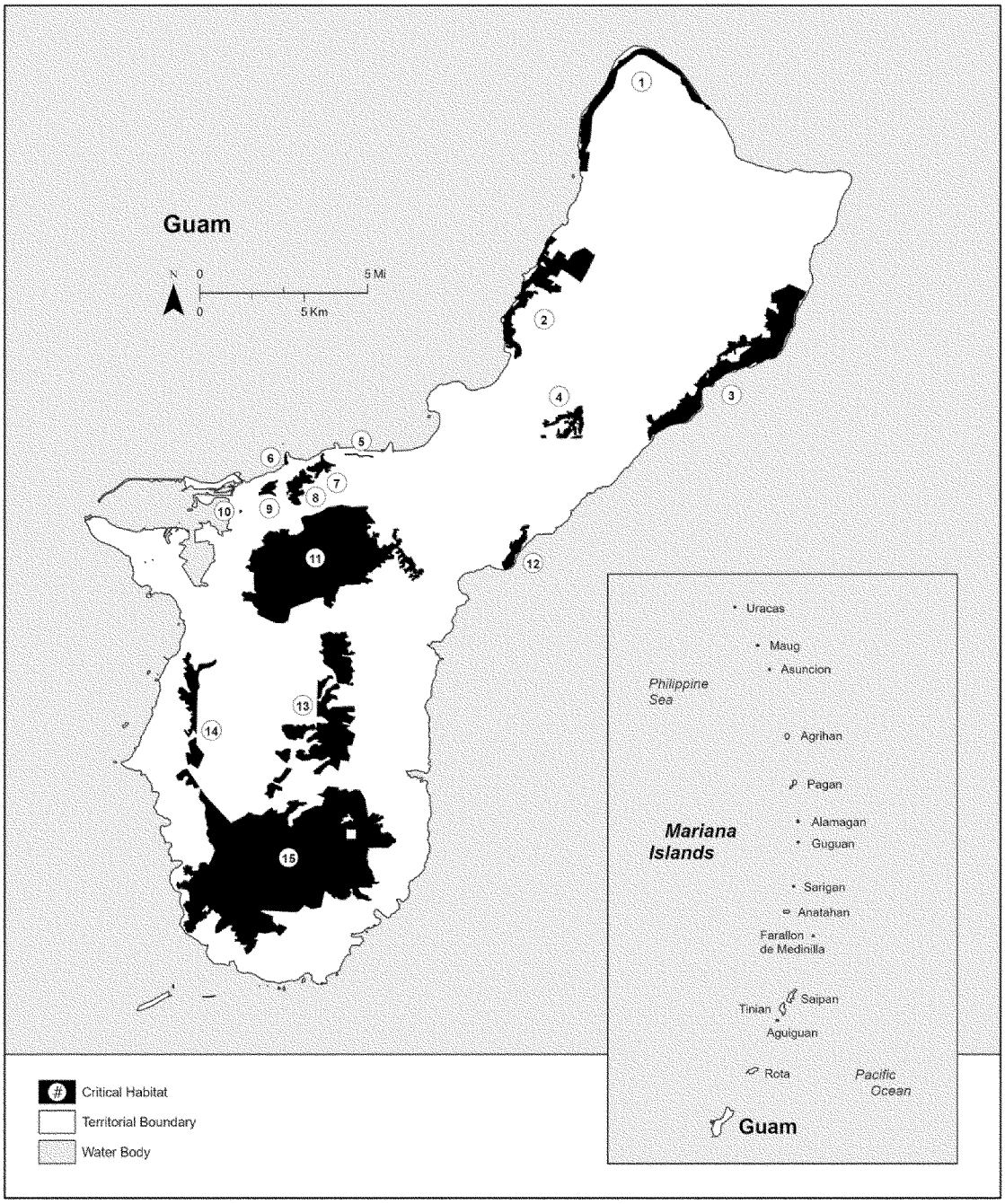
(B) Index maps follow:

Figure 1 to Family Cycadaceae: *Cycas micronesica* (Fadang, Faadang) paragraph (b)(2)(v)(B)



Figure 2 to Family Cycadaceae: *Cycas micronesica* (Fadang, Faadang) paragraph (b)(2)(v)(B)

Critical Habitat
Index Map for Plants on the Islands of Guam,
Territory of Guam



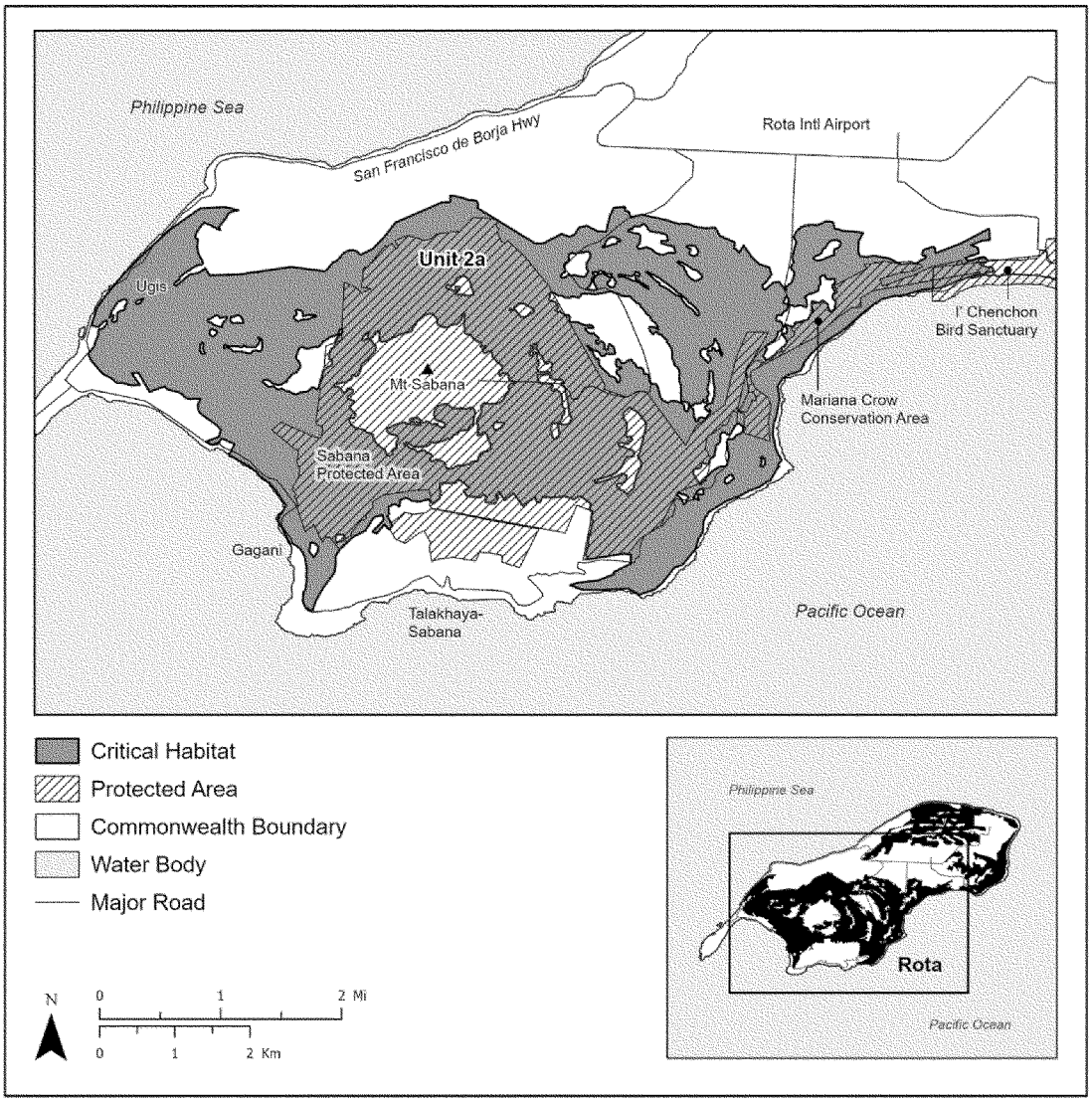
(vi) Rota 2—*Cycas micronesica*–a, Commonwealth of the Northern Mariana Islands.

(A) The single critical habitat unit (2a) on the island of Rota consists of 6,875 ac (2,782 ha) and is composed of limestone forest in the south of the island. This unit extends south of the Rota International Airport, stretches east to the I'Chenchon Bird Sanctuary, and flanks the Talakhaya-Sabana watershed to the south (encompassing parts of the Sabana Protected Area, Mariana Crow Conservation Area, and I'Chenchon Bird Sanctuary) and east to Ugis. The unit does not include developed areas, grasslands, and Mt. Sabana. Land-ownership consists of 5,806 ac (2,350 ha) of land owned by the Commonwealth government, 1,039 ac (420 ha) in private ownership, and 30 ac (12 ha) that are uncategorized.

(B) Map of Rota 2–*Cycas micronesica*–a follows:

Figure 3 to Family Cycadaceae: *Cycas micronesica* (Fadang, Faadang) paragraph (b)(2)(vi)(B)

Critical Habitat for *Cycas micronesica* (Fadang, Faadang)
Rota 2–*Cycas micronesica*–a
Rota, Commonwealth of the Northern Mariana Islands



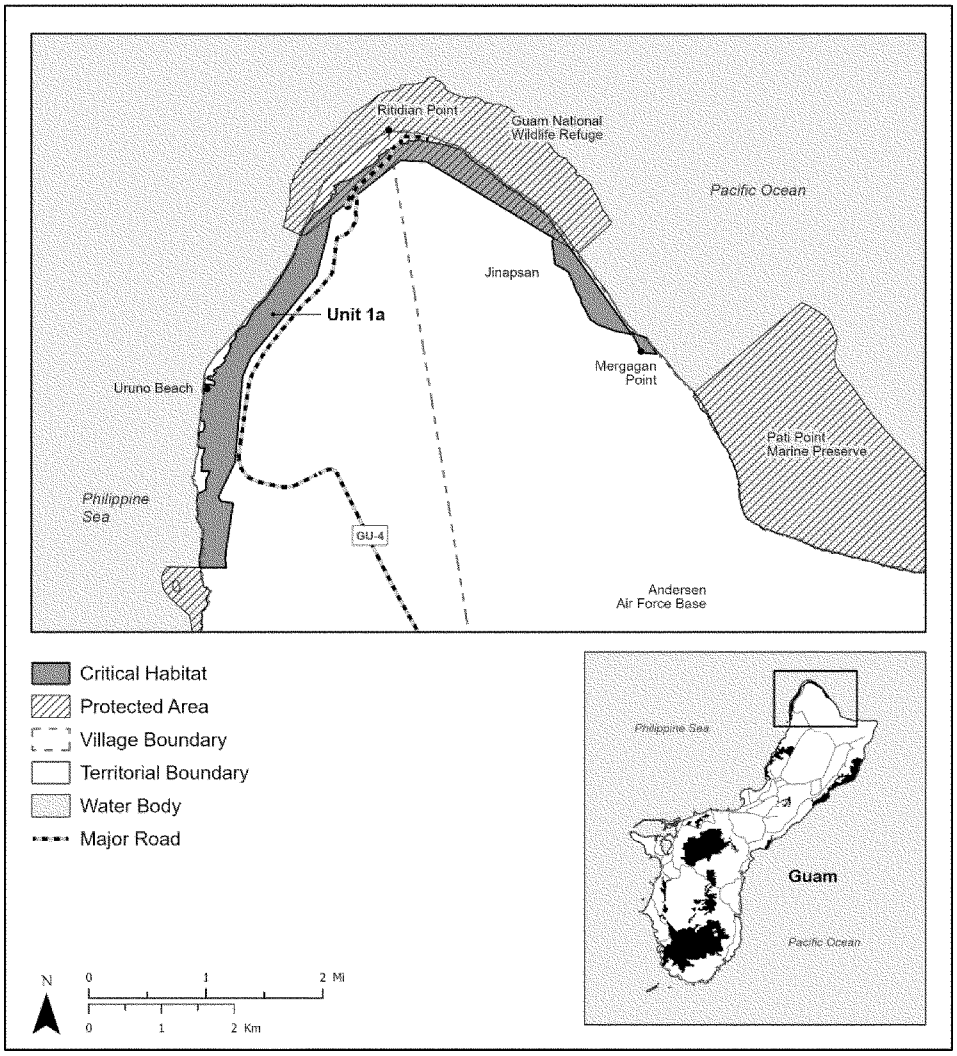
(vii) Guam 1—*Cycas micronesica*–a, Territory of Guam.

(A) Unit 1a on the island of Guam consists of 856 ac (346 ha) and is composed of a band of secondary limestone forest in a horseshoe-shape on the northwestern point of the island (Ritidian Point). The unit extends from the southwestern boundary south of Urunao Beach and runs north along the cliffline towards Jinapsan ending at Mergagan Point. Landownership includes 262 ac (106 ha) of Federal lands (Guam NWR), 68 ac (27 ha) of Territory government lands, 408 ac (165 ha) in private ownership, and 118 ac (48 ha) that are uncategorized.

(B) Map of Guam 1—*Cycas micronesica*–a follows:

Figure 4 to Family Cycadaceae: *Cycas micronesica* (Fadang, Faadang) paragraph (b)(2)(vii)(B)

Critical Habitat for *Cycas micronesica* (Fadang, Faadang)
Guam 1–*Cycas micronesica*–a
Guam, Territory of Guam



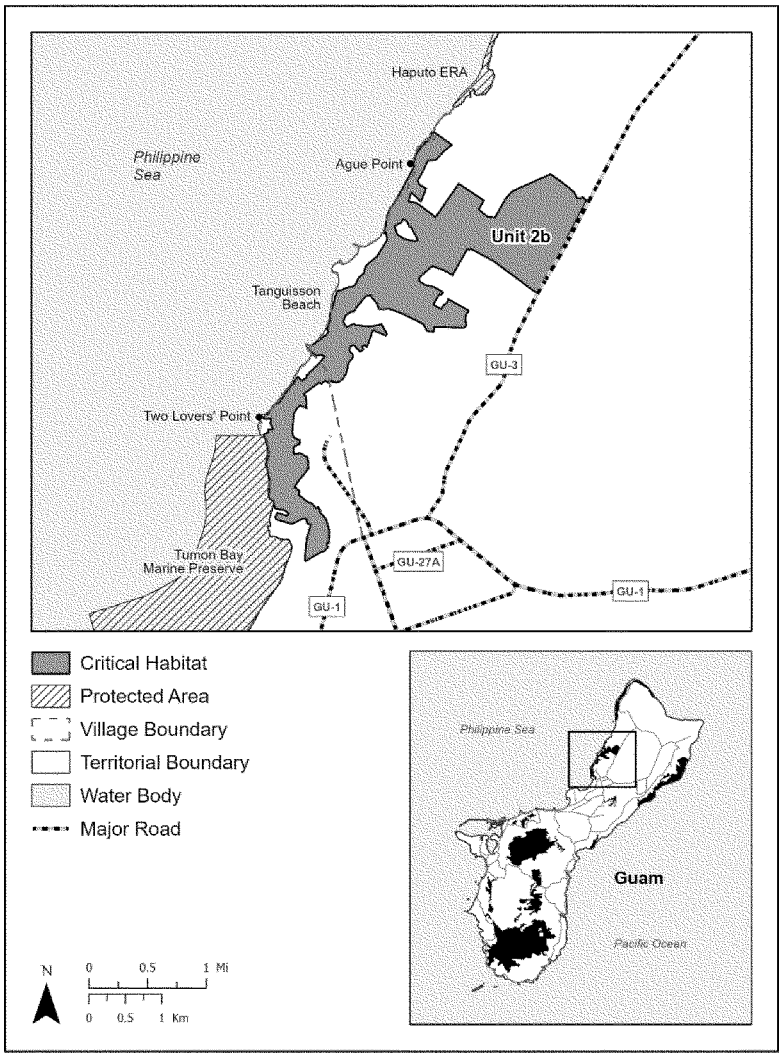
(viii) Guam 2—*Cycas micronesica*–b, Territory of Guam.

(A) Unit 2b on the island of Guam consists of 1,245 ac (504 ha) and is composed of limestone forests along the northwestern edge of the island. The unit lies west of Route 3 and extends from the clifflines overlooking Tumon Bay west of Route 1 and runs north to Ague Point. Landownership includes 1,081 ac (437 ha) of Territory government lands, 108 ac (44 ha) in private ownership, and 56 ac (23 ha) that are uncategorized.

(B) Map of Guam 2—*Cycas micronesica*–b follows:

Figure 5 to Family Cycadaceae: *Cycas micronesica* (Fadang, Faadang) paragraph (b)(2)(viii)(B)

Critical Habitat for *Cycas micronesica* (Fadang, Faadang)
Guam 2–*Cycas micronesica*–b
Guam, Territory of Guam



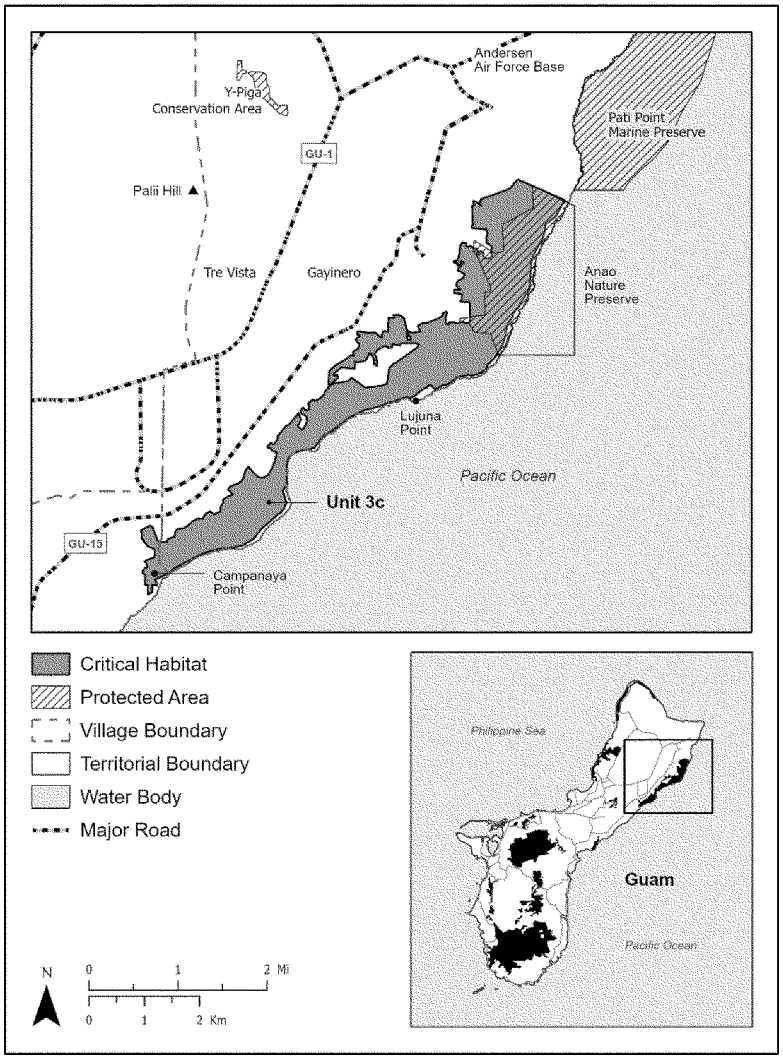
(ix) Guam 3—*Cycas micronesica*—c, Territory of Guam.

(A) Unit 3c on the island of Guam consists of 2,166 ac (877 ha) and is composed of limestone forests along the northeast coastal edge of the island. The unit begins at the boundary of the Anao Nature Preserve (which is immediately adjacent to the southern end of the Guam NWR boundary) and extends southwest along the coast to Campanaya Point. Landownership includes 1,549 ac (627 ha) of Territory government lands, 270 ac (109 ha) in private ownership, and 347 ac (141 ha) that are uncategorized. The northeastern portion of this unit overlaps the Anao Nature Preserve.

(B) Map of Guam 3—*Cycas micronesica*—c follows:

Figure 6 to Family Cycadaceae: *Cycas micronesica* (Fadang, Faadang) paragraph (b)(2)(ix)(B)

Critical Habitat for *Cycas micronesica* (Fadang, Faadang)
Guam 3–*Cycas micronesica*–c
Guam, Territory of Guam



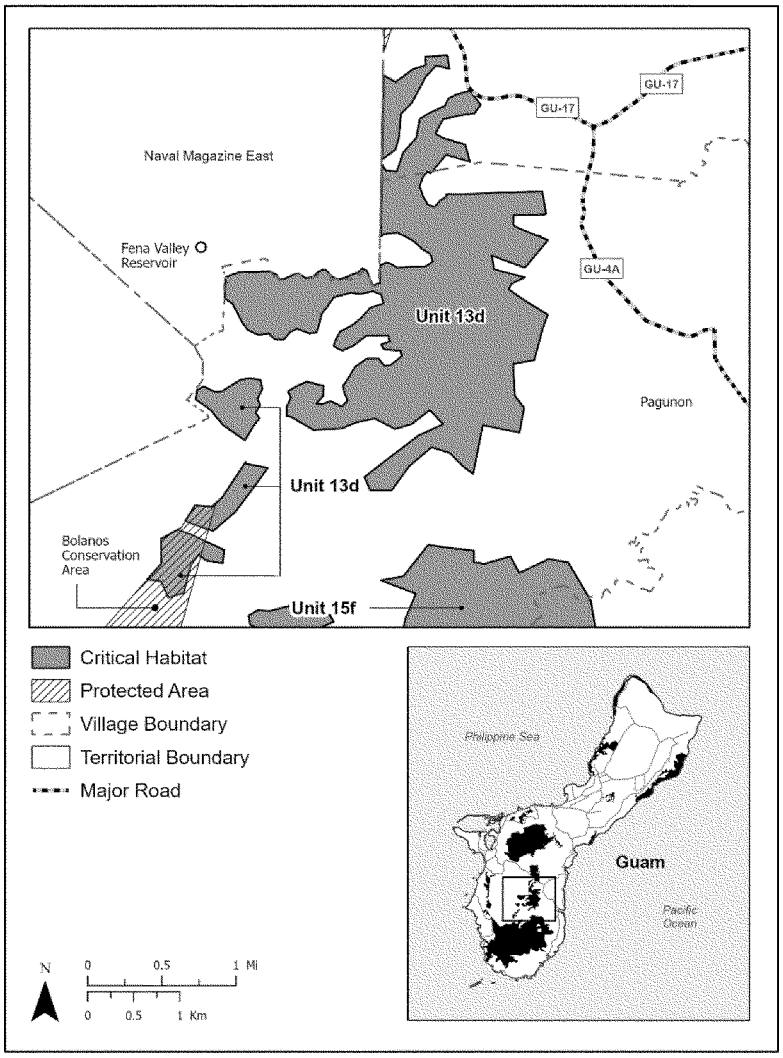
(x) Guam 13—*Cycas micronesica*–d, Territory of Guam.

(A) Unit 13d on the island of Guam consists of 1,726 ac (698 ha) and is composed of four segments of volcanic forests on the southeastern side of the island. The unit extends from Route 17 south past Naval Magazine East and Fena Valley Reservoir along the western boundaries and towards Pagunon on the eastern boundary. The unit also extends along the Maagas, Mahlac, and Sagge Rivers and their tributaries (which are not represented on the map due to unavailable data layers). Landownership includes 142 ac (57 ha) of Territory government lands, 859 ac (348 ha) in private ownership, and 725 ac (293 ha) that are uncategorized. This unit overlaps the Bolanos Conservation Area.

(B) Map of Guam 13—*Cycas micronesica*–d follows:

Figure 7 to Family Cycadaceae: *Cycas micronesica* (Fadang, Faadang) paragraph (b)(2)(x)(B)

Critical Habitat for *Cycas micronesica* (Fadang, Faadang)
Guam 13–*Cycas micronesica*–d
Guam, Territory of Guam



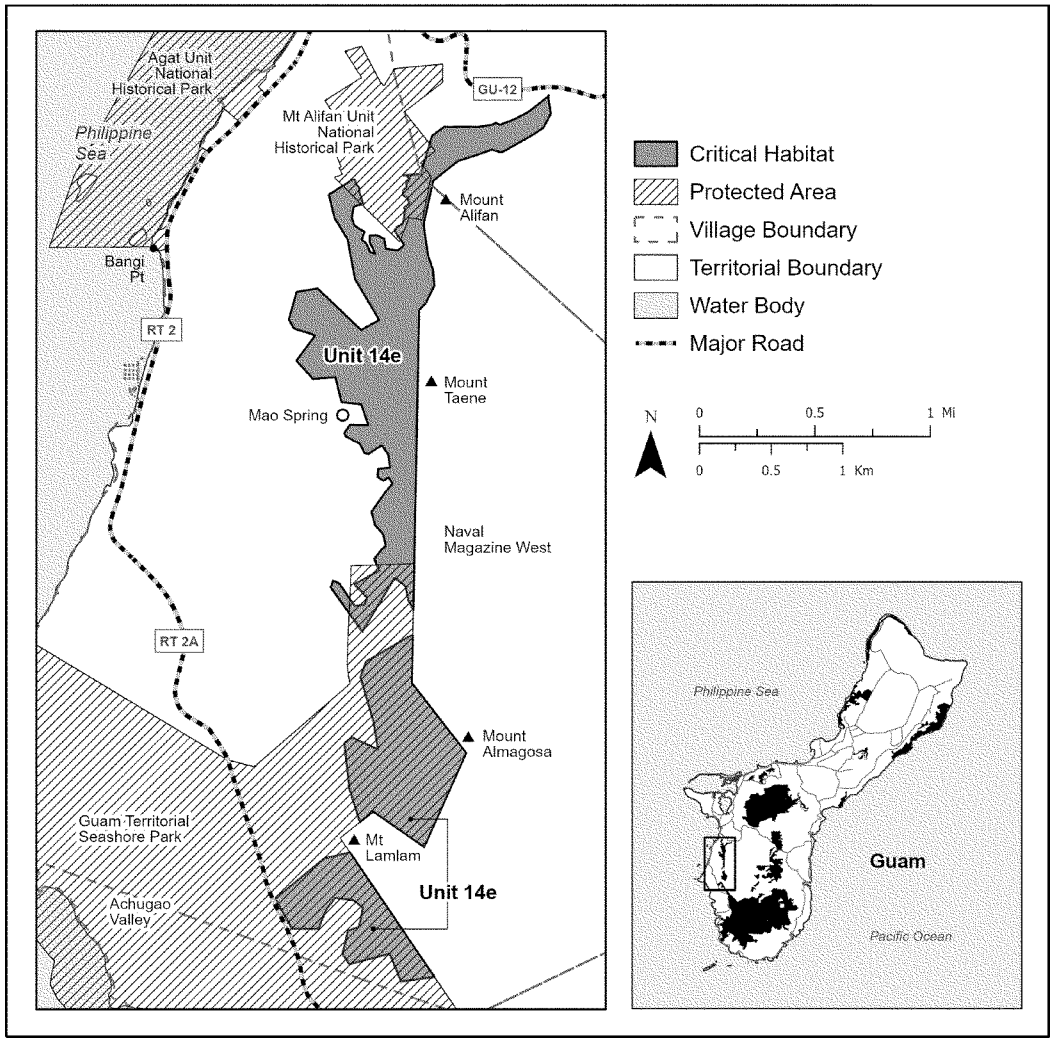
(xi) Guam 14—*Cycas micronesica*–e, Territory of Guam.

(A) Unit 14e on the island of Guam consists of 629 ac (254 ha) and is composed of three segments of limestone forests on the southwestern side of the island. The unit extends from Route 12 and Mt. Alifan in the north, running along the border of Naval Magazine West and ending south of Mt. Lamlam at Route 2A. Landownership includes 16 ac (6 ha) of Federal lands (War in the Pacific National Historical Park), 84 ac (34 ha) of Territory government lands, 344 ac (139 ha) in private ownership, and 185 ac (75 ha) that are uncategorized. The northern portion of the unit overlaps the Mt. Alifan Unit of War in the Pacific National Historical Park. The southern portion of the unit overlaps the Guam Territorial Seashore Park.

(B) Map of Guam 14—*Cycas micronesica*–e follows:

Figure 8 to Family Cycadaceae: *Cycas micronesica* (Fadang, Faadang) paragraph (b)(2)(xi)(B)

Critical Habitat for *Cycas micronesica* (Fadang, Faadang)
Guam 14–*Cycas micronesica*–e
Guam, Territory of Guam



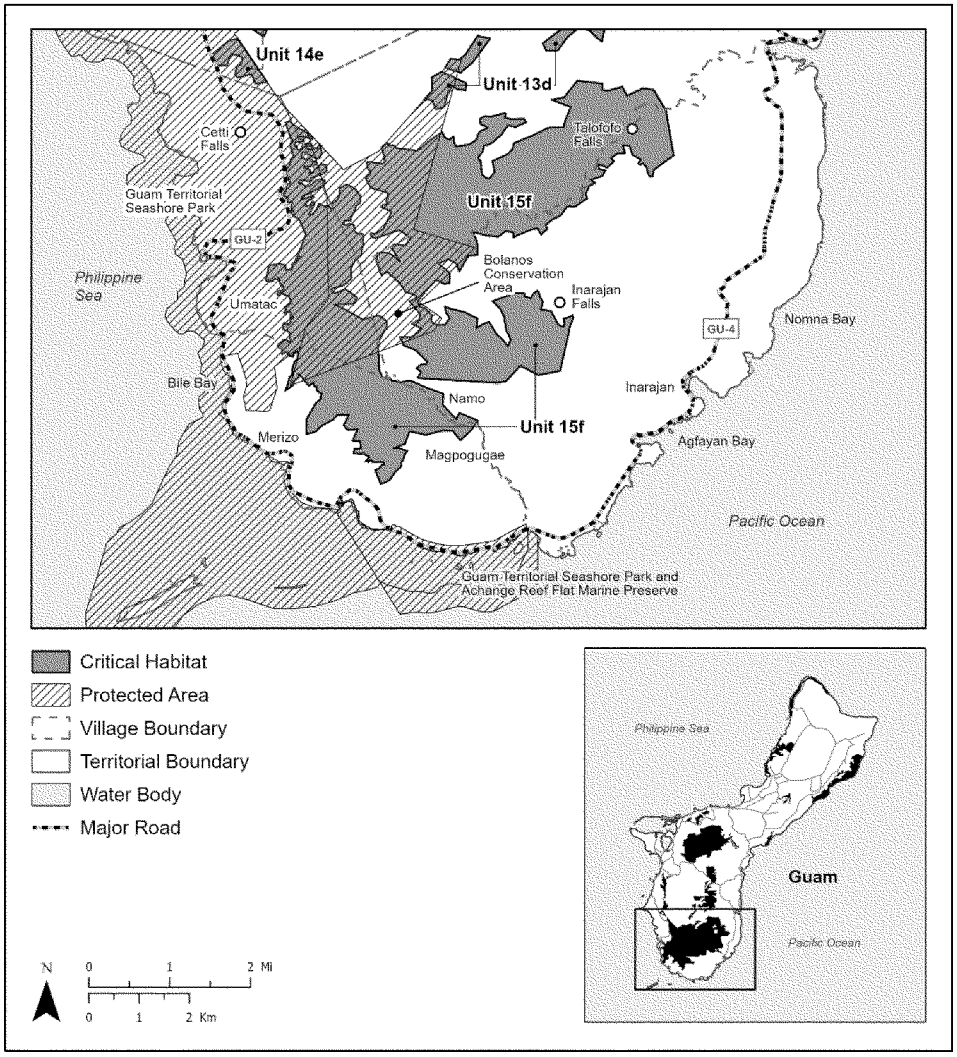
(xii) Guam 15—*Cycas micronesica*–f, Territory of Guam.

(A) Unit 15f on the island of Guam consists of 6,148 ac (2,488 ha) and is composed of volcanic forests in the southern part of the island. The unit runs from the north of Talofofo Falls along the Ugum and Bubulao Rivers to the south of Namo and runs from the east of Route 2 along the Dante River to Inarajan Falls (the rivers of which are not represented on the map due to unavailable data layers). Another portion of the unit stretches from Cetti Falls in the north through the Bolanos Conservation Area to Magpogugae in the south. Landownership includes 919 ac (372 ha) of Territory government lands, 3,612 ac (1,462 ha) in private ownership, and 1,617 ac (654 ha) that are uncategorized. The central portion of the unit overlaps the Bolanos Conservation Area, and the western portion of the unit overlaps the Guam Territorial Seashore Park.

(B) Map of Guam 15—*Cycas micronesica*—f follows:

Figure 9 to Family Cycadaceae: *Cycas micronesica* (Fadang, Faadang) paragraph (b)(2)(xii)(B)

Critical Habitat for *Cycas micronesica* (Fadang, Faadang)
Guam 15–*Cycas micronesica*–f
Guam, Territory of Guam



* * * * *

Brian Nesvik,
Director, U.S. Fish and Wildlife Service.
[FR Doc. 2026–05678 Filed 3–23–26; 8:45 am]
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Part III

Department of Energy

Federal Energy Regulatory Commission

18 CFR Part 35

Order No. 917; Filing Process and Data Collection for the Electric Quarterly Report; Final Rule

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 35

[Docket No. RM23–9–000]

Order No. 917; Filing Process and Data Collection for the Electric Quarterly Report

AGENCY: Federal Energy Regulatory Commission (Commission or FERC).

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission adopts eXtensible Business Reporting Language-Comma-Separated Values as the standard for filing the Electric Quarterly Report (EQR). In addition, the Commission amends its regulations to require Regional Transmission Organizations and Independent System Operators to produce reports containing market participant transaction data. The Commission also modifies and clarifies EQR reporting requirements. These changes are designed to update the data collection, improve data quality, increase market transparency, decrease the costs, over time, of preparing the necessary data for submission, and streamline compliance with any future changes to the filing requirements.

DATES: This rule is effective May 26, 2026.

FOR FURTHER INFORMATION CONTACT:

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1. On October 19, 2023, the Federal Energy Regulatory Commission (FERC or Commission) issued the notice of proposed rulemaking (NOPR) in this proceeding.[1] The NOPR proposed to adopt a new system design for submitting Electric Quarterly Reports (EQR) based on the eXtensible Business Reporting Language-Comma-Separated Values (XBRL–CSV) standard.[2] The Commission also proposed to modify or clarify the EQR filing requirements.[3] Comments were due by December 26, 2023, and several entities submitted motions requesting an extension of time to submit comments. The Commission extended the deadline for submitting comments to February 26, 2024.

Fifteen organizations submitted comments in response to the NOPR.[4]

[1] *Filing Process & Data Collection for the Elec. Quarterly Report,* 185 FERC ¶ 61,043 (2023) (NOPR).

[2] NOPR, 185 FERC ¶ 61,043 at P 4.

[3] The proposed changes were summarized in Attachments 1 and 2 to the NOPR.

[4] Bonneville Power Administration (BPA), California Independent System Operator Corporation (CAISO), Energy Compliance

Continued

I. Background

2. Under the Federal Power Act (FPA), the Commission regulates the transmission of electric energy in interstate commerce and the sale of electric energy at wholesale in interstate commerce.[5] FPA section 205(c) allows the Commission to prescribe rules and regulations under which public utilities shall file with the Commission schedules showing their rates, terms and conditions of jurisdictional service.[6] The Commission adopted the EQR as the reporting mechanism for public utilities to fulfill their responsibility under FPA section 205(c) to have information relating to their rates, terms and conditions of service available for public inspection in a convenient form and place. The Commission established the EQR in 2002 with the issuance of Order No. 2001.[7] In Order No. 2001, the Commission required public utilities to electronically file EQRs summarizing the contractual rates, terms and conditions in their agreements under 18 CFR part 35 for all jurisdictional services, including market-based rate (MBR) power sales, cost-based rate power sales and transmission service (Contract data), and transaction information for short-term and long-term MBR power sales and cost-based rate power sales (Transaction data). The EQR is an integral part of the Commission's regulatory oversight, including oversight of MBR sales.[8] The Commission requires sellers with MBR authorization to file EQRs as a condition for retaining that authorization.[9]

3. In 2012, in Order No. 768, the Commission revised the EQR filing requirements and extended the requirement to file EQRs to non-public utilities (NPU) above a *de minimis* market presence threshold, pursuant to the Commission's authority to facilitate price transparency under FPA section 220.[10] In Order No. 770, the Commission revised the process for filing EQRs and transitioned to an approach whereby EQRs are submitted directly through its website via three filing mechanisms, instead of using software provided by the Commission.[11] In 2019, the Commission modernized its filing requirements for certain FERC forms and selected eXtensible Business Reporting Language (XBRL) as the mechanism by which companies would file these forms.[12]

4. Starting in 2020, Commission staff reassessed the EQR system design and filing requirements to identify potential improvements and modernizations. As part of the reassessment effort, staff discussed the possible transition of the EQR system to a system that collects data based on the XBRL–CSV standard at the EQR Users Group meeting held on September 23, 2020 (September 2020 EQR Users Group).[13] In addition, in 2021, staff held three technical conferences with EQR filers and data users, in Docket No. AD21–8–000, to discuss other potential changes to the EQR reporting requirements. Based on the NOPR comments, comments made by participants during the September 2020 EQR Users Group meeting and the 2021 technical conferences, as well as the Commission's experience with the EQR data collection since its inception, this final rule updates and modernizes the EQR data collection by revising the EQR system design and filing requirements, as discussed below.

II. Discussion

5. This final rule adopts a single collection method for the EQR based on the XBRL–CSV standard; amends the Commission's regulations to extend the quarterly filing window and require Regional Transmission Organizations (RTO) and Independent System Operators (ISO) to produce reports containing XBRL–CSV formatted market participant transaction data (transaction data reports); and modifies and clarifies EQR reporting requirements. The Commission concludes that adopting these changes will update and streamline the data collection, improve data quality, and increase market transparency. Additionally, these changes will decrease the costs, over time, of preparing the necessary data for submission and complying with future changes to the filing requirements set forth by the Commission. Based on the adoption of these changes, the Commission revises the EQR Data Dictionary (Version 3.5), EQR reporting requirements and associated fields, and refers to the reporting requirements and associated fields adopted in this final rule as EQR Data Dictionary, Version 4.0.[14] Specifically, this final rule:

a. Adopts a single collection method for EQR reporting based on the XBRL–CSV standard.

Consulting, LLC (ECC), Edison Electric Institute (EEI), Electric Power Supply Association (EPSA), Interstate Gas Supply, LLC (IGS), ISO New England Inc. (ISO–NE), Macquarie Energy LLC (Macquarie Energy), Midcontinent Independent System Operator, Inc. (MISO), New York Independent System Operator, Inc. (NYISO), Pacific Gas and Electric Company (PG&E), PJM Interconnection, L.L.C. (PJM), Systrends, Tri-State Generation and Transmission Association, Inc. (Tri-State), and XBRL US. Constellation Energy Generation, LLC filed a Motion to Intervene.

[5] 16 U.S.C. 824(a)–(b).

[6] Section 205(c) of the FPA, 16 U.S.C. 824d(c), provides:

Under such rules and regulations as the Commission may prescribe, every public utility shall file with the Commission, within such time and in such form as the Commission may designate, and shall keep open in convenient form and place for public inspection schedules showing all rates and charges for any transmission or sale subject to the jurisdiction of the Commission, and the classifications, practices, and regulations affecting such rates and charges, together with all contracts which in any manner affect or relate to such rates, charges, classifications, and services.

[7] *Revised Pub. Util. Filing Requirements,* Order No. 2001, 99 FERC ¶ 61,107, *reh'g denied,* Order No. 2001–A, 100 FERC ¶ 61,074, *reh'g denied,* Order No. 2001–B, 100 FERC ¶ 61,342, *order directing filing,* Order No. 2001–C, 67 FR 79077 (Dec. 27, 2002), 101 FERC ¶ 61,314 (2002), *order directing filing,* Order No. 2001–D, 102 FERC ¶ 61,334, *order refining filing requirements,* Order No. 2001–E, 105 FERC ¶ 61,352 (2003), *order on clarification,* Order No. 2001–F, 106 FERC ¶ 61,060 (2004), *order revising filing requirements,* Order No. 2001–G, 72 FR 56735 (Oct. 4, 2007), 120 FERC ¶ 61,270, *order on reh'g and clarification,* Order No. 2001–H, 73 FR 1876 (Jan. 10, 2008), 121 FERC ¶ 61,289 (2007), *order revising filing requirements,* Order No. 2001–I, 73 FR 65526 (Nov. 4, 2008), 125 FERC ¶ 61,103 (2008).

[8] *See, e.g., Mkt.-Based Rates for Wholesale Sales,* Order No. 697, 72 FR 39904 (July 20, 2007), 119 FERC ¶ 61,295, at P 952 (2007) (pointing to EQR filing requirements, among other things, as part of the Commission establishing regulatory oversight over market-based rates).

[9] *See Refinements to Policies & Procs. for Mkt.-Based Rates for Wholesale Sales of Elec. Energy, Capacity & Ancillary Servs. by Pub. Utils.,* Order No. 816, 80 FR 67056 (Oct. 30, 2015), 153 FERC ¶ 61,065 (2015), *order on reh'g,* Order No. 816–A, 81 FR 33375 (May 26, 2016), 155 FERC ¶ 61,188 (2016); *Mkt.-Based Rates for Wholesale Sales of Elec. Energy, Capacity & Ancillary Servs. by Pub. Utils.,* Order No. 697, 119 FERC ¶ 61,295 at P 3, *clarified,* 121 FERC ¶ 61,260 (2007), *order on reh'g,* Order No. 697–A, 73 FR 25832 (May 7, 2008), 123 FERC ¶ 61,055, *clarified,* 124 FERC ¶ 61,055, *order on reh'g,* Order No. 697–B, 73 FR 79610 (Dec. 30, 2008), 125 FERC ¶ 61,326 (2008), *order on reh'g,* Order No. 697–C, 74 FR 30924 (June 29, 2009), 127 FERC ¶ 61,284 (2009), *order on reh'g,* Order No. 697–D, 75 FR 14342 (Mar. 25, 2010), 130 FERC ¶ 61,206 (2010), *aff'd sub nom. Mont. Consumer Counsel* v. *FERC,* 659 F.3d 910 (9th Cir. 2011).

[10] *Elec. Mkt. Transparency Provisions of Section 220 of the Fed. Power Act,* Order No. 768, 77 FR 61896 (Oct. 11, 2012), 140 FERC ¶ 61,232 (2012), *order on reh'g,* Order No. 768–A, 143 FERC ¶ 61,054 (2013), *order on reh'g,* Order No. 768–B, 150 FERC ¶ 61,075 (2015). As defined in Order No. 768, ''non-public utilities'' are market participants that are not public utilities under section 201(f) of the FPA. *See id.* P 1 n.3.

[11] *Revisions to Elec. Quarterly Report Filing Process,* Order No. 770, 77 FR 71288 (Nov. 30, 2012), 141 FERC ¶ 61,120 (2012).

[12] *Revisions to the Filing Process for Comm'n Forms,* Order No. 859, 167 FERC ¶ 61,241 (2019).

[13] The Commission periodically holds EQR Users Group meetings, which provide a forum for dialogue between Commission staff and EQR filers and data users to discuss potential improvements to the EQR program and filing process.

[14] Version 4.0 of the EQR Data Dictionary summarizes the reporting requirements adopted in this final rule, and is available in eLibrary and on the Commission's EQR website. *Electric Quarterly Reports,* Fed. Energy Regulatory Comm'n, *https://www.ferc.gov/power-sales-and-markets/electric-quarterly-reports-eqr.* The NOPR refers to Version 3.5 of the EQR Data Dictionary, which was issued November 23, 2020, and is available at: *https://www.ferc.gov/sites/default/files/2020-11/Data_Dictionary_V3_5_Clean.pdf.*

b. Amends the Commission's regulations to extend the quarterly filing window to four months after the end of the quarter.

c. Amends the Commission's regulations to require RTOs and ISOs to produce reports containing market participant transaction data in XBRL–CSV format that adheres to the FERC EQR taxonomies, which Sellers [15] can use to prepare their EQR submissions.

d. Provides the option to file data on a rolling basis before the close of the filing window.

e. Retains the EQR refiling policy to require refilings for up to 12 quarters when there are material corrections or material omissions to previously filed EQRs.

f. Eliminates the requirement for Sellers to report transmission capacity reassignment information in the EQR.

g. Eliminates the requirement for Sellers to identify the index price publisher(s) to which they report transactions in the EQR.

h. Eliminates the requirement for Sellers to identify which exchange or broker was used to consummate transactions.

i. Improves data quality and transparency by adopting new data fields and clarifies the definitions and requirements of certain data fields.

j. Streamlines the EQR filing process by eliminating certain data that Sellers must submit each quarter with their EQRs.

A. Adoption of New EQR System Based on XBRL–CSV Standard

1. NOPR Proposal

6. The Commission proposed to adopt a new EQR submission system based on the XBRL–CSV standard. The new XBRL–CSV standard would replace the three current submission methods: XML, CSV, and manual data entry through a webform.[16]

2. Comments

7. CAISO, EPSA, ISO–NE, PG&E, PJM, and XBRL US filed comments in support of the Commission's proposal to transition to a new EQR system based on the XBRL–CSV standard.[17] CAISO states that it agrees that use of the XBRL–CSV standard for reporting supports the current CSV format and provides more flexibility in submitting large data sets.[18] EPSA supports the NOPR in principle and agrees that, over time, the proposed changes will provide process efficiency and other benefits.[19] XBRL US agrees with the Commission's assessment that XBRL–CSV reporting will make information easier for Sellers to submit and for data users to retrieve and will decrease the costs of preparing data and complying with future changes in requirements over time.[20]

8. ISO–NE requests that the Commission allow for the submittal of multiple files for a single submission period (*i.e.,* that each file is appended to a single quarter).[21] ISO–NE states that this would provide flexibility for reporting entities to submit Contract data that is managed by different groups separately, while allowing the files to all be associated with a single quarter.[22] In addition, Systrends requests that the Commission allow third-party software to submit XBRL–CSV files directly to the EQR database, rather than requiring filers to upload to the Commission's submission portal manually. Systrends also requests that the Commission allow filing status notifications of submissions via Application Programming Interface (API), including filed, rejected, and accepted details from the EQR database.[23] BPA and IGS express concern about the anticipated increases in costs and time if the new filing format is adopted. BPA states that the new process would result in increased workload for employees, the need for new vendor and software contracts, and a more complicated filing process that requires filers to use new software or third-party vendors instead of filing directly through the Commission's EQR submission website.[24]

9. Additionally, ECC seeks clarification of the statement in the NOPR that the XBRL–CSV system would save Sellers time in preparing their filings by allowing them to check their EQR submission for most errors in real-time through the use of FERC EQR taxonomies and related documents without first submitting files to the Commission.[25] ECC states that errors in EQRs can be identified either by the Commission's system with error messages going back to the filer or by the taxonomies and related documents, but ECC adds that this will not result in fewer errors for filers.

3. Commission Determination

10. We adopt the NOPR proposal to implement XBRL–CSV as the single filing standard for submitting EQRs. XBRL–CSV will replace the three existing submission methods: XML, CSV, and manual data entry through a webform. We acknowledge that there will be an initial burden on filers associated with implementing the XBRL–CSV standard. However, we find that the XBRL–CSV standard will make information easier for Sellers to submit, while also decreasing the costs, over time, of preparing the necessary data for submission and complying with future changes to the Commission's filing requirements. We find that adopting the XBRL–CSV standard would preserve the efficiency and simplicity of CSV, while adding the flexibility associated with the XBRL standard. Moreover, as discussed further below, we are adopting the NOPR proposal to create pre-formatted templates for the preparation of EQR submission files, which may limit the burden on certain filers, particularly smaller entities.

11. In response to ISO–NE's request that the Commission allow for the submittal of multiple files for a single submission period (*i.e.,* each file is appended to a single quarter), we note that multiple data files will be allowed for a single submission period. In response to Systrends' requests that the Commission allow third-party software to submit XBRL–CSV files directly to the EQR database and allow filing submission status notifications via API, we note that the new system capabilities and notification methods will be determined during the XBRL–CSV system design process. We will set forth the new system capabilities and notification methods after the system design process in a future order adopting the FERC EQR taxonomies.

12. In response to ECC's comment that the new system will not result in fewer errors, we anticipate that the new XBRL–CSV system will save filers time because they will no longer need to submit files to the Commission multiple times to receive a complete list of errors in their filing. The new EQR system will rely on FERC EQR taxonomies and validation rules. Unlike the current EQR system, whereby Sellers must often submit files to the Commission multiple times to resolve all errors in those files, the XBRL–CSV system will enable Sellers to detect errors through the publicly available taxonomies and validations. We also expect that the requirement for the RTOs/ISOs to

[15] For purposes of this final rule, ''Seller'' refers to a public utility that is authorized to make sales as indicated in the company's Commission-approved tariff(s) and required to file the EQR under FPA section 205 or a non-public utility that is required to file the EQR pursuant to FPA section 220.

[16] NOPR, 185 FERC ¶ 61,043 at P 4.

[17] CAISO Comments at 2; EPSA Comments at 2; ISO–NE Comments at 5; PJM Comments at 3; PG&E Comments at 4; XBRL US Comments at 1.

[18] CAISO Comments at 2.

[19] EPSA Comments at 2.

[20] XBRL US Comments at 1.

[21] ISO–NE Comments at 5.

[22] *Id.*

[23] Systrends Comments at 3.

[24] BPA Comments at 2.

[25] ECC Comments at 3.

conform their transaction data reports to the published FERC EQR taxonomies and validations will ultimately save time for filers because they will have fewer errors in the Transaction data received from the RTOs/ISOs.

B. FERC Templates Based on XBRL–CSV Standard and Simplified Submission for EQRs With No Changes Over Prior Quarter

1. NOPR Proposal

13. The Commission proposed to make available pre-formatted templates for the preparation of EQR submission files (FERC Templates) as an alternative to Sellers developing their own XBRL–CSV submission system.[26] The Commission stated that the proposed FERC Templates would preserve the framework of the current CSV-based filing method, which some Sellers use to prepare their EQR submissions. In addition, the Commission stated that FERC Templates would help reduce the reporting burden for some Sellers, particularly those Sellers reporting transactions occurring outside of RTO/ISO markets.[27] The Commission also noted that further technical information on the requirements of the templates would be available during the system design process and would be made available to interested parties during future technical conference(s) established in this proceeding.[28] Additionally, the Commission proposed to provide a simplified EQR submission process for Sellers that only report Identification data or Identification and Contract data, with no changes from the previous quarter.[29]

2. Comments

14. CAISO supports the proposal to provide FERC Templates, stating they would aid in efforts to comply with the EQR filing process and would also help with training new personnel responsible for completing EQR filings in the future. CAISO also states that FERC Templates would help CAISO customize the development of information queries from its internal databases.[30]

15. BPA requests that the Commission provide a template or an example showing the new data fields and the order in which the fields should appear for the Contracts and Transactions files. BPA states that a template would help filers identify which fields remain, which are eliminated, and which are changing, thereby creating a more efficient filing process.[31]

16. XBRL US requests a more detailed explanation of the templates the Commission plans to provide along with example templates.[32] Further, XBRL US seeks clarification that the FERC Templates described in the NOPR refer to a predefined table template defined in the Java Script Object Notation (JSON) metadata file.

17. ECC and IGS state that, for filers that do not currently use a third-party or in-house software to create XML files, adopting a new XBRL–CSV standard may represent a major increase in the expense to comply with the EQR requirements.[33] In addition, IGS seeks clarification on what will be required to convert data in a spreadsheet format into XBRL–CSV format. IGS asserts that filers may continue to create spreadsheets (altered to accommodate the new proposed fields) to upload into the software for conversion to the new format if they can afford to build or buy a software system to facilitate filing.[34]

3. Commission Determination

18. We adopt the NOPR proposal to make FERC Templates available for Sellers to submit EQRs in XBRL–CSV format. We find that these FERC Templates will assist many Sellers, particularly smaller entities, with preparing their EQR submission files. We anticipate making available CSV-formatted FERC Templates and a JSON metadata file that would enable submitted files to conform with the formatting requirements of XBRL–CSV and enable the Commission's XBRL-based system to read and process the EQR data. We also anticipate that Sellers would be able to use FERC Templates in a manner similar to how they currently use CSV files to prepare their submissions by submitting the zipped CSV and JSON files to a future EQR portal. After submission, the EQR system would validate and process the files, and notify Sellers if the filing was accepted or rejected due to errors.

19. Filers that do not currently use a third-party vendor or do not rely on purchased software to create EQR submission files will have the option to submit their EQRs into the new system using FERC Templates without the need to purchase software from a third-party vendor. The FERC Templates will offer a simpler way to create and submit EQRs for Sellers that are not submitting large Transaction data files and may eliminate the need for such Sellers to purchase or create their own XBRL–CSV applications.

20. The FERC Templates will be particularly useful for Sellers reporting transactions occurring outside of RTO/ISO markets or reporting similar sets of data quarter over quarter. Since we anticipate that the new XBRL–CSV system will allow multiple Transaction data files to be submitted as one zipped file, the FERC Templates containing bilateral Transaction data may be zipped together with other Transaction data received from RTOs/ISOs. By contrast, the current system allows only one Transaction data file to be submitted to the EQR system at a time that contains all transaction data, including both RTO/ISO and bilateral transactions.

21. For those Sellers that only report Identification data or Identification and Contract data in the EQR with no changes from the previous quarter, we implement an option that requires such Sellers only to confirm that there are no changes to their EQR from the previous quarter. We find that this option will simplify the EQR filing process and reduce the burden on some Sellers, particularly Sellers that do not report Transaction data in successive quarters. The simplified submission option will not be available for Sellers that report Transaction data. Specific submission instructions on this reporting option will be made available in future guidance issued by the Commission. In response to ECC and IGS, we do not anticipate that the new system would significantly increase the expense to comply with the EQR requirements if using FERC Templates or the simplified submission method for filing without changes over the prior quarter.

22. FERC Templates could mitigate potential cost impositions for the entities that choose to use them to make their XBRL–CSV submissions. While the FERC Templates will be based on the FERC EQR taxonomies and XBRL–CSV standard, they may not offer the same features as a system developed to produce XBRL–CSV submission files. We therefore expect that Sellers with a large volume of Transaction data will choose to develop or purchase XBRL–CSV applications to take advantage of the benefits and advanced functionality of the new submission format.

C. XBRL–CSV System and Implementation Timeline

1. NOPR Proposal

23. The Commission proposed to release draft FERC EQR taxonomies and related documents following the

[26] NOPR, 185 FERC ¶ 61,043 at P 10.

[27] *Id.*

[28] *Id.* P 11.

[29] *Id.*

[30] CAISO Comments at 2–3.

[31] BPA Comments at 3.

[32] XBRL US Comments at 2.

[33] ECC Comments at 2; IGS Comments at 2.

[34] IGS Comments at 2.

issuance of a final rule, and prior to implementing the new XBRL–CSV system. The Commission stated that interested parties, including industry members, vendors, and the public, would be able to suggest edits to the draft taxonomies, which staff would review prior to convening a staff-led technical conference(s). The Commission stated that, after the technical conference(s), it planned to issue an order adopting the FERC EQR taxonomies and other related documents and establishing an implementation schedule.[35]

2. Comments

a. Technical Conferences

24. CAISO, ECC and EPSA request that Commission staff hold technical conferences before the issuance of a final rule.[36] Specifically, ECC requests that the Commission hold technical conferences before the issuance of the final rule so that staff can demonstrate how an EQR filing would be made.[37] CAISO recommends that Commission staff hold a workshop to discuss the transaction data reports and how to map RTO/ISO market products to the EQR taxonomies before the issuance of any final rule. CAISO explains that it does not provide this service today and will need to allocate resources to develop, test and implement a technological solution to develop a transaction data report for market participants.[38]

25. EEI states that the technical conferences should be held before and after the issuance of a final rule to allow dialogue with the industry about the important issues raised in the NOPR, explore the need for the proposed changes, gain a better understanding of impacts on EQR filers and affected software systems, and ensure that any reporting requirement changes are carefully tailored to maximize benefits while minimizing the burden on reporting entities.[39] PJM states that holding technical conferences during the system design phase would help the RTOs/ISOs to implement reporting requirements and changes.[40]

26. Macquarie Energy supports the Commission's proposal to establish technical conferences or similar forums whereby the Commission staff will work with the RTOs/ISOs and other interested parties to help ensure that RTO/ISO products and settlement data are appropriately defined and mapped to the required EQR data fields in accordance with the Commission's guidance.[41]

27. ISO–NE requests that the Commission offer a tutorial to reporting entities on the XBRL–CSV file type, including how that platform differs from a regular CSV file, which ISO–NE currently uses to submit Contract data, and how current CSV files can be adopted/transferred into the XBRL format.[42] ISO–NE suggests that such a tutorial take the form of a new instruction document, one or more technical sessions for data preparers, or instructions provided in the updated EQR Data Dictionary.[43]

b. Implementation Timeline

28. CAISO comments that implementation will require sufficient time for developing, programming, and testing to ensure that the new structure works properly. CAISO also comments that the process must provide time to perform testing of the upload process into the Commission's system and validate that the process works as part of the implementation schedule.[44] Systrends recommends that the Commission allow sufficient time for process changes within utilities, software development by vendors, testing, and implementation following the publication of the final rule.[45]

29. EEI recommends that any changes adopted in the final rule should take effect no sooner than one year after the final rule is issued. Specifically, EEI states that it will take time and resources for filers to adjust their internal systems to accommodate the changes in the filing requirements.[46] EPSA states that its members will need adequate time to build internal software capability to make EQR submissions in XBRL–CSV format or acquire necessary third-party software.[47] EPSA requests that the Commission allow a two-year period in total before initial compliance dates are set after the final rule is published to fully develop, test, and move to the XBRL–CSV format.[48]

30. EPSA, ISO–NE, PG&E, and XBRL US state that the Commission should create and maintain a sandbox or testing facility. ISO–NE and PG&E state that a sandbox would allow users and EQR software vendors the ability to test system procedures and functionalities.[49] ISO–NE requests sandbox testing and an updated data dictionary at least six months prior to the effective date of a final rule in this proceeding. EPSA argues that the sandbox testing period should allow a minimum of at least one quarter and, preferably, one year during the period prior to implementation, as supported by the MBR Relational Database rollout period.[50] XBRL US recommends that the Commission ensure that vendors and reporting companies have more than six months before initial compliance dates to prepare after the final rule is published.[51]

31. PG&E requests that, after the implementation of any final rule, the Commission allow sufficient time for Sellers to make changes to their business systems and processes.

NYISO requests that the Commission implement a compliance schedule, which may include new or revised obligations on RTOs/ISOs, allowing ample time to address and accommodate regional variations in settlement data, data descriptions, and technologies in the final requirements.[52]

32. XBRL US recommends providing supporting materials as soon as possible, including the XBRL taxonomies, technical guidance documentation, and sample reports covering multiple use cases. XBRL US requests that the Commission provide draft EQR taxonomies accompanied by a public exposure period so that the market can review the drafts and provide feedback. XBRL US recommends implementing a beta test period to allow test submissions that can be evaluated and to improve the efficiency of report submissions when compliance deadlines begin.[53]

33. Macquarie Energy comments that, given the potential changes to the EQR, sufficient time will be needed for MBR Sellers and vendors who support EQR preparation and submission to update their procedures and information systems to support the revised format.[54] Macquarie Energy states that the timeframe to implement the revised format should be informed by industry feedback at the technical conferences.

34. PJM requests that the Commission allow the industry sufficient time to develop and implement these changes and provide clear guidance, engagement, and outreach to support

[35] NOPR, 185 FERC ¶ 61,043 at P 12.

[36] CAISO Comments at 6, ECC Comments at 2, and EPSA Comments at 2.

[37] ECC Comments at 2.

[38] CAISO Comments at 6.

[39] EEI Comments at 3.

[40] PJM Comments at 3.

[41] Macquarie Energy at 3–4.

[42] ISO–NE Comments at 5–6.

[43] *Id.* at 6.

[44] CAISO Comments at 3.

[45] Systrends Comments at 3.

[46] EEI Comments at 4.

[47] EPSA Comments at 5.

[48] *Id.*

[49] ISO–NE Comments at 4; PG&E Comments at 4.

[50] EPSA Comments at 2–3.

[51] XBRL US Comments at 2.

[52] NYISO Comments at 1.

[53] XBRL US Comments at 2.

[54] Macquarie Energy Comments at 4.

these transitional efforts.[55] PJM states that it anticipates that implementation could reasonably by completed in about one year or possibly less.[56]

3. Commission Determination

35. We will use the following process to develop and implement the XBRL–CSV system. After issuance of this final rule, we will create and make available draft FERC EQR taxonomies, draft FERC Templates, draft technical guidance documentation, and sample submission files. Interested parties, including industry members, vendors, and the public will be able to submit suggested edits on these items. Commission staff will thereafter convene technical conference(s) to discuss the FERC EQR taxonomies, draft FERC Templates, draft technical guidance documentation, sample submission files, other technical concerns, and issues related to the transition.

36. Although some commenters request that the Commission hold technical conferences prior to issuance of the final rule, we do not find it necessary to delay issuance of this final rule until we have developed the technical implementation details. We find, based on the record, that the XBRL–CSV approach is the most efficient and effective approach for making EQR filings and the technical implementation details can be resolved by Commission staff and the industry. At the conclusion of the technical conference(s), the Commission will post a notice of the proposed taxonomies and permit suggested changes to those taxonomies. Following a review of any suggested changes, the Commission will issue an order adopting the FERC EQR taxonomies, FERC Templates, and other related documents, revised as needed, and establishing a final implementation schedule and process. Unless this final rule explicitly determines that an issue requires additional discussion through future technical conference(s), the Commission's determinations in this final rule will not be revisited at the future technical conference(s).

37. We will provide guidance on how to use the XBRL–CSV system through an instructional document(s), but we do not anticipate that the Commission will provide training on the new system. System and filing guidance documents will be published online and made available in draft form for review before final publication.

38. We direct Commission staff to work with RTOs/ISOs to help ensure that settlement billing elements are appropriately mapped to the Product Names as defined in Appendix A of the EQR Data Dictionary, Version 4.0. We require the RTOs/ISOs to make such mapping publicly available. The discussions about mapping settlement data may necessitate changes to the EQR Data Dictionary, Version 4.0. In addition, these discussions may necessitate changes to the reporting practices currently used by RTOs/ISOs to produce reports for their market participants. Subsequently, we direct Commission staff to collaborate with the RTOs/ISOs and interested parties via staff-led technical conference(s) or other similar forums to conform the various mapped RTO/ISO market products to the FERC EQR taxonomies that RTOs/ISOs can use to prepare transaction data reports for use by Sellers. Given the additional process, including a technical conference(s), it is premature, at this time, to commit to an implementation timeline. The additional process will inform the compliance timeline.

39. Industry participants will be afforded a reasonable amount of time to develop their software and we will make available a platform for filers to test their submissions. We plan to allow a reasonable amount of time following the technical conference process for software evaluation, development, implementation, and testing. After implementing the new XBRL–CSV system, we will retire the existing EQR filing system, at which time all future filings and refilings will be made in the new system.

D. Migrated Historical Data, EQR Data Retrieval and EQR Submission Website

1. NOPR Proposal

40. The Commission proposed that, after the XBRL–CSV system launches, the Commission would migrate previously filed EQR data from the third quarter of 2013 [57] through the quarter preceding the launch of the new XBRL–CSV system into the new system. The Commission stated that, although the historical data would be migrated, the public would still have access to historical data in the format in which it was originally submitted.[58]

2. Comments

41. CAISO comments that the Commission will need to ensure that the translation of historical data into the new XBRL–CSV file format is feasible and not unduly burdensome from a resource or expense perspective. CAISO suggests that the Commission should complete this assessment before adopting any final rule and also adopt an exception process to address issues with the resubmission of historical data sets into the new XBRL–CSV system. CAISO also suggests that the Commission consider developing a translation document from the current taxonomy to the new taxonomy in advance of the ruling to ensure all filers understand what is expected if historical data needs to be updated.[59] CAISO states that if the new XBRL–CSV system requires filers to enter additional data with any resubmission of historical data, then this could present problems if the filer does not have that additional data for the historical period.[60]

42. In response to the Commission's proposal to migrate previously filed EQR data from the third quarter of 2013 through the quarter preceding the launch of the new XBRL–CSV system into the new system, Systrends requests that the Commission provide an API to retrieve all the migrated data, as well as future submission data, preferably based on the Company Identifier, year, and quarter.[61]

43. XBRL US recommends that the Commission consider transitioning data back as far as 2010 or 2011 instead of 2013, so that the EQR data set aligns with data sets provided in XBRL format for FERC Form Nos. 1, 2, 6, 60, and 714, which date back to 2010.[62]

44. MISO requests that the Commission clarify that refilings of material changes and omissions will not be retroactive but will be required as of the effective date of the final rule in this proceeding.[63] EEI requests clarification that, to the extent an EQR filing is necessary, companies should be able to refile using the format that was required for the original filing.[64] EEI states that changes to the EQR fields in the NOPR will make re-filing unduly burdensome unless filers are permitted to refile in the same format as the original filing.[65]

3. Commission Determination

45. We intend to make historical data from the third quarter of 2013 through the quarter preceding the launch of the new XBRL–CSV system available in the new format to the public upon launch, or shortly thereafter, of the XBRL–CSV

[55] PJM Comments at 3.

[56] *Id.*

[57] The current process for filing EQRs, as set forth in Order No. 770, applies to filings beginning in the third quarter of 2013. *See* Order No. 770, 141 FERC ¶ 61,120 at P 1.

[58] NOPR, 185 FERC ¶ 61,043 at P 13.

[59] CAISO Comments at 4.

[60] *Id.*

[61] Systrends Comments at 3.

[62] XBRL US Comments at 1.

[63] MISO Comments at 3.

[64] EEI Comments at 18.

[65] *Id.*

system.[66] Therefore, Sellers will be able to access historical data in the new format to facilitate refilings for quarters prior to the launch of the new system. This historical data will be available for download without the need for proprietary software. Prior to submitting any refilings, Sellers should carefully review the converted legacy data and verify the accuracy of the originally submitted data files and the converted data files. We will also provide a mechanism for users to download both new data and migrated data in a human-readable format. We anticipate that all migrated data will be available for download by the time the new system goes live, or shortly thereafter, whether through an API or another mechanism.

46. Some commenters seek clarification on the future refiling process for EQRs submitted prior to the XBRL–CSV system launch. We clarify that Sellers can refile EQRs using the ''then-effective'' taxonomies for quarters prior to the launch of the new system. As discussed above, we will provide and maintain taxonomies for each time period reflecting changes to the EQR Data Dictionary and associated system requirements, including prior to the new system launch. We clarify that refilings of historical data would entail: (1) downloading the Seller's own historical data that will have already been converted to XBRL–CSV by the Commission, using a publicly accessible application similar to the current EQR Report Viewer; (2) appending or modifying the data files as needed, based on the EQR Data Dictionary and taxonomies that were in effect for the historical filing period; and (3) submitting the data files directly through the new FERC EQR submission website.

47. Sellers will be able to resubmit data in the XBRL–CSV system for quarters prior to the launch of the new system using ''then-effective'' taxonomies. We will develop taxonomies and their associated validation rules and other code sets, which align with past major EQR system modifications. This approach will enable filers to resubmit historical data that aligns with the requirements of the system in effect when an EQR was originally reported.

48. In response to MISO's request for clarification, we require Sellers to refile material changes and omissions to EQRs submitted for quarters prior to the effective date of the final rule. However, we will not require RTOs/ISOs to produce transaction data reports retroactively for periods prior to the launch of the new XBRL–CSV system. Sellers will be able to download historical data converted to XBRL–CSV to assist them if they need to refile data for quarter(s) before the launch of the new system.

49. We decline to adopt XBRL US's recommendation to transition data as far back as 2010 or 2011, instead of 2013, to the new format. The current EQR database contains data going back to the third quarter of 2013. Data prior to this date is in an antiquated format named Visual FoxPro, and it would pose significant challenges to convert this data to XBRL–CSV. At this point, we determine that the benefits, if any, of transitioning EQR data prior to 2013, would not justify the costs of doing so.

50. In response to BPA's comment that the new format would result in a more complicated filing process that requires filers to use new software or third-party vendors instead of the submissions through the EQR submission website, we note that Sellers will continue to be able to make submissions via a portal on a Commission website. Similar to the current submission process, neither EQR-specific software nor third-party vendors will be necessary for Sellers to make EQR submissions via a future EQR portal.

51. We anticipate that an application similar to the current EQR Report Viewer will be designed as part of the Commission's broader data governance planning effort. We further expect that the public will be able to access migrated historical EQR data and future submissions via the same application.

E. Process for Making Future Changes

1. NOPR Proposal

52. The Commission proposed in the NOPR that notice of future minor or non-material changes to the EQR Data Dictionary, FERC EQR taxonomies, and related documents would be posted on the Commission's website.[67] The NOPR stated that this proposal is consistent with § 35.10b of the Commission's regulations, which requires EQRs to ''be prepared in conformance with the Commission's guidance on the FERC website,'' [68] and the process set forth for updating the EQR Data Dictionary.[69] Any significant future changes to the EQR Data Dictionary, FERC EQR taxonomies, related code or associated documentation would be proposed in a Commission order or rulemaking, which would provide an opportunity for comment.[70]

2. Comments

53. PG&E requests clarification on how future changes to EQR reporting requirements would be noticed, instituted, and reflected in the proposed XBRL system.[71] CAISO encourages the Commission to issue formal notices of any changes to the proposed EQR Data Dictionary, taxonomies, and related documents, such as issuing the notice to entities on the service list of this docket as well as sending notices to any distribution list used for EQR matters.[72]

54. ECC asserts that Commission staff has previously implemented software validations in the EQR system that are not contained in an order, causing issues for filers and third-party software providers. ECC adds that, regardless of how minor changes are to the validations, rules, or requirements, Commission staff should send a message to the entire EQR community on the Commission's EQR mailing list. ECC also asserts that it is unreasonable to expect filers to read the complete EQR web page each quarter to see if there have been any changes in the validation rules.[73]

3. Commission Determination

55. We adopt the NOPR proposal that any significant changes to the EQR Data Dictionary or to the FERC EQR XBRL–CSV system (including FERC EQR taxonomies, FERC Templates, related code, or associated documentation) will be proposed in a Commission order or rulemaking, which will provide an opportunity for public comment.

56. Future minor or non-material changes to the EQR Data Dictionary or to the FERC EQR XBRL–CSV system (including FERC EQR taxonomies, FERC Templates, related code, or associated documentation) will be posted to the Commission's website, consistent with section 35.10b of the Commission's regulations and the existing process for updating the EQR Data Dictionary.[74]

[66] The current process for filing EQRs, as set forth in Order No. 770, applies to filings beginning in the third quarter of 2013. *See* Order No. 770, 141 FERC ¶ 61,120 at P 1.

[67] NOPR, 185 FERC ¶ 61,043 at P 14.

[68] 18 CFR 35.10b.

[69] NOPR, 185 FERC ¶ 61,043 at P 14. *See Filing Requirements for Elec. Util. Serv. Agreements,* 155 FERC ¶ 61,280 at P 5, *order on reh'g,* 157 FERC ¶ 61,180, at PP 40–43 (2016). The same process is used for updating the MBR Data Dictionary implemented through Order No. 860. *See Data Collection for Analytics & Surveillance & Mkt.-Based Rate Purposes,* Order No. 860, 84 FR 36390 (July 26, 2019), 168 FERC ¶ 61,039, at P 209 (2019).

[70] NOPR, 185 FERC ¶ 61,043 at P 14.

[71] PG&E Comments at 2.

[72] CAISO Comments at 4–5.

[73] ECC Comments at 4.

[74] *See* 18 CFR 35.10b; *Filing Requirements for Elec. Util. Serv. Agreements,* 155 FERC ¶ 61,280 at

Continued

Such changes will not take effect until at least 60 days after posting. We may also notify the public of such changes via other communication methods.

57. On rare occasions, certain minor or non-material updates to the FERC EQR XBRL–CSV system may need to be made expeditiously to ensure that submissions can be made in a timely manner. As a result, notice of such updates will be posted as soon as practicable, which may be less than 60 days prior to the effective date of the update.

F. Extended Filing Timeline

1. NOPR Proposal

58. The Commission proposed in the NOPR to extend the filing window to four months after the end of the filing quarter. Specifically, EQR submissions would adhere to the following schedule: (1) first quarter filings would be due July 31, rather than April 30; (2) second quarter filings would be due October 31, rather than July 31; (3) third quarter filings would be due January 31 of the following year, rather than October 31; and (4) fourth quarter filings would be due April 30 of the following year, rather than January 31 of the following year.[75]

59. The Commission also proposed to allow Sellers to file data beginning any time during the quarter, or during the four-month filing period after the close of the quarter, thereby providing Sellers the option of appending a previously submitted EQR on a rolling basis before the close of the filing window.[76] The Commission explained that the new filing window would promote greater data accuracy, while reducing the number of necessary refilings due to resettled prices.[77]

2. Comments

60. BPA, ECC, EEI, EPSA, IGS, Macquarie Energy, MISO, PG&E, PJM, and Tri-State support the Commission's proposal to extend the filing timeline for EQRs from one month after the quarter to four months after the quarter.[78] EPSA comments that the proposed change to allow additional preparation time should facilitate more complete and accurate submissions because, in some RTO/ISO regions, data becomes available to Sellers less than one week prior to the EQR submission due date. EPSA adds that Sellers' accounting teams need several days to review the data followed by several days of manual revisions, and subsequent refiling is almost always necessary.[79] Tri-State asserts that the filing window extension will eliminate the need to submit an extra filing each quarter while Tri-State waits for finalized data from the Energy Imbalance Markets.[80] Macquarie Energy states that the extended filing window will confer benefits to both Sellers and Commission staff by reducing the need for refilings due to the late receipt of, or changes to, settlement data. Macquarie Energy also recommends that the Commission implement the proposed filing schedule upon the effective date of the final order in this proceeding.[81]

61. Furthermore, EEI and PG&E support the Commission's proposal to provide the option for Sellers to file data on a rolling basis before the close of the quarter.[82] PG&E states that the additional time to submit EQR filings and to allow Sellers to file on a rolling basis (*i.e.,* appending data) will enhance filing efficiencies and relieve the burden of having to refile an entire, ostensibly already accepted, EQR data set when only a few lines need to be corrected/appended.[83] ECC supports the addition of the proposed append functionality.[84]

62. ISO–NE requests that the Commission allow for iterative editing functionality in the XBRL files so that an XBRL file that has been previously submitted for a given quarter may be appended by adding a retroactively accepted contract to the end of the file.[85] Systrends seeks clarification on whether Sellers will be able to correct submitted data within the four-month filing period and, if so, whether corrections and removal of specific rows of data already submitted to the EQR database will be permitted or whether such corrections will require a complete refiling.[86]

63. MISO states that yearly increases in MISO's queue size ensure that EQR reports continuously take more time to compile, particularly in relation to MISO's member data and agreement reporting, so flexibility in timing will be essential.[87] MISO states that one of its market participants requested clarification regarding if the extended four-month window, for revised quarterly files that are issued at the end of each quarter for the previous quarter, begins at the end of the previous quarter or when the revised files are issued.[88] PJM states that the extended filing timeline will provide filers more time to prepare their initial EQR filings and enable filers to include a more complete and accurate set of RTO/ISO data into their submissions, including meter-correction and load reconciliation data.[89] PJM also asserts that the adjusted timeframe should eliminate the need for filers to make multiple EQR filings each quarter and should reduce the number of refilings, as filers would have the option of appending submissions on a rolling basis, prior to the close of the filing window.[90]

3. Commission Determination

64. We adopt the NOPR proposal to extend the quarterly filing window to end four months after the close of the filing quarter. While we recognize the benefits of an extended filing window, we will not implement this change until the new XBRL–CSV system is operational because it would require substantial modifications to the existing system.

65. Consistent with the extended filing window, we modify § 35.10b of the Commission's regulations to state: ''Each public utility as well as each non-public utility with more than a *de minimis* market presence shall file an updated Electric Quarterly Report with the Commission covering all services it provides pursuant to this part, for each of the four calendar quarters of each year, in accordance with the following schedule: for the period from January 1 through March 31, file by July 31; for the period from April 1 through June 30, file by October 31; for the period July 1 through September 30, file by January 31 of the following year; and for the period October 1 through December 31, file by April 30 of the following year. Electric Quarterly Reports must be prepared in conformance with the Commission's guidance posted on the FERC website (*https://www.ferc.gov*).''

66. We find that the extended filing window will provide filers with additional time to prepare their initial EQR filings and incorporate a more complete and accurate set of RTO/ISO meter-corrected data into their submissions. Some Sellers must make multiple EQR filings for each quarter because they receive finalized RTO/ISO settlement data after the end of the quarter or too late in the quarter to

P 5, *order on reh'g,* 157 FERC ¶ 61,180 at PP 40–43.

[75] NOPR, 185 FERC ¶ 61,043 at P 20.

[76] *Id.*

[77] *Id.* P 18.

[78] BPA Comments at 2; ECC Comments at 6; EEI Comments at 2; EPSA Comments at 7; IGS Comments at 2; Macquarie Energy Comments at 5; MISO Comments at 4; PJM Comments at 5; PG&E Comments at 2; and Tri-State Comments at 3.

[79] EPSA Comments at 7.

[80] Tri-State Comments at 3.

[81] Macquarie Energy Comments at 5.

[82] EEI Comments at 2; PG&E Comments at 2.

[83] PG&E Comments at 2.

[84] ECC Comments at 6.

[85] ISO–NE Comments at 8.

[86] Systrends Comments at 1.

[87] MISO Comments at 2.

[88] *Id.* at 4.

[89] PJM Comments at 5.

[90] *Id.*

incorporate it into their EQR filings within the current filing window. The extended timeline will reduce the number of refilings that such Sellers must undertake, thereby reducing the burden on filers.

67. Sellers can choose to submit their data all at once for the entirety of the quarter by the end of the filing window, similar to the current reporting practice. Alternatively, the new XBRL–CSV system will enable the submission of data on a rolling basis during the filing window using a new append functionality. We clarify that the new system will allow Sellers to file data on a rolling basis within the four-month filing window, which will lead to increased flexibility for Sellers and facilitate the iterative editing functionality sought by ISO–NE.

68. Appending data involves adding new rows of data to an already accepted EQR filing, such as adding new rows of data without changing previously submitted and accepted rows of data. We clarify that appending data after the close of the filing window is considered a refiling and will require descriptive text in the Notes data field, as explained further below. In response to Systrends' request for clarification on whether Sellers will be able to correct submitted data within the four-month filing period, we will allow an unlimited number of resubmissions during the four-month filing period and allow Sellers to use the append feature to submit missing rows of data. In response to Systrends' request to clarify whether Sellers will be able to correct or remove specific rows of previously submitted data, we clarify that such corrections may not be made by removing or modifying specific rows of data. Sellers will be required to resubmit the pertinent data files that contain the erroneous rows of data.

69. Any submission that is accepted into the EQR system will be made publicly available through a future EQR Report Viewer and can be downloaded by data users; however, the EQR submission for a particular quarter should not be considered final until the filing window closes. If a Seller cannot submit its EQR by the filing deadline, then the Seller must submit an extension request before the filing deadline.[91]

[91] *See* 18 CFR 385.2008, 385.212. Guidance for submitting an extension request is available on the Commission's EQR website.

G. Sales in RTO/ISO Markets and Transaction Data Reports

1. NOPR Proposal

70. The Commission proposed to require all RTOs/ISOs to produce transaction data reports for their market participants based on the settlement data generated by the RTO or ISO for sales by market participants to RTOs/ISOs. The Commission stated that the transaction data reports would reflect Sellers' transactions within the relevant RTO/ISO market in which the RTO/ISO is the counterparty. The Commission proposed to require RTOs/ISOs to conform the transaction data reports to the EQR filing requirements, including formatting the reports using the FERC EQR taxonomies in the XBRL–CSV format, and making the transaction data reports available to Sellers. The Commission explained that this reporting requirement would help Sellers to prepare and submit their Transaction data by reducing the amount of manual data manipulation necessary before submitting an EQR, and would increase data standardization of RTO/ISO transactions reported in the EQR, particularly for Sellers transacting across multiple markets.[92]

71. Further, the Commission proposed to direct its staff to work with RTOs/ISOs to help ensure that RTO/ISO settlement billing elements are appropriately mapped to the products and associated definitions in the EQR Data Dictionary.[93] The Commission stated that it may direct its staff to collaborate with the RTOs/ISOs and interested parties via technical conferences or in other similar forums to conform the various mapped RTO/ISO market products to the FERC EQR taxonomies that RTOs/ISOs can use to prepare transaction data reports for use by Sellers.[94]

2. Comments

a. RTO/ISO Transaction Data Reports

72. BPA, ECC, EEI, EPSA, Macquarie Energy, and PJM support requiring RTOs/ISOs to produce reports containing market participant Transaction data.[95] EPSA strongly supports the proposed requirement for RTOs/ISOs to produce transaction data reports and states that this proposal should reduce the burden on Sellers' EQR preparations, and reduce the time and resources required to make manual corrections. EPSA urges the Commission to require all RTOs/ISOs to produce EQR files in the Commission-approved formats as proposed.[96]

73. ECC asks that the Commission consider not requiring RTO/ISO data at all in the EQR, or, at least, not in the small five-minute increments in which it is currently being reported. ECC also states that the large volume of RTO/ISO transactions reported in the EQR does not give a true picture of the market. ECC asserts that the Commission already has, or could have, complete access to the pricing data from RTOs/ISOs and could find ways to make it publicly accessible to fulfill the FPA requirement to have rates on file. ECC adds that the cost of providing this data to the Commission far outweighs its possible usefulness and, if the Commission does not eliminate the requirement to report sales to RTOs/ISOs, then keeping such data in a separate database may be easier for filers and data users.[97]

74. EPSA notes that many of its members operate across multiple RTO/ISO markets and agrees that increased data standardization through this requirement would assist with greater consistency and accuracy in EQR data. EPSA states that requiring RTOs/ISOs to produce transaction data reports should reduce the burden on Sellers with respect to preparing EQRs and reduce the time and resources required for Sellers to make manual data corrections. EPSA urges the Commission to require all RTOs/ISOs to produce EQR files in the Commission-approved formats, as proposed in the NOPR.[98] Further, EPSA states that it is critical for RTOs/ISOs not to simultaneously extend their respective deadlines for producing EQR data to market participants.[99]

75. NYISO explains that it operates a Customer Settlements Data Mart (Data Mart), which has provided market participants with settlements data and functionality to support their EQR reporting compliance efforts since 2003. NYISO states that it developed within this Data Mart a template for EQR-related data retrieval, and with this template, market participants can more easily extract data necessary to meet their EQR reporting obligations. NYISO believes that its existing system already addresses many of the concerns

[92] NOPR, 185 FERC ¶ 61,043 at PP 15, 17.

[93] The NOPR stated that discussions about mapping settlement data may necessitate changes to existing EQR products or definitions, such as creating a new Product Name to better capture information in the EQR related to a new RTO/ISO market product. *Id.* P 16 & n. 21.

[94] *Id.* P 16.

[95] BPA Comments at 2, ECC Comments at 4, EEI Comments at 2–3, EPSA Comments at 5, Macquarie Energy Comments at 2–3 and PJM Comments at 4.

[96] EPSA Comments at 5–6.

[97] ECC Comments at 4.

[98] EPSA Comments at 5–6.

[99] *Id.* at 7.

addressed in the NOPR but is open to providing EQR-related data to market participants in a new data format, as prescribed in a final rule. NYISO requests that any new filing or formatting requirements allow RTOs/ISOs to leverage existing systems to continue to support market participant EQR reporting compliance obligations as much as possible.[100] NYISO also comments that wholesale electric market rules, settlement data, data descriptions, and technologies vary across RTOs/ISOs, which may complicate efforts to require all RTOs/ISOs to produce conforming transaction data reports using FERC EQR taxonomies in the XBRL–CSV standard.[101]

76. Macquarie Energy states that requiring RTOs/ISOs to provide a standardized transaction file to Sellers will ensure that EQR Transaction data is reported consistently across Sellers for all RTOs/ISOs. Macquarie Energy comments that the differentiation of products and settlement data between RTOs/ISOs, coupled with the volume of RTO/ISO transactions, presents a significant challenge to Sellers in complying with the EQR filing requirements accurately and consistently. According to Macquarie Energy, each Seller must interpret and map voluminous RTO/ISO settlement data into the required EQR format to the best of its ability, using guidance provided by the Commission, and there will be disparity between Sellers' interpretation and application of the Commission's guidance.[102] In addition, Macquarie Energy recommends that the timing in which the data is to be provided to the Sellers by RTOs/ISOs should be standardized.[103]

77. CAISO states that it is transitioning to a new settlement system and ideally would scope any requirements and any data mapping exercise into that project or into a second phase of that project.[104] CAISO explains that its settlement timelines will inform the timing of any transaction data report and any subsequent updates. CAISO states that its current settlement timeline extends 24 months from a trading day, and thereafter, settlement statements are final unless the CAISO Board of Governors or a Commission order directs an additional resettlement. Therefore, according to CAISO, any system that CAISO designs to produce transaction data reports for Sellers will need to align with its timeline for settlement disputes and recalculations with the availability of revised transaction data reports for refiling purposes.[105]

78. PG&E states that its CAISO transaction data, once finalized by its energy procurement department, is provided to PG&E's FERC Electric Proceedings (FEP) department for compilation, validation and submittal.[106] PG&E adds that any validation errors at this stage are addressed by returning the data to the energy procurement department, which then corrects the validation defects, re-runs the data and re-conveys it to FEP for processing.[107] Because PG&E currently remedies any data errors locally, it requests that the Commission address how and by what process Sellers can coordinate with RTOs/ISOs to timely resolve validation errors with this externally sourced EQR Transaction data.[108]

79. PJM supports the proposal related to Transaction data reporting, particularly because PJM already supplies its market participants with consolidated data to facilitate their current EQR filing requirement. PJM asks that the Commission clarify that Sellers still have the responsibility to report the transaction data as part of their EQR submission, and that the EQR submission requirements remain with the Sellers.[109] PJM states that it currently reports Identification and Contract data in the EQR and requests that the Commission clarify in the final rule that an RTO may be the provider of services under its tariff rather than a seller.[110]

80. Furthermore, PJM requests that the Commission confirm that the proposed RTO/ISO requirement to provide transaction data relates to the Transaction data section specified in the Proposed EQR Data Dictionary.[111] In addition, PJM states that RTOs/ISOs have limited visibility into the full spectrum of data elements specified in the Transaction data section of the Proposed EQR Data Dictionary (*e.g.,* FERC Tariff References for orders granting MBR authority and Contract Service Agreement information) and, as such, RTOs/ISOs should not be required to produce a complete report or alter their systems to track and report data they do not currently report.[112] PJM states that market sellers may need to augment RTO/ISO-provided reports as needed prior to submission.[113]

b. Titleholder Reporting Obligation

81. EPSA requests that the Commission clarify that the reporting obligation lies with the Seller that is paid for the energy instead of the entity that holds title to the energy. EPSA states that this would ensure accurate reporting and capture generator sales to the RTO/ISO on a buyer's behalf, eliminating the need for multiple Sellers in the transaction chain to report the same transaction. EPSA provides the example of a buyer that procures bundled energy and renewable energy credits (REC) from the Seller where the selling generator delivers the energy directly to the RTO/ISO on the buyer's behalf and is paid the hourly price for the energy. EPSA states that although the buyer has title to the energy and the RECs, the energy is settled directly between the Seller (project) and the RTO/ISO. According to EPSA, this contract language streamlines the transaction to avoid hourly settlement refunds where the Seller is paid both by the ISO for the energy and paid by the buyer for title to the energy.[114]

82. EPSA's understanding is that the entity that holds title to the energy is the obligated entity to report pursuant to the Commission's EQR requirements. However, according to EPSA, in the above example, the buyer holds title to the energy, but the Seller is delivering it to the RTO/ISO on the buyer's behalf and is being paid directly by the RTO/ISO. EPSA states that the proposed transaction data reports would efficiently capture these transactions as well and eliminate redundancies in reporting the same transaction by multiple buyers.[115]

c. Energy and Capacity Transactions Priced at Zero and Energy Transactions With Negative Prices

83. EPSA requests that the Commission exclude Energy and Capacity transactions priced at $0 from the EQR reporting requirement. EPSA argues that because the EQR is a price reporting tool, it is not logical to capture transactions priced at $0. Further, EPSA states the Commission should also exclude from price reporting any trades with a negative price.[116]

[100] NYISO Comments at 1–3.
[101] *Id.* at 3.
[102] Macquarie Energy Comments at 2.
[103] *Id.* at 2–3.
[104] CAISO Comments at 6.
[105] *Id.* at 6–7.
[106] PG&E Comments at 3.
[107] *Id.*
[108] *Id.*
[109] PJM Comments at 4.
[110] *Id.* at 7–8.
[111] *Id.* at 4.
[112] *Id.* at 4–5.
[113] *Id.* at 5.
[114] EPSA Comments at 6.
[115] *Id.*
[116] *Id.* at 10.

84. ECC states that, if the Commission continues to require detailed reporting of RTO/ISO transaction data, it should reverse the policy of reporting ''negative sales'' for when there are real-time purchases offsetting day-ahead sales.[117] ECC asserts that this requirement unnecessarily complicates an already complicated situation and suggests that RTO/ISO transaction data reports only include sales with positive quantities.

3. Commission Determination

a. RTO/ISO Transaction Data Reports

85. We will continue to collect Transaction data for sales to RTOs/ISOs in the EQR because doing so is consistent with the statutory mandate in FPA section 205(c) that all rates, terms, and conditions of service for jurisdictional sales must be on file with the Commission and publicly available in a convenient format and place. Moreover, because sales in an RTO/ISO market reflect sales by resources with MBR authority, collecting such data in the EQR is consistent with the Ninth Circuit Court of Appeals' decisions upholding the Commission's MBR program on the basis of the ''dual requirement of an ex ante finding of the absence of market power *and* sufficient post-approval reporting requirements.'' [118] Specifically, the court upheld the Commission's MBR program because it relies on a ''system [that] consists of a finding that the applicant lacks market power (or has taken steps to mitigate market power), coupled with strict reporting to ensure that the rate is 'just and reasonable' and that markets are not subject to manipulation.'' [119]

86. The Commission amends its regulation at § 35.10b to add subsection (d) to require all RTOs/ISOs to prepare and make available transaction data reports to their market participants based on the settlement data generated by the RTOs/ISOs for sales made by market participants in RTO/ISO markets. This requirement will help Sellers to prepare and submit Transaction data in the EQR and will reduce the amount of manual data manipulation prior to submission. Although we require RTOs/ISOs to make transaction data reports available to their market participants, each Seller will continue to be responsible for compiling all its EQR data and reporting Transaction data as part of its complete EQR submission. Furthermore, each Seller will continue to be responsible for ensuring the accuracy of its EQR data.

87. The transaction data reports will reflect Sellers' transactions within the relevant RTO/ISO market in which the RTO/ISO is the counterparty. RTOs/ISOs must conform the transaction data reports to the EQR filing requirements, including formatting the reports using the FERC EQR taxonomies in the XBRL–CSV standard. Sellers will need to add Identification data, Contract data, and bilateral Transaction data, as applicable, to transaction data reports prior to submitting their EQRs.

88. We require each RTO/ISO to prepare and make available an initial transaction data report for each quarter to their market participants by the end of the following quarter. Accordingly, for Q1 (January 1 through March 31), RTOs/ISOs must make available initial transaction data reports to market participants by June 30; for Q2 (April 1 through June 30) by September 30; for Q3 (July 1 through September 30) by December 31; and for Q4 (October 1 through December 31) by March 31 of the following year.

89. Additionally, we require RTOs/ISOs to prepare and make available a quarterly revised transaction data report to market participants three months after the initial transaction data report, as discussed further in Section H of this final rule. For Q1, RTOs/ISOs must prepare and make revised transaction data reports available to market participants by September 30; for Q2 by December 31; for Q3 by March 31 of the following year; and for Q4 by June 30 of the following year.

90. Furthermore, if Sellers refile their EQRs based on the revised transaction data reports, such refilings must be submitted as follows: Q1 by October 31; Q2 by January 31 of the following year; for Q3 by April 30 of the following year; and for Q4 by July 31 of the following year.

91. The Commission amends its regulation at § 35.10b to add subsection (d) to require all RTOs/ISOs to prepare and make available transaction data reports to their market participants based on the settlement data generated by the RTOs/ISOs for sales made by market participants in RTO/ISO markets. This requirement will help Sellers to prepare and submit Transaction data in the EQR and reduce the amount of manual data manipulation prior to submission. Although we require RTOs/ISOs to make transaction data reports available to their market participants, each Seller will continue to be responsible for compiling all its EQR data and reporting Transaction data as part of its complete EQR submission. Furthermore, each Seller will continue to be responsible for ensuring the accuracy of its EQR data.

92. In response to ECC's comments that the Commission should not collect RTO/ISO Transaction data in the EQR in the small (*e.g.,* five-minute) increments in which some data is currently being reported, we find that requiring an increment for reporting transactions in the EQR that differs from the subhourly increments reflected in settlement data would impose additional burdens on the RTOs/ISOs and Sellers. In addition, RTO/ISO Transaction data in the EQR should correspond with the increments of RTO/ISO market clearing, dispatch, and settlements to facilitate effective market oversight by the Commission. Aggregating subhourly transactions into increments that differ from settled increments (*e.g.,* aggregating five-minute settlement data into hourly data) may hinder the Commission's ability to protect customers from unjust and unreasonable rates and reduce transparency into market pricing. Moreover, creating a separate public database to collect information about sales to RTOs/ISOs, as suggested by ECC, would present significant technical challenges and substantially increase the amount of work necessary to develop, maintain, and operate the EQR system. Although there are other sources of RTO/ISO pricing data, the EQR is the only data source that collects wholesale sales data associated with individual Sellers across all RTO/ISO markets and makes it publicly available in a convenient form and place.

93. In response to comments that RTOs/ISOs should not extend their deadlines for producing transaction data reports, or that the Commission should standardize the timing in which data is to be provided to Sellers, we direct RTOs/ISOs to make these reports available to market participants at least one month prior to the end of the new four-month filing window to ensure that Sellers have sufficient time to incorporate transaction data reports into their EQRs. We recognize that settlement timelines vary among the various RTOs/ISOs and, therefore, we require the RTOs/ISOs to provide the latest available settlement data to their market participants in the transaction data reports. For example, we expect that MISO's quarterly transaction data report would combine both S55 and

[117] ECC Comments at 5.

[118] *Cal. ex rel. Lockyer* v. *FERC,* 383 F.3d 1006, 1013 (9th Cir. 2004) (*Lockyer*) (emphasis in original). *See also Mont. Consumer Counsel* v. *FERC,* 659 F.3d at 920.

[119] *Lockyer,* 383 F.3d at 1013. The court noted that the Commission required wholesale sellers to file quarterly reports summarizing transactions in the preceding quarter, including long and short-term contracts and ''some sales for intervals as small as ten minutes.'' *See id.*

S105 settlement data for transactions because S105 data would not be available for all reportable transactions one month before the end of the four-month filing window.[120]

94. In response to PJM's request that we clarify that an RTO may be the provider of services under its Tariff rather than a Seller, we note that an RTO must administer its own transmission tariff under § 35.34(k) of the Commission's regulations, 18 CFR 35.34(k), including transmission services provided under its tariff. The requirements of this final rule do not conflict with the responsibilities of an RTO to file transmission agreements with the Commission and follow related reporting requirements, consistent with Part 35 of the Commission's regulations.[121] In addition, this final rule does not create a new responsibility for RTOs to report their market participants' Transaction data in the EQR. Each Seller will continue to be responsible for compiling all its EQR data, including reporting its Transaction data, as part of an EQR submission.

b. Titleholder Reporting Obligation

95. We clarify that the entity that holds title to the energy (or other reportable product or service) is obligated to report information about sales of the product or service in the EQR. EPSA presents a scenario in its comments whereby the buyer holds title to the energy and associated RECs, but the energy is settled directly between the Seller and the RTO/ISO. EPSA's comments do not provide specific details about such a contractual arrangement and, as a result, we do not address this issue in this final rule. To obtain additional information about the scenario raised in EPSA's comments within the context of EQR reporting obligations, we add this topic to the discussion items that will be considered at the technical conference(s) held after the issuance of this final rule.

c. Energy and Capacity Transactions Priced at Zero and Energy Transactions With Negative Prices

96. We decline to adopt EPSA's suggestions that the Commission exclude energy and capacity transactions priced at zero or sales with a negative price from the EQR reporting requirement. Zero or negative prices reflect valid market transactions and reporting them ensures that rates are on file with the Commission, consistent with FPA section 205.

97. We reject ECC's suggestion for Sellers to no longer report ''negative sales'' when there are real-time purchases offsetting day-ahead sales in RTO/ISO markets. The Commission currently requires Sellers to report sales in the RTO/ISO day-ahead market at the day-ahead price, and any price and quantity adjustments to these day-ahead sales in the RTO/ISO real-time market, based on what was supplied by the Seller, regardless of whether these sales are positive or negative.[122] We affirm the current policy of reporting these net changes and find that such reporting enables the Commission and the public to better determine the quantities and prices for products sold in these markets. Reporting only positive net changes to quantities and prices between the day-ahead and real-time markets, as suggested by ECC, would provide an incomplete picture of a Seller's wholesale sales in the RTO/ISO market.

H. Refiling Policy

1. NOPR Proposal

98. Under the current EQR refiling policy, any additions or changes to an EQR filing must be submitted by the end of the following quarter, when the filer is expected to have the best available new data.[123] Thereafter, Sellers need to file only material changes through a refiling, going back 12 quarters or as far back as the error occurred (if shorter than 12 quarters).[124] The Commission proposed in the NOPR to require EQR refilings when there are material corrections or material omissions to previously filed EQRs for either the prior 20 quarters (five years of data) or as far back as the error(s) occurred, depending on which time frame is shorter, beginning from the time a Seller identifies a material data error or material data omission.[125]

99. The Commission explained that the current twelve-quarter timeline for refilings stems from staff's analysis of the Commission's rules conducted pursuant to Executive Order 13579.[126] As part of this effort, staff analyzed EQR reporting requirements and identified as inefficient the requirement for companies to correct all previously filed EQRs if there was an inaccuracy in one or more previously filed EQRs. The Plan stated that correcting errors in all affected prior EQRs was not particularly useful and imposed a growing burden on filers, and therefore, staff directed filers to correct the most recent 12 quarters (three years of data), if there was an inaccuracy in one or more of a company's previously filed EQRs, with a note placed in the EQR stating that other EQR filings may also contain the error.[127]

100. The Commission stated in the NOPR that its proposal to extend the refiling requirement was consistent with the five-year record retention requirement for MBR Sellers under section 35.41(d) of the Commission's regulations, and that extending the refiling requirement up to 20 quarters will offer more complete data to conduct more robust analyses.[128] The Commission also proposed a new Notes data field in the Identification data to provide a descriptive text accompanying refilings.

2. Comments

a. Material Corrections and Material Omissions

101. PJM generally supports the proposed revisions to the Commission's current EQR refiling policy as it will result in more accurate data reporting, but notes that it has some concerns.[129] PJM states that it currently generates new EQR report versions for prior billing periods whenever billing adjustments are performed. As such, PJM is concerned that introducing a materiality threshold would place unnecessary complexity in the EQR report generation process.[130] PJM seeks clarity that, should the Commission define a materiality threshold, it would be incumbent on the Seller to determine whether the update is material and should therefore be refiled with the Commission.[131]

102. BPA, EPSA and MISO request that the Commission provide a clear and concise definition of what constitutes a material correction or omission for

[120] MISO issues settlement statements S14, S55, and S105 at 14, 55, and 105 calendar days, respectively, after the operating day. *See* MISO, *Business Practices Manual-005-Market Settlements, https://www.misoenergy.org/legal/rules-manuals-and-agreements/business-practice-manuals/.*

[121] *See* Order No. 2001, 99 FERC ¶ 61,107 at P 334.

[122] The reporting guidance is available on the EQR web page at: *https://www.ferc.gov/sites/default/files/2020-10/Day-Ahead_Real-Time-Guidance_Before-2013-Q2.pdf.*

[123] *See* Order No. 2001–E, 105 FERC ¶ 61,352 at PP 9–10.

[124] NOPR, 185 FERC ¶ 61,043 at P 22.

[125] *Id.* P 24.

[126] *Id.* P 23. *See Plan for Retrospective Analysis of Existing Rules,* Docket No. AD12–6–000 (Nov. 8, 2011) (Plan).

[127] NOPR, 185 FERC ¶ 61,043 at P 23. *See* Plan at 4; *see also 2012 Biennial Staff Memo Concerning Retrospective Analysis of Existing Rules,* Docket No. AD12–6–000, at 8 (Oct. 18, 2012); *Implementation Guidance of Executive Order 13579—Entering Notes to Corrected EQR Filings, https://www.ferc.gov/sites/default/files/2020-05/implement-guide.pdf.*

[128] NOPR, 185 FERC ¶ 61,043 at P 24.

[129] PJM Comments at 7.

[130] *Id.*

[131] *Id.*

purposes of refiling EQR data. EPSA states that the materiality standard may differ from company to company, creating a significant compliance issue.[132] BPA seeks clarification on how updates or changes can be made within the reporting period once an EQR has been filed. BPA further seeks details on the process for correcting a filed EQR.[133] BPA comments that the lack of a definition of material changes, errors or omissions creates ambiguity as to what could be considered a material change and may result in additional work and significant refiling costs, particularly where a refiling does not rise to the Commission's standard of materiality.[134] MISO argues that establishing a certain dollar threshold related to market transaction data may not yield comparable reporting obligations among all EQR filers and may place an outsized administrative burden on some filers.[135]

103. To the extent the Commission requires refilings due to material changes or omissions, MISO submits that those refilings should not include resettlement data, due to the substantial administrative burden of providing resettlement data outside of its current S105 quarterly reporting process, and would not provide additional transparency or accuracy to the Commission. MISO states that the S14 settlement statement provides for 98.8% completeness in settlement data, while the difference in the S55 settlement statement accounts for a 0.9% increase in completeness, and the final S105 settlement accounts for a 0.3% change in completeness relative to total annual market activity.[136] Any potential resettlements outside of the S105 statement account for an even smaller 0.1% increase in completeness from the prior S105 statement. MISO comments that although resettlements account for a small portion of total annual market activity, the process is labor intensive, and resettlements can materialize from numerous drivers. MISO states that these drivers include Independent Market Monitor sanctions, Commission-ordered disgorgements, Joint Operating Agreement true-ups, continuing error resolution up to the two-year timebar, granting of market disputes past the final S105 settlement, and Alternative Dispute Resolution proceedings, among others.[137]

104. MISO notes that its current resettlement reporting process also provides transparency into market transactions through a variety of reporting methods. MISO comments that, depending on the type of resettlement, it may collaborate with the Commission's Office of Enforcement or, in cases where such collaboration with the Commission is not required, MISO will notify market participants of the resettlement through its public website and at the Settlement Users Group stakeholder meeting. MISO states that all resettlements follow stringent System and Organization Controls reporting requirements and a five-year records retention schedule. For these reasons, MISO submits that reporting resettlements in EQR refilings would be duplicative, substantially burdensome, and would not provide additional transparency to the Commission or market participants.

b. Twelve-Quarter Refiling Timeline

105. EPSA states that the additional historical look back period and proposed refiling requirement would be burdensome, especially for Sellers that have numerous transactions, and would not provide meaningful additional value. EPSA states that members who are market participants in multiple RTO/ISO regions have several million lines of data that they are submitting each quarter for their respective EQRs. According to EPSA, going back to update that for five years (20 quarters) would pose an enormous burden and the Commission has not shown that the existing three-year refiling period is insufficient. EPSA therefore requests that the Commission continue to utilize the current three-year look back requirement, arguing that the data is not meaningful for an evaluation of market pricing or trends after three years.[138]

106. MISO states that, depending on the proposed definition of material changes or omissions, the proposed increase in the refiling period from 12 quarters to 20 quarters (or as far back as the change or omission goes, whichever is shorter) would likely cause an increased administrative burden on an already manual process and the proposed benefit may not be worth the potential administrative burden to filers.[139] Further, MISO seeks clarification on behalf of a market participant ''on whether revised quarterly files fall into the proposed correction timeline of twenty quarters or to the date of the error or omission, whichever is shorter.'' [140]

107. Tri-State asserts that the current refiling and 12-quarter data requirement policy is sufficient to provide the Commission with a complete set of data to perform robust analyses. Tri-State adds that extending the requirement to a 20-quarter timeline will add burden to EQR filers while not adding commensurate value.[141]

3. Commission Determination

a. Material Corrections and Material Omissions

108. FPA section 205(c) mandates that public utilities have their rates, terms and conditions for jurisdictional service on file with the Commission. The Commission has adopted the EQR as the reporting mechanism for public utilities to fulfill this responsibility.[142] In addition, the Commission requires certain non-public utilities to file EQRs to facilitate price transparency under FPA section 220.[143]

109. The Commission considers a refiling to be a resubmission to correct previously submitted data after a filing window has closed or to add previously omitted data after the filing window has closed. To ensure that the EQR captures rates, terms and conditions accurately, changes to, or identification of errors or omissions in, previously submitted EQRs may necessitate that Sellers make EQR refilings. The Commission's existing refiling policy requires that *any* addition(s) or change(s) to an EQR filing must be made by the end of the following quarter, when the Seller is expected to have the best available new data to identify any necessary updates to the earlier filed EQR. In addition, under the existing policy, after the end of the following quarter, Sellers have a continuing duty to make an EQR refiling if a *material* error or omission was identified in an earlier filed EQR.[144]

110. In setting forth its existing refiling policy, the Commission sought to strike a balance between collecting timely, accurate data and reducing the burden on filers.[145] In this final rule, we strive to do the same. The existing requirement to refile an EQR to reflect *any* additions or changes by the end of the following quarter is now superseded by the change adopted in this final rule, which extends the original filing

[132] EPSA Comments at 8.
[133] BPA Comments at 2.
[134] *Id.* at 3.
[135] MISO Comments 2.
[136] *Id.* at 3.
[137] *Id.*
[138] EPSA Comments at 7–8.
[139] MISO Initial Comments at 2.
[140] *Id.*
[141] Tri-State Comments at 3.
[142] Order No. 2001, 99 FERC ¶ 61,107 at PP 44–46.
[143] 16 U.S.C. 824t.
[144] *See* Order No. 2001–E, 105 FERC ¶ 61,352 at PP 9–10.
[145] *Id.* P 9.

deadline for an EQR to the end of the following quarter. However, we do not change the existing, continuing requirement that Sellers refile an EQR when *material* errors or omissions are identified. We stress that it continues to be a Seller's responsibility, consistent with FPA section 205(c), to ensure that the information it reports in its EQRs is accurate.

111. To assist Sellers and reduce the burden of refilings due to material corrections to RTO/ISO settlement data, we require each RTO/ISO to prepare and make available an initial transaction data report for each quarter, as well as one revised transaction data report for that quarter, as discussed in Section G of this final rule. Pursuant to the refiling policy discussed above, if a Seller identifies a material error or omission, the Seller must refile by the deadlines stated in Section G.

112. In this final rule, we decline to adopt a specific definition of materiality regarding the type of material correction or material omission that would necessitate an EQR refiling. We believe that the determination of what is material in the context of the EQR is case-specific, and thus cannot be distilled to a specific definition with universal applicability. A materiality analysis is not a mechanical exercise and should not be based solely on a quantitative analysis. Sellers must thoroughly and objectively evaluate the total mix of information to determine if a refiling is necessary. Such an evaluation should consider all relevant facts and circumstances surrounding the error or omission to determine whether an error or omission is material to the Commission and the public. In considering whether an error or omission is material and may necessitate a refiling, a Seller may consider factors, including, but not limited to: whether the error(s) or omission(s) impact the accuracy of rates or prices, the frequency and type of data error(s) or omission(s), the number of quarters impacted by the data error(s) or omission(s), and the Seller's size and volume of transactions within a particular market. While we decline to establish a specific dollar or percentage threshold for materiality of market transaction data, filers can seek informal or formal guidance from staff and the Commission itself. For example, filers may email the Commission's EQR inbox at *eqr@ferc.gov* for informal staff guidance or obtain formal guidance through a request for declaratory order from the Commission.[146]

113. As noted in MISO's comments, resettlements may stem from a variety of reasons, including but not limited to: Market Monitoring Unit sanctions, Commission-ordered disgorgements, Joint Operating Agreement true-ups, continuing error resolution past the last disputable settlement cycle, granting of market disputes past the last disputable settlement cycle, and Alternative Dispute Resolution proceedings.[147] Some of these resettlements, such as lump-sum disgorgements, cannot be reported meaningfully in the EQR, because the resettled data may span multiple quarters and the data may be aggregated or netted.[148] Therefore, submitting such data in the EQR may not provide useful information to the Commission or the public.

114. In rare instances where a resettlement occurs after the RTO/ISO produces its revised transaction data reports, and the resettled data is both material and reportable on a disaggregated basis in the EQR, we encourage the RTO/ISO to work with Sellers to ensure that they have the necessary data to refile EQRs. If RTOs/ISOs require guidance, they may email the Commission's EQR inbox at *eqr@ferc.gov* or obtain formal guidance through a request for declaratory order from the Commission.

b. Twelve-Quarter Refiling Timeline

115. We decline to adopt the NOPR proposal to extend the refiling timeline to 20 quarters when there are material corrections or material omissions to previously filed EQRs. Upon consideration of the comments that a new 20-quarter refiling timeline would impose a substantial additional burden on filers without adding commensurate value, we find that, on balance, the incremental benefit of obtaining refiled EQR data beyond 12 quarters (three years) would be outweighed by the additional burden on filers associated with collecting and submitting up to two years of additional data in the EQR. In addition, our experience with filers who have sought staff guidance on submitting refilings to correct errors in past data indicates that most refilings do not involve corrections that extend beyond the current 12-quarter refiling timeline. We therefore do not believe that extending the current 12-quarter refiling timeline would significantly improve data users' ability to perform analyses using EQR data.

116. We clarify that, with respect to applying the refiling policy to material corrections or material omissions, the Commission retains authority under FPA sections 205(c) and 220 to require EQR refilings that extend beyond 12 quarters, based on the specific facts and circumstances of a case. While we expect that, in most instances, the 12-quarter refiling timeline will provide sufficient information to the Commission and the public, there may be exceptional circumstances that require refilings beyond 12 quarters to provide complete and accurate data. For example, certain sales without prior Commission authorization under FPA section 205 may require refilings beyond 12 quarters. Additionally, we adopt the NOPR proposal that any refilings will necessitate the inclusion of descriptive text in the new Notes data field, as discussed below.

I. Elimination of Certain Data Fields and Associated Characteristics

117. This section of the final rule addresses the elimination of certain data fields and associated characteristics. Throughout this section of the final rule and those that follow, any data field numbers continue to use the numbering convention from EQR Data Dictionary, Version 3.5, to allow continuity for referencing to the data fields. The new EQR Data Dictionary, Version 4.0, as provided in the Attachment to this final rule, will replace Version 3.5 of the EQR Data Dictionary when the new EQR system is in place.

118. Until the new EQR system is in place, Version 3.5 of the EQR Data Dictionary will continue to be effective and EQR filings should conform with the requirements set forth in Version 3.5 of the EQR Data Dictionary. However, as discussed below, this final rule eliminates certain data fields and a reporting option. Therefore, as of the effective date of this final rule, we will no longer require the reporting of information about transmission capacity reassignments, index price publishers, and exchange/brokerage service in the EQR, and Sellers should not use the reporting option BA—Billing Adjustments under Class Name. The modifications to the EQR reporting requirements are discussed in detail below.

[146] *See Obtaining Guidance on Regul. Requirements,* 123 FERC ¶ 61,157 (2018) (listing various formal and informal mechanisms for obtaining guidance). We note that informal advice given by staff is never binding on the Commission and the Commission's regulations provide that ''[o]pinions expressed by the staff do not represent the official views of the Commission, but are designed to aid the public and facilitate the accomplishment of the Commission's functions.'' *See id* P 17, *citing* 18 CFR 388.104(a).

[147] MISO Comments at 3.

[148] The Commission requires the submission of disaggregated data in the EQR because aggregated data does not provide sufficient disclosure of rates. *See* Order No. 2001, 99 FERC ¶ 61,107 at P 123.

1. Transmission Capacity Reassignment Data

a. NOPR Proposal

119. The Commission proposed to eliminate the requirement that transmission providers report transmission capacity reassignment information in the EQR. The Commission also sought comments on whether the transmission capacity reassignment data reported in the EQR is helpful to the public and, if so, whether there may be a better way for the public to access such data rather than through the EQR.[149]

120. The Commission explained that in Order No. 888, the Commission permitted reassignments of point-to-point transmission capacity to be made in accordance with the terms and conditions of the transmission provider's Open Access Transmission Tariff (OATT), subject to a cost-based price cap.[150] In Order No. 890, the Commission lifted the price cap and permitted resellers of point-to-point transmission capacity to charge market-based rates.[151] The Commission found that market forces, combined with the requirements of the *pro forma* OATT, as modified in Order No. 890, would limit the ability of resellers to exert market power. To enhance its oversight and monitoring activities, the Commission required all reassignments of transmission capacity to be conducted through or otherwise posted on the transmission provider's Open Access Same-Time Information System (OASIS) on or before the date the reassigned service commenced. In addition, the Commission required the execution of a service agreement by the assignee of transmission capacity prior to the date on which the reassigned service commenced.[152]

121. In addition to OASIS posting requirements, the Commission required transmission providers to summarize data related to capacity reassignment agreements and the associated reassignments in the EQR so that the data would be readily accessible to the Commission and the public.[153] However, because the EQR could not fully reflect information about transmission capacity reassignments in the Transaction data, the Commission set forth unique reporting conventions whereby individual reassignments are reported in the Contract data of the EQR.[154]

122. In Order No. 890–A, the Commission granted rehearing to limit the period during which reassignments could occur above the price cap to a two-year study period and directed staff to prepare a report.[155] Staff released its report in April 2010, finding that the secondary market had grown substantially and resale prices reflected market fundamentals rather than the exercise of market power.[156] In Order No. 739, the Commission permanently lifted the price cap for sales of reassigned transmission capacity.[157]

123. The NOPR proposed to eliminate information about transmission capacity reassignments because that information is available to transmission customers on OASIS, including the quantity, receipt and delivery points, and the begin and end dates and times of the reassignments.[158] The NOPR also stated that, since the issuance of Order Nos. 890 and 739, the Commission has gained access to other transmission-related data, which the Commission can use to monitor the competitiveness of transmission markets, including access through Open Access Technology International (OATI) [159] to the electronic tags used to schedule transmission of electric power interchange transactions in the wholesale markets, pursuant to Order No. 771,[160] and access to transmission reservation data through a contract with OATI.[161]

b. Comments

124. BPA, ECC, EEI, EPSA, PJM, and Tri-State support the proposal to eliminate the collection of capacity reassignment data in the EQR.[162] BPA states that capacity reassignment information is available from other sources and eliminating the collection of this data in the EQR will help to streamline filings by eliminating unnecessary data.[163] EPSA states this change is beneficial because it eliminates duplicative reporting.[164]

125. PJM states that the relevant transmission capacity reassignment information is already available to transmission customers via OASIS, and the Commission has access to other transmission-related data for staff to monitor market competition.[165] Tri-State states that capacity reassignment data is difficult to track since it requires transmission customers to report transmission data that is otherwise not reported from the merchant side. Tri-State states that eliminating the collection of this data will further simplify the reporting process and would save time and resources.[166]

c. Commission Determination

126. We adopt the NOPR proposal to eliminate the requirement for transmission providers to report transmission capacity reassignment information in the EQR and the capacity reassignment-related data collected in Product Type Name (Field No. 30) for the reasons stated in the NOPR.[167] We find that the Commission's access to transmission-related data from sources other than the EQR, including OASIS and OATI, provides sufficient information to monitor the secondary transmission market, including monitoring for the potential exercise of market power. Accordingly, we will remove the capacity reassignment reporting option under Product Type Name (Field No. 30) from the EQR Data Dictionary. Thus, as of the effective date of this final rule, we will no longer require the reporting of information about transmission capacity reassignments.

[149] NOPR, 185 FERC ¶ 61,043 at PP 33, 38.

[150] *Promoting Wholesale Competition Through Open Access Non-Discriminatory Transmission Servs. by Pub. Utils.; Recovery of Stranded Costs by Pub. Utils. and Transmitting Utils.,* Order No. 888, 61 FR 21,540 (May 10, 1996), FERC Stats. & Regs. ¶ 31,036 (1996) (cross-referenced at 75 FERC ¶ 61,080), *order on reh'g,* Order No. 888–A, 62 FR 12274 (Mar. 14, 1997), FERC Stats. & Regs. ¶ 31,048 (1997), *order on reh'g,* Order No. 888–B, 81 FERC ¶ 61,248 (1997), *order on reh'g,* Order No. 888–C, 82 FERC ¶ 61,046 (1998), *aff'd in relevant part sub nom. Transmission Access Pol'y Study Grp.* v. *FERC,* 225 F.3d 667 (D.C. Cir. 2000), *aff'd sub nom. N.Y.* v. *FERC,* 535 U.S. 1 (2002).

[151] *Preventing Undue Discrimination & Preference in Transmission Serv.,* Order No. 890, 118 FERC ¶ 61,119 at PP 808–18, *order on reh'g,* Order No. 890–A, 73 FR 2984 (Jan. 16, 2008), 121 FERC ¶ 61,297 (2007), *order on reh'g,* Order No. 890–B, 123 FERC ¶ 61,299 (2008), *order on reh'g,* Order No. 890–C, 74 FR 12540 (Mar. 25, 2009), 126 FERC ¶ 61,228, *order on clarification,* Order No. 890–D, 129 FERC ¶ 61,126 (2009).

[152] Order No. 890, 118 FERC ¶ 61,119 at PP 815–16.

[153] *Id.* P 817; *see also* Order No. 890–A, 121 FERC ¶ 61,297 at P 410.

[154] *See Notice Providing Guidance on the Filing of Info. on Transmission Capacity Reassignments in Elec. Quarterly Reports,* 124 FERC ¶ 61,244 (2008).

[155] Order No. 890–A, 121 FERC ¶ 61,297 at P 390.

[156] FERC Staff, *Staff Report on Capacity Reassignment* (2010), *available at https://www.ferc.gov/sites/default/files/2020-05/04-15-10-capacity-reassignment.pdf.*

[157] *Promoting a Competitive Mkt. for Capacity Reassignment,* Order No. 739, 75 FR 58293 (Sept. 24, 2010), 132 FERC ¶ 61,238 (2010).

[158] NOPR, 185 FERC ¶ 61,043 at P 37.

[159] OATI is a company that specializes in offering software solutions to the energy industry in North America.

[160] *Availability of E-Tag Info. to Comm'n Staff,* Order No. 771, 77 FR 76367 (Dec. 28, 2012) 141 FERC ¶ 61,235 (2012).

[161] NOPR, 185 FERC ¶ 61,043 at P 37.

[162] BPA Comments at 2; ECC Comments at 6; EEI Comments at 2; EPSA Comments at 8; PJM Comments at 8; and Tri-State Comments at 3.

[163] BPA Comments at 2.

[164] EPSA Comments at 8.

[165] PJM Comments at 8.

[166] Tri-State Comments at 3.

[167] NOPR, 185 FERC ¶ 61,043 at PP 33–38.

2. Index Price Publisher Information

a. NOPR Proposal

127. The Commission proposed to eliminate the requirement, set forth in Order No. 768, for Sellers to identify in the EQR the index price publisher(s) to which they report transactions.[168] The Commission stated that, in the years since the implementation of the requirement for Sellers to identify index price publisher information in the EQR, Commission staff found that this information provides limited transparency into the formation of electric index prices because it is not reported on a transactional basis.[169] The Commission also stated that it has gained greater transparency into electric price indices through its access to transactional data from Intercontinental Exchange Inc. (ICE). The Commission sought comment on whether reporting of index price publisher information is helpful to the public, and if so, how this data is used.[170]

b. Comments

128. ECC, EEI, EPSA and Tri-State filed comments in support of the Commission's proposal to eliminate the requirement for Sellers to identify the index price publisher(s) to which they report transactions in the EQR.[171] Tri-State states that the removal of the fields associated with this requirement will further simplify the reporting process and should not diminish the usefulness of EQR data.[172] EPSA states this change is beneficial because it eliminates duplicative reporting.[173]

c. Commission Determination

129. We adopt the NOPR proposal to eliminate the requirement for Sellers to identify index price publisher information in the EQR based on the comments supporting this proposal and for the reasons discussed in the NOPR.[174] Accordingly, we will remove Transactions Reported to Index Price Publishers (Field No. 13), Filer Unique Identifier (Field No. 71), Seller Company Name (Field No. 72), Index Price Publisher(s) to Which Sales Transactions Have Been Reported (Field No. 73), Transactions Reported (Field No. 74), and Appendix G from the EQR Data Dictionary. Therefore, as of the effective date of this final rule, we will no longer require the reporting of information about index price publishers.

130. In addition, we adopt the NOPR proposal to remove this reporting requirement from § 35.41(c) of the Commission's regulations. Specifically, we remove the text in this regulation that provides: ''Seller must identify as part of its Electric Quarterly Report filing requirement in § 35.10b of this chapter the publishers of electricity and natural gas indices to which it reports its transactions.'' Thus, we modify 18 CFR 35.41(c) to read, in its entirety: ''*Price reporting.* To the extent a Seller engages in reporting of transactions to publishers of electric or natural gas price indices, Seller must provide accurate and factual information, and not knowingly submit false or misleading information or omit material information to any such publisher, by reporting its transactions in a manner consistent with the procedures set forth in the *Policy Statement on Natural Gas and Electric Price Indices,* issued by the Commission in Docket No. PL03–3–000, and any clarifications thereto. In addition, Seller must adhere to any other standards and requirements for price reporting as the Commission may order.''

3. Exchange and Broker Information (Field No. 54 and Appendix H)

a. NOPR Proposal

131. In the NOPR, the Commission proposed to eliminate the requirement, set forth in Order No. 768, for Sellers to report in the EQR whether they use an exchange or broker to consummate a transaction.[175] The Commission explained that, in the years since the implementation of this reporting requirement, the Commission has gained greater transparency into exchanges through its access to transactional data from ICE.[176] The Commission also stated that Commission staff has found that indicating in the EQR whether a broker was used to consummate or effectuate a transaction does not provide much transparency into how indices are created. The Commission sought comment on whether this information is helpful to the public, and if so, how this data is used.[177]

b. Comments

132. ECC, EEI, and EPSA submitted comments in support of the Commission's proposal to eliminate the requirement for Sellers to identify which exchange or broker was used to consummate transactions.[178] Additionally, EPSA states this change is beneficial because it eliminates duplicative reporting.[179]

c. Commission Determination

133. We adopt the NOPR proposal to eliminate the requirement for Sellers to report in the EQR whether they use an exchange or broker to consummate a transaction, based on the comments supporting this proposal and for the reasons discussed in the NOPR. Accordingly, the Commission will remove Appendix H and the associated Exchange/Broker Service data field (Field No. 54) from the EQR Data Dictionary. Therefore, as of the effective date of this final rule, we will no longer require the reporting of information about exchange/brokerage service in the EQR.

4. BA-Billing Adjustments

a. NOPR Proposal

134. The Commission proposed to delete the reporting option of BA-Billing Adjustment from Class Name (Field No. 59), which Sellers may currently use to reflect material billing adjustments to transactions listed in previously filed EQRs, and instead require Sellers to reflect material billing adjustments through a refiling.[180] The Commission explained the use of the ''BA-Billing Adjustment'' reporting option under the ''Class Name'' data field reflects aggregated transaction data, which does not enable data users to identify the individual transactions affected by the adjustment, and therefore, provides little useful information.[181]

b. Comments

135. ECC endorses the proposal to eliminate the Billing Adjustment option in Class Name.[182]

c. Commission Determination

136. For the reasons addressed in the NOPR, we adopt the NOPR proposal to delete the reporting option BA-Billing Adjustment from Class Name and to require Sellers to reflect material billing adjustments through a refiling as of the effective date of this final rule.

[168] *Id.* P 39 (citing 18 CFR 35.41(c) and Order No. 768, 140 FERC ¶ 61,232 at PP 128–129).

[169] NOPR, 185 FERC ¶ 61,043 at P 40.

[170] *Id.*

[171] ECC Comments at 6; EEI Comments at 2; EPSA Comments at 8; and Tri-State Comments at 3.

[172] Tri-State Comments at 3.

[173] EPSA Comments at 8.

[174] *See* NOPR, 185 FERC ¶ 61,043 at PP 39–40.

[175] NOPR, 185 FERC ¶ 61,043 at P 41 (citing Order No. 768, 140 FERC ¶ 61,232 at PP 137–141).

[176] *Id.* P 42.

[177] *Id.* PP 41–42.

[178] ECC Comments at 6; EEI Comments at 2; and EPSA Comments at 8.

[179] EPSA Comments at 8.

[180] NOPR, 185 FERC ¶ 61,043 at P 32.

[181] *Id.*

[182] ECC Comments at 6.

J. Modifications to Reporting Requirements for Identification, Contract, Transaction, and Index Reporting Data

1. Modified Character Limitations

a. NOPR Proposal

137. The Commission proposed in the NOPR to eliminate the character limitations for the following data fields: Seller (Field Nos. 2, 16 and 46), FERC Tariff Reference (Field Nos. 19 and 48), Rate Description (Field No. 37), and Point of Receipt Specific Location (PORSL) (Field No. 40).[183] Additionally, the Commission proposed to expand the decimal limitation for Transaction Quantity (Field No. 64), Price (Field No. 65), and Standardized Price (Field No. 68) from six characters to ten characters, and for Transaction Quantity and Standardized Quantity (Field Nos. 64 and 67, respectively) from four characters to 10 characters.[184]

b. Comments

138. ECC endorses the proposal to remove the character limit for the Rate Description data field.[185]

c. Commission Determination

139. We adopt the modifications to the character and decimal limitations, as proposed in the NOPR, to allow for greater accuracy of data reporting.

2. Agent Identification Data

a. NOPR Proposal

140. The Commission proposed to cease collecting the Agent's Identification data, including the following data fields in the EQR: Agent's Company Name (Field No. 2), Agent's Contact Name (Field No. 4), Agent's Contact Title (Field No. 5), Agent's Contact Address (Field No. 6), Agent's Contact City (Field No. 7), Agent's Contact State (Field No. 8), Agent's Contact Zip (Field No. 9), Agent's Contact Country Name (Field No. 10), Agent's Contact Phone (Field No. 11), and Agent's Contact Email (Field No. 12).[186]

141. The Commission also proposed to cease collecting the Agent reporting option for the CID or Delegate Identifier (DID) in the Identification data of the EQR because the legal obligation for complying with the EQR filing requirements rests with the Seller, not the Agent. The NOPR also stated that the continued collection of the Filer Unique Identifier or FA1 data field (Field No. 1) in the EQR submission files is dependent on the XBRL–CSV system design process.[187]

b. Comments

142. Systrends requests clarification of any validations that would be performed to identify the person submitting the EQR.[188]

c. Commission Determination

143. We adopt the NOPR proposal to cease collecting the Identification data associated with the Agent in the EQR submission files because the legal obligation for complying with the EQR filing requirements rests with the Seller, not the Agent.[189] In response to Systrends' request to clarify if any validations will be performed to identify the person submitting the EQR, we clarify that the EQR system will ensure that the Agent is assigned by an Account Manager in the Company Registration system and that the Agent is associated with a Seller's CID, and is therefore authorized to file EQRs on the Seller's behalf. Eliminating the collection of Agent Identification data in EQR submission files avoids duplicate data in the Commission's systems. We anticipate that identification information for an Agent that files an EQR on a Seller's behalf will be made available to the public through a future EQR Report Viewer.

3. Seller (Field Nos. 2, 16 and 46)

a. NOPR Proposal

144. The Commission proposed to rename the Company Name data field (Field Nos. 2, 16, and 46) as Seller to reflect the name of the entity that is making sales, and to modify the definition to: ''The name of the public utility that is authorized to make sales as indicated in the company's FERC tariff(s) under section 205 of the Federal Power Act or the name of the non-public utility that is required to file the EQR under section 220 of the Federal Power Act.'' The Commission explained that the need for Sellers to report the Seller name more than once may be modified based on future system design and reporting capabilities.[190]

145. In addition, the Commission proposed to collect information on Seller name changes and associated effective dates in the new EQR system, and to make this information available to the public.[191]

b. Comments

146. EEI seeks clarification on the Commission's proposal to collect information on Seller name changes and associated effective dates in the new EQR system and make this change public.[192] EEI explains that the EQR is unsuited to such a task because Sellers typically use a single name (*i.e.,* the most current name) in all EQR reporting for the entire quarter to avoid duplication of contracts.[193] EEI also states that Seller name changes may occur on at least three dates: the date of the legal name change by the relevant Secretary of State; the date the name in the FERC Company Registration portal is changed; and the date the re-filed tariffs, rate schedules and service agreements take effect, which is typically about 90 days after the legal name change, as the Commission sometimes requires the Notice of Succession with all such agreements to be filed within 30 days with a 60-day future effective date.[194] EEI suggests that the Commission consider how it may extract and publish name change data from the Commission's Company Registration, which would be more appropriate because that name change data reflects the date the Commission itself registered the change and altered the company name associated with any given CID.[195]

c. Commission Determination

147. We adopt the NOPR proposal to implement Seller as the field name in the Identification, Contract, and Transaction data of the EQR; however, we decline to adopt the proposal to collect information on Seller name changes and associated effective dates in the new EQR system.[196]

148. In the current system, the company name in the Identification data file must conform with the company name in Company Registration, and only the company name that was effective on the last day of the quarter is accepted. Submitting EQRs may be challenging if a company name change occurs during the quarter, especially if the EQR data is associated with both the previously effective company name and the new company name for the same quarter. To alleviate the filing challenge, we will implement a simplified approach for submitting EQRs during a

[183] NOPR, 185 FERC ¶ 61,043 at PP 45, 59, 92, 98.

[184] *Id.* PP 117, 120, 123.

[185] ECC Comments at 14.

[186] NOPR, 185 FERC ¶ 61,043 at PP 31, 46, 48, 50–52.

[187] *Id.* PP 30, 47.

[188] Systrends Comments at 2.

[189] Accordingly, the Agent Identification data is not included in the EQR Data Dictionary, Version 4.0.

[190] NOPR, 185 FERC ¶ 61,043 at PP 44–45.

[191] *Id.* P 45.

[192] EEI Comments at 21.

[193] *Id.*

[194] *Id.*

[195] *Id.* at 22.

[196] The requirement to report the Seller name in all three files, Identification data, Contract data, and Transaction data, may be modified based on future system design and reporting capabilities.

quarter in which a company name has changed in Company Registration. Specifically, the new system will validate Seller names based on the Seller's CID and any name change(s) in Company Registration during the applicable quarter. Thus, any Seller name that was effective in Company Registration during the filing quarter in which a name change occurs will be accepted in the EQR. Based on the new system's ability to accommodate Seller name changes in the EQR, we will not adopt the NOPR proposal to publish a list of effective dates of Seller name changes.

4. Seller CID (Field No. 3)

a. NOPR Proposal

149. The Commission proposed to change the field name from Company Identifier to Seller CID. The Commission proposed no changes to how information about the Seller CID is collected in this data field.[197]

b. Comments

150. XBRL US states that it agrees with the approach to require greater standardization in identifiers for reporting entities. XBRL US encourages the Commission to require the use of the Legal Entity Identifier (LEI), a global standard currently under consideration for reporting by agencies that must comply with the Financial Data Transparency Act.[198]

c. Commission Determination

151. We adopt the NOPR proposal to change the Company Identifier field name to Seller CID and make no other changes to this data field. We will not require LEIs to be reported in the EQR, as suggested by XBRL US, because this issue falls outside the scope of this rulemaking proceeding.

5. Qualifying Facility

a. NOPR Proposal

152. The Commission proposed to require Qualifying Facilities (QF) to identify the sales that they make pursuant to the Public Utility Regulatory Policies Act of 1978 (PURPA) that are reportable to the EQR.[199] In particular, the Commission proposed to: (1) modify the definition of FERC Tariff Reference so that QFs making sales pursuant to PURPA would report ''PURPA'' [200] in this data field; and (2) add a new reporting option under Product Type of QF—Qualifying Facility to be defined as: ''The product is sold by a Qualifying Facility under the Public Utility Regulatory Policies Act of 1978 (PURPA).''

b. Comments

153. ECC, EEI, and EPSA oppose this NOPR proposal, arguing that it would impose a new reporting obligation and additional burden on QFs.[201] ECC states that QFs without MBR tariffs do not file EQRs and QFs with MBR tariffs only report sales made pursuant to a Commission-approved MBR tariff.[202] ECC adds that the Commission should clarify that QFs without MBR authority would continue to be exempt from reporting sales made under PURPA or sales that are exempt from the FPA under PURPA regulations. ECC states that the Commission should continue to require QFs to file EQRs only if they have a tariff on file at the Commission and, in that case, only sales made under those tariffs.[203]

154. EEI comments that the Commission has never required the reporting of PURPA contracts and associated transactions; and negotiated contracts and associated transactions that QFs that also have MBR tariffs on file enter into under 18 CFR 292.601. EEI states that the NOPR proposal may inadvertently establish a new requirement for QF Sellers to report FPA section 205-exempt contracts and transactions in the EQR. EEI further states that QF Sellers' long-term firm non-FPA regulated sales contracts data need not be entered in the MBR Portal and it would be illogical to include such contracts under one MBR reporting regime and not others. EEI comments that the Commission should continue to require that QF Sellers only include FPA-regulated contracts and transactions in their EQR filings.

c. Commission Determination

155. We did not intend to establish a requirement for Sellers to report information in the EQR about QF sales that are exempt from FPA section 205 and, as a result, we modify the NOPR proposals with respect to EQR reporting by QFs. We will require Sellers that are QFs and required to submit EQRs because they do not qualify for an exemption from FPA section 205 under 18 CFR 292.601, and that make sales under their MBR authorization, to identify themselves as QFs in the Identification data. Accordingly, we establish a new Qualifying Facility data field in the Identification data, defined as ''The Seller is a Qualifying Facility as defined under 18 CFR 292.201–211.'' Sellers will have two reporting options, ''Y'' for Yes to designate that the Seller is a QF and ''N'' for No to indicate that the Seller is not a QF.

156. QFs that are required to file rates under FPA section 205 must obtain MBR authorization and file EQRs, unless their sales are otherwise exempted from such requirements. QF sales are exempt from sections 205 and 206 of the FPA if they meet the criteria for exemption described in § 292.601(c)(1) of the Commission's regulations, 18 CFR 292.601(c)(1), *i.e.,* if they are sales from a QF 20 MW or smaller, if they are sales made pursuant to a state's implementation of section 210 of PURPA, 16 U.S.C. 824a–3, or if they are sales made from a contract entered into on or before March 17, 2006. Such exempted QF sales need not have MBR authorization or be reported in the EQR. Thus, QF sales that are subject to the exemptions from sections 205 and 206 of the FPA that are listed in § 292.601(c)(1) of the Commission's regulations do not need MBR authorization or to be reported in EQRs.

157. If one of the above-described exemptions does not apply, the QF is obligated to obtain MBR authorization and report its Commission-jurisdictional sales in its EQR. A QF that has applied for and been granted MBR authority must file an EQR with information about its market-based sales as a condition of retaining its MBR authority. This requirement applies even if the QF makes some sales pursuant to an exemption. A QF must explain what portion of its sales meets the requirements for the exemption in § 292.601(c)(1) of the Commission's regulations, and if the QF desires to sell both pursuant to an exemption while also selling pursuant to MBR authority, it must specifically list its limitations on sales at market-based rates in its MBR tariff. Requiring Sellers to indicate whether they are QFs in the EQR will help ensure that QFs are complying with the Commission's requirements to report MBR sales and sales that are not exempt from FPA section 205 under § 292.601 of the Commission's regulations.

6. Seller Contact (Field No. 4)

a. NOPR Proposal

158. The Commission proposed to modify the field name from Contact Name to Seller Contact. Additionally, the Commission proposed to modify the definition to: ''The Seller's authorized representative who may be contacted about the accuracy of the EQR data for

[197] NOPR, 185 FERC ¶ 61,043 at P 47.

[198] XBRL US Comments at 1.

[199] *Id.* P 4.

[200] *Id.* P 59.

[201] ECC Comments at 12; EEI Comments at 8; EPSA Comments at 9.

[202] ECC Comments at 12.

[203] *Id.*

the Seller.'' The Commission stated that this person would serve as a point of contact for the Seller for questions related to the EQR data. Further, the Commission proposed to require the Seller Contact to be an Account Manager in Company Registration for a specific Seller.[204]

159. The Commission stated that the proposed new requirement for the Seller Contact to be registered as an Account Manager in the Company Registration system would ensure that the individual listed in the EQR as the Seller Contact has been designated by the Seller to serve in this capacity. Further, the Commission stated in the NOPR that all Account Managers registered in the Company Registration system are responsible for maintaining the accuracy of their Company Registration accounts.[205] Even when an Agent files an EQR on a Seller's behalf, the legal obligation for complying with the EQR filing requirements rests with the Seller and any inaccuracies are the Seller's responsibility.[206]

b. Comments

160. EEI, EPSA and Systrends oppose requiring the Seller Contact to be a registered Account Manager in the Commission's Company Registration system.[207] EPSA and Systrends recommend that the Commission loosen the definition of Seller Contact to have Filing Agent status, as defined within the existing system.[208]

161. EPSA, IGS, PG&E and Systrends state that contacts responsible for managing EQR data may differ from those responsible for managing the information reported in the Commission's Company Registration system.[209] EEI argues that the Seller Contact (Account Manager) should not be responsible for the information in Company Registration because this responsibility for Account Managers is not reflected in the Commission's Instructions for Company Registration.[210] EEI states that, if the Commission seeks to redefine Seller Contact as described, it should not require the Seller Contact to be anything other than eRegistered.[211]

162. PG&E requests clarification that the new system will not restrict submitting the EQR data to Account Managers only and will continue to allow others to submit on behalf of the company.[212]

c. Commission Determination

163. In light of the comments received, we modify the definition of the Seller Contact data field to: ''The eRegistered person authorized by the Seller to be contacted about the Seller's EQR.'' We seek to maintain the current flexibility for Sellers to engage Agents in the EQR submission process, including third-party entities. Therefore, we will not adopt the proposal for the Seller Contact to be a registered Account Manager in the Company Registration system.

164. In addition, as noted in Section II.J.2 of this final rule, we will not eliminate the role of Agents or their ability to submit EQRs. Rather, we clarify that Account Managers will not be able to make EQR submissions unless they are also registered as Agents, as is currently the case. We strongly encourage Sellers to maintain multiple Account Managers in Company Registration in the event that changes need to be made, such as adding new Agents to submit filings. Maintaining multiple Account Managers will also ensure that a company can manage its account even if a company's Account Manager has left the company or is otherwise unavailable without designating a new Account Manager. In addition, listing more than one Account Manager facilitates outreach to the Seller by Commission staff on compliance issues.

7. Contact Title and Address (Field Nos. 5–10)

a. NOPR Proposal

165. The Commission proposed to cease collecting the following Identification data: Contact Title (Field No. 5), Contact Address (Field No. 6), Contact City (Field No. 7), Contact State (Field No. 8), Contact Zip (Field No. 9), and Contact Country Name (Field No. 10). The Commission explained that this change would avoid duplicating data in the Commission's systems because the Seller Contact Identification data is available in Company Registration.[213]

b. Comments

166. No comments were submitted on this topic.

c. Commission Determination

167. We adopt the NOPR proposal to cease collecting the following Seller Identification data: Contact Title (Field No. 5), Contact Address (Field No. 6), Contact City (Field No. 7), Contact State (Field No. 8), Contact Zip (Field No. 9), and Contact Country Name (Field No. 10). This change will avoid duplicating data in the Commission's systems because the Seller Contact Identification data is available in the Commission's Company Registration system. We also anticipate that Seller Contact Identification data will be made available to the public through a future EQR Report Viewer.

8. Seller Contact Phone (Field No. 11)

a. NOPR Proposal

168. The Commission proposed to modify this field name from Contact Phone to Seller Contact Phone and to modify the definition to: ''The eRegistered phone number of the Seller Contact'' from the current definition: ''Phone number of contact identified in Field Number 4.'' The Commission's proposed requirements specified that the phone number must conform with the phone number in the Commission's eRegistration database for the Seller Contact.[214]

b. Comments

169. No comments were submitted on this topic.

c. Commission Determination

170. We adopt the NOPR proposal to modify the data field name to Seller Contact Phone and define it as: ''The eRegistered phone number of the Seller Contact.''

9. Seller Contact Email (Field No. 12)

a. NOPR Proposal

171. The Commission proposed to modify the data field name from Contact Email to Seller Contact Email, and to modify the definition to: ''The eRegistered email of the Seller Contact'' from the current definition: ''Email address of contact identified in Field Number 4.'' [215]

b. Comments

172. No comments were submitted on this topic.

c. Commission Determination

173. We adopt the NOPR proposal to modify the data field name to Seller Contact Email and define the data field as: ''The eRegistered email of the Seller Contact.''

[204] NOPR, 185 FERC ¶ 61,043 at PP 48–49.

[205] *Id.* P 49.

[206] *See* Order No. 770, 141 FERC ¶ 61,120 at P 2.

[207] EEI Comments at 4; EPSA Comments at 9; Systrends Comments at 2.

[208] EPSA Comments at 9; Systrends Comments at 2.

[209] EPSA Comments at 9; IGS Comments at 2–3; PG&E Comments at 4; Systrends Comments at 2.

[210] EEI Comments at 5.

[211] *Id.* at 4.

[212] PG&E Comments at 4.

[213] NOPR, 185 FERC ¶ 61,043 at P 50.

[214] *Id.* P 51.

[215] *Id.* P 52.

10. Transactions Reported to Index Price Publishers (Field No. 13)

174. As discussed in section II.I.2 above, the Commission will no longer require Sellers to identify index price publisher information in the EQR and thus eliminates Field No. 13.

11. Filing Quarter (Field No. 14) and Filing Year

a. NOPR Proposal

175. The Commission proposed to modify Filing Quarter (Field No. 14) to contain a numerical value, ranging one through four, and to modify the definition to: ''A one digit reference number to indicate the quarter of the filing: 1 = First Quarter; 2 = Second Quarter; 3 = Third Quarter; and 4 = Fourth Quarter.'' [216]

176. Further, the Commission proposed to create Filing Year as a separate data field for the filing period year, with a proposed definition of: ''A four-digit reference number to indicate the year of the filing.'' [217] The reporting value would be in YYYY format.

b. Comments

177. No comments were submitted on this topic.

c. Commission Determination

178. We adopt the Filing Year as a separate data field distinct from Filing Quarter, and modify the proposed definition for Filing Quarter to: ''A one digit reference number to indicate the quarter for which the data is submitted: 1 = First Quarter; 2 = Second Quarter; 3 = Third Quarter; and 4 = Fourth Quarter.'' We also modify the proposed definition of Filing Year to: ''A four-digit reference number to indicate the year for which the data is submitted.'' The current definition for Filing Quarter (Field No. 14) includes a six-digit reference number in the YYYYMM format, where the first four numbers represent the year (*e.g.,* 2007) and the last two numbers represent the last month of the quarter. By separating the Filing Year from the Filing Quarter into distinct data fields, these fields provide greater clarity for Sellers submitting EQR data on a monthly or rolling basis.[218]

12. Notes Accompanying Refilings

a. NOPR Proposal

179. The Commission proposed to add a new data field, Notes, to be defined as: ''For any late EQR filing submitted after the close of the filing window, the Seller must provide the date an extension request was filed with the Commission or the reason(s) for the tardy submission. For any EQR refiling made after the close of the filing window, the Seller must provide the reason(s) for the refiling.'' The Commission proposed to require this unrestricted text data field regardless of how the refiling is submitted, whether through an append feature or through the replacement of any previous submission(s) for the quarter.[219]

b. Comments

180. No comments were submitted on this topic.

c. Commission Determination

181. We modify the proposed NOPR definition of Notes to apply only to refilings and change it as follows: ''Descriptive text accompanying all refilings.'' Descriptive text is required for all refilings and must include a reason for the refiling, and a description or a summary of the revisions. We find that, after further consideration, applying the requirement to provide Notes to late initial filings is unnecessary because Sellers must submit an extension request for any late filings prior to the end of the filing window, and such extension requests are publicly available in eLibrary. For any EQR refilings made after the close of the filing window, the Notes data field is required regardless of how the refiling is submitted, whether through an append feature or through the replacement of any previous submission(s) for the quarter. The Notes data submitted with refilings will be publicly accessible through a future EQR Report Viewer.

182. For refilings where a Seller makes corrections to fix material errors or material omissions in previously submitted EQRs and those errors or omissions may extend beyond 12 quarters from the time the error or omission was discovered, the Seller must also include in the Notes data field, for every quarter and year for which filings are corrected, the following information: (1) the date the errors or omissions were discovered; (2) the quarter(s) and year(s) in which the corrections were made; and (3) the quarter(s) and year(s) that may contain data that was not corrected.

13. Customer is RTO/ISO and Customer Company Name (Field Nos. 17 and 47)

a. NOPR Proposal

183. The Commission proposed to add a new data field, Customer is RTO/ISO, with proposed values of ''Y'' or ''N'' to indicate the affirmative or negative response, with the following proposed definition: ''Sellers should indicate whether the Customer is an RTO/ISO. If the Customer is an RTO/ISO, Sellers should indicate the name in 'Customer Company Name,' as identified in the Commission's Company Registration system, and as provided on the Commission's website.'' [220]

184. Additionally, the Commission proposed to modify the current definition of Customer Company Name (Field Nos. 17 and 47) as follows: ''The name of the purchaser of contract products and services. If the purchaser is an RTO/ISO, then use the RTO/ISO name from the list of allowable entries. If the purchaser is not an RTO/ISO and is associated with a CID, then use the spelling of the name reflected in the Commission's Company Registration system. If the purchaser is not an RTO/ISO and is not associated with a CID, then use the spelling of the purchaser's name reflected in the Commission-generated Identifier (GID), if applicable.'' [221]

b. Comments

185. IGS states that the proposed Customer is RTO/ISO data field is unnecessary, as there are several ways to get that information without adding a field. IGS comments that, although the definition of the Rate Type reporting option RTO/ISO is written so that it could be used for a generator receiving the RTO/ISO rate from a marketer selling into the RTO/ISO, the Commission's FAQs indicate that the Rate Type RTO/ISO reporting option is to be used only for sales to an RTO or ISO. According to IGS, the Commission could clarify that the Rate Type RTO/ISO reporting option is to be used only for sales directly to an RTO or ISO and require that the RTO/ISO names be spelled correctly and include a validation in the system to enforce the requirement.[222]

c. Commission Determination

186. We adopt the NOPR proposal to implement a new data field, Customer is RTO/ISO, defined as: ''Sellers should indicate whether the Customer is an

[216] *Id.* P 53.

[217] *Id.* P 54.

[218] The Commission may modify the YYYY data format during the development process of the EQR XBRL–CSV system to conform with the XBRL standard and the applicable XBRL specification.

[219] NOPR, 185 FERC ¶ 61,043 at P 27.

[220] *Id.* P 55.

[221] *Id.* P 56.

[222] IGS Comments at 3.

RTO/ISO. If the Customer is an RTO/ISO, Sellers should indicate the name in Customer Company Name, as identified in the Commission's Company Registration system, and as provided on the Commission's website.'' The reporting options for this data field are ''Y'' for Yes and ''N'' for No.

187. Additionally, we adopt the proposed definition of Customer Company Name: ''The name of the purchaser of contract products and services. If the purchaser is an RTO/ISO, then use the RTO/ISO name from the list of allowable entries. If the purchaser is not an RTO/ISO and is associated with a CID, then use the spelling of the name reflected in the Commission's Company Registration system. If the purchaser is not an RTO/ISO and is not associated with a CID, then use the spelling of the purchaser's name reflected in the Commission-generated Identifier (GID), if applicable.''

188. Reporting the Customer Company Name that is associated with the company's CID, or if a CID is not available, with the name associated with the company's GID, will promote consistency in the spelling of Customer Company Names across filers and help reduce instances where a single entity is reported with multiple versions of names. Greater consistency in Customer Company Names will improve EQR data analyses.[223]

189. While IGS suggests using the Type of Rate RTO/ISO reporting option instead of creating a new Customer is RTO/ISO data field, the existing Type of Rate RTO/ISO reporting option definition refers to how the price is formed, and indicates that the price may have been formed by an RTO/ISO market *or* that the customer is an RTO/ISO. The Type of Rate RTO/ISO reporting option is defined as: ''If the price is the result of an RTO/ISO market or the sale is made to the RTO/ISO.'' This definition indicates that there may be scenarios where the price was formed by an RTO/ISO, but the customer was not an RTO/ISO. Thus, the Type of Rate data field is intended to capture information about price formation, whereas the new data field Customer is RTO/ISO aims to standardize the spelling of RTO/ISO names in the EQR.

14. Contract Affiliate (Field No. 18)

a. NOPR Proposal

190. The Commission proposed to modify the definition of Contract Affiliate to: ''The Customer is an affiliate as defined under 18 CFR 35.36(a)(9).'' [224] The Commission explained that the current Contract Affiliate definition in the EQR is based on the definition of affiliate used in the Standards of Conduct for Transmission Providers under section 358.3 of the Commission's regulations.[225] The Commission further stated that the definition of Contract Affiliate, as used in the EQR, should conform with the definition of affiliate in section 35.36(a)(9) of the Commission's regulations, which applies to MBR Sellers.[226]

b. Comments

191. EEI states that the existing Contract Affiliate definition in the EQR is based on the definition of affiliate used in the Standards of Conduct under section 358.3(a)(1) of the Commission's regulations, which provides that ''[a]n affiliate includes a division of the specified entity that operates as a functional unit.'' [227] EEI asserts that the plain meaning of the 18 CFR 35.36(a)(9) affiliate definition would not consider a division of a company (*i.e.,* the Marketing Function or Transmission Function) to be an affiliate because they are simply parts of one ''specified company.'' EEI adds that, currently, if a Marketing Function buys transmission service from the Transmission Function or a utility's procurement function obtains interconnection service from the Transmission Function, the Contract Affiliate data field in the EQR is reported with a ''Y-Yes.'' To continue this existing policy, EEI states that the Commission could revise the proposed definition to read: ''The Customer is an affiliate as defined under 18 CFR 35.36(a)(9) *or a division of the specified entity that operates as a functional unit.*'' [228]

c. Commission Determination

192. We agree with EEI's suggested modification to the definition of the Contract Affiliate to enable the continued reporting of intra-company sales between divisions of a specified entity as sales to a Contract Affiliate. We modify the definition of Contract Affiliate to: ''The Customer is an affiliate as defined under 18 CFR 35.36(a)(9) or a division of the specified entity that operates as a functional unit as defined under 18 CFR 358.3.''

15. FERC Tariff Reference (Field Nos. 19 and 48)

a. NOPR Proposal

193. The Commission proposed to modify the definition of FERC Tariff Reference to: ''The FERC Tariff Reference cites the document that specifies the terms and conditions under which a Seller is authorized to make transmission sales, power sales or sales of related jurisdictional services at cost-based rates or at market-based rates. The FERC Tariff Reference is not a docket number. If the sales are market-based, the tariff that is specified in the Commission order granting the Seller MBR authority must be listed. If the sales are cost-based, the Seller must specify the FERC-approved tariff or rate schedule under which the sales are made. If a non-public utility (NPU) Seller has a FERC-approved reciprocity transmission tariff, then the NPU should enter the tariff title of the reciprocity tariff. Sellers should report the FERC Tariff Reference in a manner consistent with the tariff, rate schedule or service agreement reported in the eTariff system. If an NPU does not have a FERC Tariff Reference, the Seller should enter 'NPU.' Qualifying Facilities making sales pursuant to the Public Utility Regulatory Policies Act of 1978 (PURPA) should enter 'PURPA' in this field.'' The NOPR also stated that the XBRL–CSV system will accommodate longer tariff references that exceed the current 60-character limit for this data field.[229]

b. Comments

194. EEI argues that the Commission should not include PURPA as an acceptable reporting option for the FERC Tariff Reference data field.[230] EEI states that, currently, such QF Sellers only need to report contracts and transactions subject to FPA section 205 and that the NOPR pre-supposes QF Sellers already report FPA-exempt contracts and transactions.[231]

195. Systrends explains that each eTariff contains a Tariff Title as well as Tariff Records, both of which have distinct titles as defined by the Commission in Order No. 714. Systrends therefore requests that the

[223] The Commission requires companies to obtain a CID number to make certain filings with the Commission. CID listings are available at: *https://www.ferc.gov/media/ferc-cid-listing.* The Commission requires GID numbers to identify any reportable entity that must be referenced in an MBR submission, provided that the reportable entity does not already have a CID or a LEI. GID listings are available at: *https://mbrweb.ferc.gov/search/search.*

[224] NOPR, 185 FERC ¶ 61,043 at P 58.

[225] 18 CFR 358.3(a)(1).

[226] The Commission's regulations define an MBR Seller as any person that has authorization to or seeks authorization to engage in sales for resale of electric energy, capacity, or ancillary services at market-based rates under section 205 of the Federal Power Act. 18 CFR 35.36(a)(1).

[227] EEI Comments at 20.

[228] *Id.* at 21.

[229] NOPR, 185 FERC ¶ 61,043 at P 59.

[230] EEI Comments at 8.

[231] *Id.* at 9.

Commission clarify which title will serve as the FERC Tariff Reference and indicate if this field will validate against the tariff.[232]

c. Commission Determination

196. We modify the definition of FERC Tariff Reference to clarify that Sellers should report the FERC Tariff Reference in a manner consistent with the tariff, rate schedule or service agreement reported in the eTariff system, including the Tariff Title, Section Title and Tariff Record Title assigned to the tariff, rate schedule or service agreement. Accordingly, the new definition of FERC Tariff Reference is: ''The FERC Tariff Reference cites the document that specifies the terms and conditions under which a Seller is authorized to make transmission sales, power sales or sales of related jurisdictional services at cost-based rates or at market-based rates. Sellers should report the FERC Tariff Reference in a manner consistent with the tariff, rate schedule or service agreement reported in the eTariff system, including the Tariff Title, Section Title and Tariff Record Title assigned to the tariff, rate schedule or service agreement. The FERC Tariff Reference is not a docket number. If the sales are market-based, the tariff that is specified in the Commission order granting the Seller market-based rate authority must be listed. If the sales are cost-based, the Seller must specify the FERC-approved tariff or rate schedule under which the sales are made. If a non-public utility (NPU) Seller has a FERC-approved reciprocity transmission tariff, then the NPU should enter the tariff title of the reciprocity tariff. If an NPU does not have a FERC Tariff Reference, the Seller should enter 'NPU.''' In response to Systrends' request as to whether this field will validate against the tariff on record in eTariff, the Commission does not intend to validate the FERC Tariff Reference data field against eTariff at this time.

197. As discussed above in Section II.J.5, we will require QFs with sales that are not exempt from FPA section 205 and that make sales under their MBR authorization to identify themselves as QFs in the new Qualifying Facility data field in the Identification data. This information will assist data users in determining which Sellers have QF status. Accordingly, we will not require QFs to report ''PURPA'' in the FERC Tariff Reference data field, as proposed in the NOPR.

[232] Systrends Comments at 2.

16. Contract Service Agreement ID (Field Nos. 20 and 49)

a. NOPR Proposal

198. The Commission proposed to modify the Contract Service Agreement ID definition to: ''A unique identifier assigned by the Seller to each service agreement that can be used by the Seller to provide the agreement to the Commission, if requested. The Contract Service Agreement ID should seldom change throughout the life of the contract.'' Currently, the Contract Service Agreement ID may be the number assigned by the Commission for service agreements filed and accepted by the Commission or it may be generated as part of an internal identification system. The Commission proposed that the Seller may continue to choose an identifier that corresponds to the number assigned by the Commission for the service agreement; however, the Commission clarified that the Contract Service Agreement ID is generated by the Seller, not by the Commission.[233]

b. Comments

199. No comments were submitted on this topic.

c. Commission Determination

200. We adopt the definition of Contract Service Agreement ID, as proposed in the NOPR. As stated in the NOPR, the Contract Service Agreement ID is a number generated by the Seller, not by the Commission. The Seller can use the number assigned by the Commission for service agreements filed with, and accepted by, the Commission, or a number generated as part of the Seller's internal identification system.

17. Contract Execution Date (Field No. 21) and Contract Effective Date

a. NOPR Proposal

201. The Commission proposed to modify the Contract Execution Date definition to: ''The date the contract is signed. If the parties signed on different dates, then report the most recent date signed. If there is no signed contract, then report the date upon which the parties made the legally binding agreement on the price of a transaction.'' The Commission proposed that this data field would continue to be required for all contracts.[234] In addition, the Commission proposed to continue requiring filers to begin reporting Contract data and Transaction data in the EQR after service commences under an agreement.[235]

202. The Commission also proposed Contract Effective Date as a new data field, with a reporting value in YYYYMMDD format, defined as: ''If the contract was filed for Commission acceptance, enter the effective date granted by the Commission. If the contract was filed for Commission acceptance, but the effective date is not yet known, then enter the requested effective date. If the contract was not filed with the Commission for acceptance, then the field may be left blank.'' [236]

b. Comments

203. PJM states that the proposed modifications related to Contract Execution Date and Contract Effective Date would present a slight administrative burden for PJM in differentiating between conforming and non-conforming agreements and that the Commission should consider whether the benefit of the proposed change outweighs the added administrative compliance burden.[237]

204. EEI questions whether the Contract Effective Date is needed.[238] EEI states that EQR filers are currently required to identify the applicable tariff or rate schedule for each transaction, which allows EQR data users to easily determine through the Commission's eTariff system the status, effective date and eLibrary docket of the Commission's acceptance.[239] EEI argues that, because the Effective Date information is already available to data users through eTariff, EQR filers should not have to resubmit the same information through the EQR.[240] EEI also contends that the burden of first discerning which contracts listed in an EQR are on file, which are not, and which were filed but then removed from the filing system would be immense.[241] EEI asserts that the value of such information compared to the burden of procuring it is unclear given that eTariff and eLibrary search tools are quite robust, particularly when coupled with the copies of the Tariff Books that can be searched as described in *Federal Energy Regulatory Commission*

[233] NOPR, 185 FERC ¶ 61,043 at P 60.

[234] *Id.* P 61.

[235] *See* Order No. 2001, 99 FERC ¶ 61,107 at P 216 (''the requirement to file contract and transaction data begins with the first [EQR] filed after service commences under an agreement, and continues until the [EQR] filed after the agreement expires or by order of the Commission.'').

[236] NOPR, 185 FERC ¶ 61,043 at P 62.

[237] PJM Comments at 8.

[238] EEI Comments at 12.

[239] *Id.*

[240] *Id.*

[241] *Id.*

Procedures to find pre-Order No. 714 FPA Tariffs.[242]

205. IGS states that the proposed Contract Effective Date data field creates a burden for filers to generate information that is already on file with the Commission. IGS asserts that most EQR filers are not involved in the Commission's contract filing process, so it is an additional step that they will need to research each quarter when compiling their EQRs.[243]

206. Systrends comments that the proposed changes to the date fields in the Contract data do not appear to bring clarity to the Contract data. According to Systrends, the Commencement Date and the newly proposed Contract Effective Date data fields are likely to be identical; if a contract is amended, the Commencement Date, by definition, is set to the date the new terms become effective, which will likely match the proposed effective date. Systrends suggests that, if the Commission is seeking to have a view of contracts not filed with the Commission, then it should consider instead a new field ''Contract Filed with Commission'' with a simple ''Y'' for Yes or ''N'' for No.[244]

207. ISO–NE comments that there are limited circumstances in which refiling a prior quarter occurs for reasons other than errors, such as when a non-conforming contract is submitted for acceptance by the Commission within 30 days of service commencing or to support a retroactive effective date.[245] ISO–NE states that, in these instances, following the Commission's acceptance of the non-conforming contract, ISO–NE has resubmitted multiple quarters of EQR data, requiring the creation and validation of multiple CSV files.[246] ISO–NE requests that the Commission consider either eliminating the requirement to revise previous quarters to reflect the contract following the Commission's acceptance and instead allow for the contract to be reported prospectively based on the quarter in which the contract was accepted by the Commission, or reduce the number of quarters that must be resubmitted (*e.g.,* to no more than the previous four quarters from the date the contract is accepted).[247]

c. Commission Determination

i. Contract Execution Date

208. We adopt the NOPR proposal to modify the definition of Contract Execution Date and define it as: ''The date the contract is signed. If the parties signed on different dates, then report the most recent date signed. If there is no signed contract, then report the date upon which the parties made the legally binding agreement on the price of a transaction.'' This data field continues to be required for all contracts. In addition, the Commission continues to require filers to begin reporting Contract data and Transaction data in the EQR after service commences under an agreement.

ii. Contract Effective Date

209. We decline to adopt the proposed Contract Effective Date data field based on comments opposing the proposed requirement because it would impose an increased burden on filers, and based on the new requirement to include a FERC Accession Number or a citation to the relevant FERC tariff, if applicable, in the Rate Description data field for all contracts. The requirement for the Rate Description data field to be reported for all contracts will allow data users to locate the effective date of a contract via a FERC Accession Number or a relevant FERC tariff citation. In response to ISO–NE's comment concerning the need to refile EQRs to include information about an agreement after the Commission has accepted it, we continue to require Sellers to refile EQRs to reflect such agreements. We expect that the implementation of the new system, the extended filing timeline, and the ability to append data to already accepted XBRL–CSV files, will reduce the refiling burden. Further, because we decline to adopt the proposed Contract Effective Date data field, we find that ISO–NE's concern that requiring this additional data field may necessitate multiple refilings is moot.

18. Commencement Date of Contract Terms (Field No. 22)

a. NOPR Proposal

210. The Commission proposed to modify the definition of Commencement Date of Contract Terms to: ''The date the terms of the contract reported in 'Contract Affiliate,' 'Contract Termination Date,' 'Extension Provision Description,' 'Class Name,' 'Term Name,' 'Increment Name,' 'Increment Peaking Name,' 'Product Type,' 'Product Name,' 'Quantity,' 'Units,' 'Rate,' 'Rate Minimum,' 'Rate Maximum,' 'Rate Units,' 'Point of Receipt Balancing Authority Area,' 'Point of Receipt Specific Location,' 'Point of Delivery Balancing Authority Area,' 'Point of Delivery Specific Location,' 'Begin Date,' and 'End Date' became effective. If there are one or more amendments to these terms in one quarter, report the effective date of the most recent amendment. If the contract or the most recent reported amendment does not have an effective date, the date when service began pursuant to the contract or most recent reported amendment may be used.'' [248] The Commission explained that the proposed definition would better capture the effective date of changes to significant terms of a contract and stated that the Rate Description data field (Field No. 37) would no longer be included in the list of data fields specified in the definition because it is a free-form text field; therefore, any change in the number of characters in this field would necessitate modifying the Commencement Date of Contract Terms data field.[249]

b. Comments

211. ECC states that the explanation for the change to the Commencement Date of Contract Terms seems at odds with the field's purpose, which ECC states is to understand market conditions at the time contract terms were agreed upon. ECC explains that there may be circumstances where the significant fields within a contract may be modified but these changes may not necessarily result in a new Commencement Date of Contract Terms. Therefore, ECC comments that it would be problematic if the Commission were to create a validation to require a new Commencement Date of Contract Terms if one of the significant data fields changes.[250] Systrends comments that the Commencement Date of Contract Terms and the Contract Effective Date are likely to be identical.[251]

c. Commission Determination

212. We decline to adopt the definition of Commencement Date of Contract Terms proposed in the NOPR, which would have removed Rate Description from the list of data fields listed in the definition. Instead, we retain the Rate Description data field in the enumerated list and adopt the following definition: ''The date the terms of the contract reported in Contract Affiliate, Contract Termination Date, Extension Provision Description, Class Name, Term Name, Increment Name, Increment Peaking Name, Product Type, Product Name, Quantity, Units, Rate, Rate Minimum, Rate

[242] *Id.* at 13.

[243] IGS Comments at 4.

[244] Systrends Comments at 2–3.

[245] ISO–NE Comments at 6–7.

[246] *Id.* at 7.

[247] *Id.*

[248] NOPR, 185 FERC ¶ 61,043 at P 63.

[249] *Id.* P 65.

[250] ECC Comments at 9.

[251] Systrends Comments at 2.

Maximum, Rate Description, Rate Units, Point of Receipt Balancing Authority Area, Point of Receipt Specific Location, Point of Delivery Balancing Authority Area, Point of Delivery Specific Location, Begin Date, and End Date became effective. If there are one or more amendments to these terms in one quarter, report the effective date of the most recent amendment. If the contract or the most recent reported amendment does not have an effective date, the date when service began pursuant to the contract or most recent reported amendment may be used.''

213. While we will continue to require the Commencement Date of Contract Terms, we acknowledge that there may be circumstances where the provisions of a contract may be amended without necessitating a change to this data field. We clarify that we will continue to require Sellers to update the Commencement Date of Contract Terms, if applicable, each time any of the data fields enumerated in the definition are modified.

19. Contract Termination Date and Actual Termination Date (Field Nos. 23–24)

a. NOPR Proposal

214. The Commission proposed to modify the definition for Contract Termination Date data field to: ''The termination date specified in the contract. This field may only be left blank if the agreement is an evergreen or master agreement, and the termination date is therefore not specified. If the actual termination date differs from the termination date specified in the contract, then it must be listed in this field.'' The Commission explained that the modified definition clarifies that the reported termination date may be the date specified in the contract or the date the contract terminates, once the date is known, even if that date differs from the date specified in the contract. If a contract amendment triggers a change in the termination date specified in the contract, then that amended date serves as the new Contract Termination Date. Under the proposed new definition, the Commission would require only the most recent contract termination date to be reported.[252]

215. The Commission explained that the purpose of the proposed new definition for Contract Termination Date is to record whether a contract is still active, and if it will terminate, the date of such termination. Accordingly, the Contract Termination Date data field may not be left blank unless Sellers also select the Term Name's (Field No. 27) new reporting option Evergreen or Master Agreement.[253]

216. The Commission also proposed to cease collecting the Actual Termination Date data field (Field No. 24).[254]

b. Comments

217. Systrends comments that the Commission's proposal to remove the Actual Termination Date data field will become more burdensome for many filers. Systrends states that this field is a tracking mechanism that helps filers know when they can remove the contract from submission, and updating the Contract Termination Date to represent the actual termination date would make it more difficult for filers to identify which contracts can be removed.[255]

218. ECC and EEI prefer that both the current, existing fields of Contract Termination Date and Actual Termination Date should be retained in the Data Dictionary with their current definitions because these two dates can differ.[256] ECC states that, in the alternative, the Commission should modify the proposed definition for Contract Termination Date to state that Sellers may report sales that occur after the termination date.[257]

219. EEI states that, in practice, it is not uncommon for contracts with termination dates to be extended simply by virtue of not being terminated through a Commission filing.[258] EEI asserts that, under the Commission's proposal, if a contract has a termination date of December 31, 2024, but the parties continue to do business under it until December 31, 2025 (under the exact same terms and conditions), in the fourth quarter 2025 EQR, the Contract Termination Date would be changed to the actual termination date of December 31, 2025.[259] EEI asserts that this may cause confusion because the contract would appear on the EQR for Quarters 1, 2, and 3 of 2025 with the December 31, 2024 Contract Termination Date, even though the Seller decided not to actually file a termination or report a termination that is effective until December 31, 2025.[260] Moreover, EEI argues that evergreen and master agreements sometimes terminate in actuality (for example, due to an entity merging), such that retaining both fields seems to be the best solution.[261]

220. Macquarie Energy requests that the Commission eliminate the inclusion of contracts that do not include specific contract terms pertaining to rates, volumes, delivery locations, and other data elements related to a specific sale. Macquarie Energy notes that over 80% of the contracts included in its EQR contract files in 2023 were master trading agreements (*e.g.,* EEI or Western Systems Power Pool (WSPP) enabling agreements). Macquarie Energy states that these EQR contract files did not contain information pertaining to its obligations under FPA section 205(c) to have information relating to its Commission-jurisdictional rates and charges on file with the Commission. Moreover, Macquarie Energy states that, under the current guidelines, the EQR Contract file must continue to include such enabling agreements even though there may not have been any transactions under those agreements for several years, as the contracts are still effective despite being dormant. According to Macquarie Energy, master trading agreements that do not include specific or current sales terms should not be reported in the EQR Contract file because, when there are sales transactions pursuant to such master trading agreements, the relevant information is included in the EQR Transaction file.[262]

221. PJM seeks clarification that filers would be able to designate the Contract Termination Date as non-applicable in instances where contracts without a specified termination date are neither evergreen nor master agreements.[263]

c. Commission Determination

222. We decline to adopt the NOPR proposal to cease collecting the Actual Termination Date and to modify the Contract Termination Date data fields. We retain the Actual Termination Date data field, defined as ''The date the contract actually terminates,'' based on comments that removing this data field would make it more burdensome for Sellers to track contract termination dates. Moreover, we decline to modify the current definition of Contract Termination Date, *i.e.,* ''The date that the contract expires'' based on comments that the contract termination and actual termination dates can differ and should therefore be reported separately to avoid confusion.

223. We reaffirm the requirement set forth in Order No. 2001 for filers to

[252] NOPR, 185 FERC ¶ 61,043 at P 66.

[253] *Id.*

[254] *Id.*

[255] Systrends Comments at 3.

[256] EEI Comments at 13.

[257] ECC Comments at 9–10.

[258] EEI Comments at 13.

[259] *Id.* at 14.

[260] *Id.*

[261] *Id.*

[262] Macquarie Energy Comments at 4.

[263] PJM Comments at 9.

begin reporting Contract data and Transaction data in the EQR after service commences under an agreement.[264] We also reaffirm the requirement for filers to continue reporting Contract data until the agreement expires or is terminated, because removing information about agreements that are still in effect does not adequately comply with the requirements of FPA section 205(c).[265] In response to Macquarie Energy, we clarify that many of the Contract data fields may be left blank if they are not specified in the contract, and Sellers should refer to the reporting guidance outlined in the EQR Data Dictionary, Version 4.0, provided as an Attachment to this final rule. Moreover, consistent with current system requirements, the new EQR system will require each specific transaction to be linked to a contract in the Contract data. Thus, the new EQR system will not enable Sellers to report transactions without an associated contract.

224. In response to PJM's request for clarification, Sellers should report the Contract Termination Date only if stated in the contract and should leave the field blank if it is not stated in the contract.

20. Extension Provision Description (Field No. 25)

225. The NOPR did not propose modifications to the Extension Provision Description data field and no comments were submitted on this topic. The Commission will retain this data field without changes.

21. Class Name (Field No. 26)

a. NOPR Proposal

226. The Commission proposed to add a new reporting option, Firm and Non-Firm (FNF), to the Class Name data field (Field No. 26) in the Contract data of the EQR, with a definition of: ''For an energy sale, a service or product that is 'Firm' (not interruptible for economic reasons) and 'Non-Firm' (where delivery or receipt of the energy may be interrupted, without liability on the part of either the buyer or seller).'' The other reporting options under Class Name were proposed to remain unchanged.[266]

b. Comments

227. ECC states that the new FNF reporting option under Class Name would be used to report contracts that allow both Firm and Non-Firm power, presumably in Master Agreements. However, ECC states that Unit Contingent sales can also be made under such agreements. ECC suggests it may be better to use NS for Not Specified or All to broaden the possibilities of what may be sold under a contract. ECC requests that if neither of those options are chosen, then the Commission should clarify what Class Name reporting option should be used for a Master Agreement under which Firm, Non-Firm, and Unit Power sales may occur. Further, ECC requests clarification on what Class Name should be used for RTO/ISO sales, as the current EQR reports generated by the various RTO/ISOs for their members differ in what they use.[267]

c. Commission Determination

228. We modify the NOPR proposal and will not add a new FNF reporting option for the Class Name data field in Contract data, because we will instead allow a Seller to report multiple Class Names for a contract. Sellers can choose any combination of the Class Names: Firm, Non-Firm, and Unit Power Sale, separated by a delimiter that will be specified during the system design process. For example, a Seller may report Class Name as Firm and Non-Firm when a product can be sold under a contract on both a firm and non-firm basis. N/A will not be an option if a Seller reports multiple Class Names. The option to report multiple Class Names will not be available in the Transaction data of the EQR because products may not be classified as both Firm and Non-Firm at a transaction level.

229. In response to ECC's request for clarification on what Class Name should be used for RTO/ISO sales, we direct Commission staff to work with RTOs/ISOs to determine the applicable Class Names to be included in transaction data reports.

22. Term Name (Field No. 27)

a. NOPR Proposal

230. The Commission proposed to modify the definition of Term Name in the Contract data (Field No. 27) to incorporate a new reporting option for Evergreen or Master Agreement, as follows: ''The duration of a contract. Contracts with durations of one year or greater are long-term. Contracts with durations less than one year are short-term. Contracts without a specified termination date are evergreen or master agreements.'' [268]

b. Comments

231. No comments were submitted on this topic.

c. Commission Determination

232. We adopt the NOPR proposal to implement the Term Name reporting option of Evergreen or Master Agreement in the Contract data.

23. Increment Name (Field No. 28)

233. The NOPR did not propose modifications to the Increment Name data field and no comments were submitted on this topic; therefore, we retain this data field without changes.[269]

24. Increment Peaking Name (Field No. 29)

a. NOPR Proposal

234. The Commission proposed to modify the definition of the reporting option N/A—Not Applicable in the Increment Peaking Name data field (Field No. 29) in the Contract data of the EQR, as follows: ''The product described does not have constraints on which hours it may be sold, or the increment peaking name is not specified in the contract.'' [270]

235. The Commission also proposed to modify the definition of the reporting option FP—Full Period in the Contract data to: ''The product described may be sold during those hours designated as on-peak and off-peak, or during a combination of hours designated as on-peak and off-peak at the point of delivery.'' [271]

236. The Commission did not propose to modify the Increment Peaking Name data field in the Transaction data (Field No. 62).[272]

b. Comments

237. ECC requests clarification on which reporting option should be chosen when describing Master Agreements in the Contract data as it appears that the definitions for both N/A and FP still apply.[273]

c. Commission Determination

238. We decline to modify the definition of the reporting option N/A—Not Applicable for the Increment Peaking Name data field (Field No. 29) in the Contract data, as proposed in the NOPR, and instead retain the definition from Version 3.5 of the EQR Data Dictionary, *i.e.,* ''To be used only when the increment peaking name is not specified in the contract.'' Retaining this

[264] *See* Order No. 2001, 99 FERC ¶ 61,107 at P 216.

[265] *See id.*

[266] NOPR, 185 FERC ¶ 61,043 at P 67.

[267] ECC Comments at 11.

[268] NOPR, 185 FERC ¶ 61,043 at P 68.

[269] *Id.* P 124.

[270] *Id.* P 69.

[271] *Id.* P 70.

[272] *Id.* P 124.

[273] ECC Comments at 11.

reporting option would continue to enable the reporting of contracts such as Master Agreements, where time constraints are not applicable.

239. We adopt the NOPR proposal to modify the definition of the FP—Full Period reporting option in the Contract data to clarify that Sellers can report contracts that allow for transactions to span any combination of peak and off-peak hours.

240. We affirm that the reporting requirements and options for Increment Peaking Name (Field No. 62) in the Transaction data of the EQR remain unchanged.

25. Product Type (Field No. 30)

a. NOPR Proposal

241. The Commission proposed the following modifications to the Product Type (Field No. 30): (1) re-name Product Type Name to Product Type to distinguish this data field more easily from the Product Name data field; (2) change the definition for CB—Cost-Based to: ''The product is sold under a FERC-approved cost-based rate.''; (3) change the definition for MB—Market-Based to: ''The product is sold under a FERC-approved market-based rate.''; (4) change the definition for the T—Transmission reporting option to: ''The product is sold under a FERC-approved transmission tariff or rate schedule.''; (5) remove the reporting options associated with Capacity Reassignment data, as discussed in Section II.I.1 of this final rule; (6) modify the definition of Other to: ''The product cannot be characterized by the other Product Types,'' to reflect the new field name Product Type; and (7) add QF—Qualifying Facility as a new Product Type reporting option, to be defined as: ''The product is sold by a Qualifying Facility under the Public Utility Regulatory Policies Act of 1978 (PURPA).'' Finally, the definition for NPU—Non-Public Utility reporting option would remain unchanged.[274]

242. The Commission stated in the NOPR that the proposed addition of a new reporting option QF—Qualifying Facility would more clearly identify reportable sales made by QFs under PURPA. The NOPR proposed that, to the extent a QF is making sales at avoided cost rates under PURPA, the Seller would use the new reporting option of QF—Qualifying Facility. If the QF is making sales under a Commission-approved MBR tariff, the Seller would use the MB—Market-Based reporting option in the Product Type data field.[275]

b. Comments

243. EPSA states that the NOPR language is ambiguous and seeks clarification on whether the proposed addition of a new QF—Qualifying Facility reporting option in the Product Type data field indicates that the Commission would require QFs to report their sales outside of an MBR tariff. If so, EPSA states that this would be a significant additional burden on certain Sellers.[276]

244. EEI states that the Commission should not add a QF—Qualifying Facility reporting option in the Product Type data field (Field No. 30).[277] EEI states that this proposal perhaps inadvertently adds a new requirement for QF Sellers to report Section 205 exempt contracts and transactions in the EQR, which would significantly increase the reporting obligations of QF Sellers for no identified reason. Further, EEI states that QF Sellers' long-term firm non-FPA regulated sales contracts data need not be entered in the MBR Portal and it would be illogical to include such contracts under one MBR reporting regime and not others.[278]

245. ECC states that QFs can make sales at avoided cost rates under PURPA, at non-avoided cost rates that are exempt from FPA regulation due to the QF's size, or at market-based rates under a MBR tariff. ECC comments that QFs without MBR tariffs currently do not file EQRs and QFs that have an MBR tariff do file EQRs, reporting only sales made pursuant to a Commission-approved MBR tariff. ECC seeks clarification on why QFs with MBR authority would now be required to report sales made under PURPA or sales exempt from the FPA under the PURPA regulations. Further, ECC requests clarification that QFs without MBR authority would continue to be exempt from reporting such sales. ECC urges the Commission to continue to require QFs to file EQRs only if they have a tariff on file at the Commission, and in that case, report only sales made under those tariffs.[279]

c. Commission Determination

246. We adopt all proposed modifications to the Product Type data field, except for adding a new QF—Qualifying Facility reporting option in the Product Type data field. Section II.J.5 further discusses QF reporting requirements in the EQR.

26. Product Name (Field Nos. 31 and 63, Appendix A)

a. NOPR Proposal

247. The Commission proposed to modify the Direct Assignment Facilities Charge, Emergency Energy, Grandfathered Bundled, Network, and Other reporting options from Appendix A of Version 3.5 of the EQR Data Dictionary in the Product Name data field (Field Nos. 31 and 63).[280]

i. Booked Out Power

248. The Commission proposed to retain the current EQR definition of Booked Out Power in Appendix A of the EQR Data Dictionary as ''Energy or capacity contractually committed bilaterally for delivery but not actually delivered due to some offsetting or countervailing trade (Transaction only).'' [281] The NOPR also proposed to clarify that liquidated damages payments should not be reported as Booked Out Power and, more generally, that filers should not report liquidated damages payments in the EQR.[282]

ii. Direct Assignment Facilities Charge

249. The Commission proposed to modify the definition of Direct Assignment Facilities Charge to: ''Charges for facilities or portions of facilities that are constructed or used for the sole use/benefit of a particular transmission customer.'' The NOPR stated that this reporting option would continue to only be available in the Contract data of the EQR and would not apply to reporting Transaction data.[283] The Direct Assignment Facilities Charge definition would be modified slightly to conform with the definition of this term in the pro forma Open Access Transmission Tariff (Section 1.11, Direct Assignment Facilities).[284]

iii. Emergency Energy

250. Currently, Emergency Energy is reported only in the Contract data of the EQR and is defined as ''Contractual provisions to supply energy or capacity to another entity during critical situations.'' The Commission proposed that the Transaction data associated with Emergency Energy contracts begin to be designated as such in the EQR. The Commission proposed to align the definition for Emergency Energy in both the Contract and Transaction data to:

[274] NOPR, 185 FERC ¶ 61,043 at PP 71–76.

[275] *Id.* P 75.

[276] EPSA Comments at 9.

[277] EEI Comments at 8.

[278] *Id.* at 11.

[279] ECC Comments at 12.

[280] NOPR, 185 FERC ¶ 61,043 at P 77.

[281] *Id.* P 89.

[282] *Id.* P 90.

[283] *Id.* P 78.

[284] *See* FERC, *Pro Forma Open Access Transmission Tariff* (July 18, 2013), *https://www.ferc.gov/sites/default/files/2020-05/pro-forma-OATT.pdf.*

''Energy or capacity provided to another entity during critical situations.'' Emergency Energy transactions would include those made pursuant to a reserve sharing agreement.[285]

iv. Grandfathered Bundled

251. The Commission proposed to modify the definition of Grandfathered Bundled to: ''Services provided for bundled transmission, ancillary services and/or energy under contracts effective prior to Order No. 888's OATTs.'' The proposed change would replace ''and'' with ''and/or'' to clarify that this data field should capture information about grandfathered bundled sales regardless of which services are bundled and sold under the contract.[286]

v. Network Integration Transmission Service Agreement

252. The Commission proposed to modify the Network reporting option in the Product Name data field to ''Network Integration Transmission Service Agreement,'' to conform with the generally recognized naming convention for this type of agreement.[287]

vi. Other

253. The Commission proposed to modify the definition of Other to: ''The Product Name cannot be characterized by any other Product Name.'' This was proposed to ensure that Other would be selected only when the other remaining Product Name reporting options do not apply.[288]

vii. New Product Name Reporting Options

254. In addition to modifying existing reporting options, the Commission proposed to add four new reporting options for the Product Name data field (Field Nos. 31 and 63) in the Contract and Transaction data of the EQR: (1) Ramping, with a proposed definition of ''The ability to change the output of real power from a generating unit per some unit of time''; (2) Energy Imbalance Market (EIM), with a proposed definition of ''Product sold in a Commission-approved energy imbalance market for the purpose of balancing real-time supply and demand''; (3) Renewable Energy Credit (REC), with a proposed definition of ''The sale of renewable energy credits (RECs), bundled with another product such as Energy. RECs are created and issued by a state, which certifies that electric energy was generated pursuant to certain requirements and standards. If the REC is priced separately from the Energy price, then Sellers should report 'REC' and 'Energy' separately in the 'Product Name' field. If the 'REC' and 'Energy' prices are not separated, then Sellers should use the 'Bundled' reporting option in the 'Product Name' field, and specify 'REC' and 'Energy' in the 'Product Name Description' field.''; and (4) Bundled with a proposed definition of ''Services provided for two or more products, including transmission, energy, ancillary services, and/or Renewable Energy Certificates. If the bundled components of the sale are priced separately, the components should be reported separately in the Transaction data of the EQR.'' The Commission also proposed to continue adding new Product Names, as necessary, to enable accurate reporting of new market products as they emerge.[289]

b. Comments

i. Emergency Energy

255. ECC supports the addition of Emergency Energy to the list of Product Names (Field No. 63) for Transaction data.[290]

ii. Renewable Energy Credit (REC)

256. EPSA opposes the proposed requirement for REC reporting, stating that EQRs are intended to capture the price of Energy and Capacity. EPSA explains that RECs are credits associated with energy generation but are not Energy or Capacity. The underlying renewable energy sold on a wholesale basis is already being captured under the EQRs. Because RECs are an energy byproduct and can be traded independently, priced in multiple ways, or combined with other products, EPSA states that they should continue to be excluded from EQR reporting.[291] EPSA states that the EQR reporting criteria should further be clarified to require reporting only for bona fide Energy-only transactions; this would necessarily exclude RECs as they are a credit reflective of Energy already reported under the EQRs and they can be transacted separate and apart from the Energy.

257. ECC seeks clarification on reporting REC sales. ECC states that past guidance has been to select the Energy reporting option for Product Name if the sale of Energy is bundled with RECs and the RECs are not priced separately; and to select Other when reporting the sale of RECs in the Product Name data field if there is a separate price for RECs shown on the invoice (in addition to reporting the Energy sales). ECC argued that this past guidance seems to conflict with the description of the current policy in the NOPR.[292]

258. EEI requests clarifications regarding the Bundled reporting option in the Product Name data field.[293] EEI states that, if Bundled is reported for a bundled REC and Energy product and there is a single price for the service in the contract, the Commission should clarify whether the Product Name Description should be filled out once, as ''REC and Energy,'' or twice, once as ''REC'' and once as ''Energy.'' [294] EEI notes that this clarification is necessary due to the way EQR CSV files display when downloaded from the Commission's EQR website.[295] EEI adds that each Product Name causes a new line of data (meaning every field is repeated) in the CSV file and, if a single contract had two Product Name Descriptions and, as a result, the CSV file had two complete lines of data, the price would be reported twice—once for the CSV line with the Product Name Description ''Energy'' and once for the Product Name Description ''REC.'' [296]

iii. Energy Imbalance Market

259. ECC understands EIM to be a collection of products, not a single product. ECC seeks clarification on which product(s) would qualify as an EIM product(s), and requests specific charge codes.[297]

iv. Bundled

260. EEI states that, it seems that if the Product Name is Bundled, the Commission must ensure that there is only one line of contract data displaying in the CSV file it issues to the public and seeks clarification or an explanation as to how the Commission will ensure that the data does not display as if both products are being sold separately, albeit at the same rate.[298]

261. EEI comments that the proposed definition of Bundled includes the clause ''transmission, energy, ancillary services, and/or Renewable Energy Credits'' and implies that all of these services can be sold under a single price, by stating that ''[i]f the bundled components of the sale are priced

[285] NOPR, 185 FERC ¶ 61,043 at P 79.

[286] *Id.* P 80.

[287] *Id.* P 81.

[288] *Id.* P 82.

[289] *Id.* PP 83–87.

[290] ECC Comments at 12.

[291] EPSA Comments at 10.

[292] ECC Comments at 12–13.

[293] EEI Comments at 18.

[294] *Id.* at 19.

[295] *Id.*

[296] *Id.*

[297] ECC Comments at 12.

[298] EEI Comments at 19.

separately. . . .'' [299] EEI states that Commission-jurisdictional utilities must unbundle prices for energy, transmission and ancillary services, unless a contract is Grandfathered Bundled and their bundling options are more limited than implied by the new definition of Bundled.[300]

262. As a result, EEI suggests that the Commission revise its proposed definition to: ''Services provided for two or more products, including transmission, energy, ancillary services, and/or Renewable Energy Credits. If the bundled components of the sale are priced separately, the components should be reported separately in the Transaction data of the EQR. Order No. 888, if applicable to the Seller, identifies what components must be priced separately.'' [301]

v. Other

263. ECC states that it is not aware of a current requirement where Sellers must describe the product(s) in the Rate Description field if Other is selected for Product Name.[302]

vi. Ramping

264. No comments were submitted on this topic.

c. Commission Determination

i. Appendix A Products, Adopted as Proposed

265. We adopt the modifications as proposed in the NOPR for: Booked Out Power, Direct Assignment Facilities Charge, Emergency Energy, Grandfathered Bundled, and Network Integration Transmission Service Agreement. Modifications to definitions of Product Names from Appendix A are discussed below.

ii. Booked Out Power

266. We retain the definition of Booked Out Power, as proposed in the NOPR. We clarify that Sellers should continue to report transactions as Booked Out Power when there is a lack of physical delivery of power resulting from offsetting or countervailing trades between the parties. Such transactions constitute wholesale energy sales between a buyer and a seller to account for the difference in the original volume of power to be delivered and the final delivered volume. As such, Booked Out Power transactions are useful for conducting price formation analyses. In contrast, there are no offsetting or countervailing trades when a seller fails to deliver power due to, for example, a transmission curtailment. In such cases, there is no wholesale energy sale between a buyer and seller to account for the difference in the original volume and final delivered volume. Rather, the non-delivery results in liquidated damages payments to compensate for the undelivered power. Liquidated damages payments differ from a rate negotiated among parties for a wholesale energy sale that would provide useful price formation information. For this reason, we clarify that liquidated damages payments should not be reported as Booked Out Power and, more generally, that Sellers should not report liquidated damages payments in the EQR.

iii. Renewable Energy Credit (REC)

267. We modify the definition proposed in the NOPR of Renewable Energy Credit (REC) in Appendix A to: ''The sale of jurisdictional renewable energy credits (RECs).'' For sales where a wholesale energy sale and a REC sale take place as part of the same transaction, but the components are priced separately and can be broken out, Sellers should report Energy and RECs separately. Sellers should use the new Bundled reporting option to report bundled Energy and REC transactions that are priced together. We find that this reporting requirement will enhance transparency by enabling Sellers to delineate sales of Energy and associated RECs.

268. The EQR is designed to collect information about the rates, terms and conditions of jurisdictional services and is not limited to collecting information solely about Energy and Capacity. RECs are jurisdictional when sold together with energy and therefore should continue to be reported in the EQR. Specifically, the Commission has stated that the Commission ''has jurisdiction over the wholesale energy portion of the transaction as well as the RECs portion of a bundled REC transaction under FPA sections 205 and 206 (regardless of whether the contract price is allocated separately between the energy and RECs).'' [303] In contrast, ''an unbundled REC transaction that is independent of a wholesale electric energy transaction does not fall within the Commission's jurisdiction'' and, therefore, would not be reportable in the EQR.[304]

269. In response to EEI's request for clarification regarding reporting of RECs and Energy if there is a single price for the service in the contract, the Seller should use the new Bundled reporting option and report ''REC, Energy'' in the new Product Name Description data field.

iv. Energy Imbalance Market

270. We adopt the NOPR proposal to implement a new EIM reporting option and definition as follows: ''Product sold in a Commission-approved energy imbalance market for the purpose of balancing real-time supply and demand.'' [305] EIM represents a collection of products, for the purposes of this definition. The new reporting option will allow the EQR to capture information related to products sold in Energy Imbalance Markets more accurately.

271. We direct Commission staff to discuss EQR reporting requirements, including specific charge codes related to energy imbalance markets and the use of the new EIM Product Name, at a future technical conference or other similar forum to be held after issuance of this final rule.

v. Other

272. We adopt a modified definition of Other as follows: ''Any product or combination of products not listed in Appendix A.'' Such products should be reported using the Product Name reporting option Other and the Product Name Description data field would be required, where the Seller would list the product(s) sold or explain why the reporting option Other was selected.

273. We acknowledge ECC's comment that the use of Rate Description when reporting Other has not been a requirement previously, however, it is a best practice. To help facilitate the collection of this information, we will create a new Product Name Description data field, as described below, and will require reporting a Product Name Description when Sellers select Other as the Product Name.

vi. Bundled

274. We adopt the NOPR proposal to add Bundled as a reporting option in the Product Name data field because it provides greater transparency by enabling Sellers to specify what products are being bundled as part of a transaction. However, we acknowledge EEI's comments and modify the definition of Bundled to: ''Services provided for two or more products listed in Appendix A that are sold and priced together. The bundled components must be listed as spelled in Appendix A in the Product Name Description field, separated by a

[299] *Id.*

[300] *Id.*

[301] *Id.* at 20.

[302] ECC Comments at 14.

[303] *See WSPP Inc.,* 139 FERC ¶ 61,061, at P 24 (2012).

[304] *Id.*

[305] NOPR, 185 FERC ¶ 61,043 at P 85.

delimiter.'' The delimiter will be specified during the system design process. Bundled should not be used in conjunction with the reporting option Other.

275. The Bundled reporting option should be used for products that are sold and priced together. We clarify, in response to EEI's comment about how we will ensure that the data does not display as if both products are being sold separately, albeit at the same rate, that products that are sold separately with the same price should not be reported using the Bundled option. Instead, Sellers should report each product separately, even if the price happens to be the same.

vii. Ramping

276. We adopt the NOPR proposal to implement the proposed new reporting option and definition of Ramping.[306] The new reporting option allows the EQR to more accurately capture the ramping-related products offered within RTO/ISO markets. Because Sellers are currently reporting ramping-related products using the reporting option Other in the Product Name data field, we believe that adding Ramping as a new reporting option will enhance transparency by enabling filers to delineate this product in the EQR.

27. Product Name Description

a. NOPR Proposal

277. The Commission proposed to add Product Name Description as a new data field, with a proposed definition of: ''A description of the product(s) if selecting Other as the Product Name, or two or more of the Bundled services from among the list of allowable Product Names.'' [307]

278. The Commission explained that, currently, if the reporting option Other is selected from Appendix A, Sellers are required to describe the product(s) in the Rate Description data field. The Commission proposed to change this requirement and explained that if the reporting option Other is selected in the Product Name data field, Sellers would be required to describe the product in the Product Name Description data field instead of in the Rate Description data field. Furthermore, the Commission explained that if Bundled is selected, then the Seller must identify the services being provided from the list of allowable Product Names and report the product names in the new Product Name Description data field.[308]

b. Comments

279. No comments were submitted on this topic.

c. Commission Determination

280. We adopt the NOPR proposal to implement the new reporting option and definition of Product Name Description.[309] Sellers should not use the Rate Description data field to describe the product(s) reported for the reporting option Other. Instead, the new data field Product Name Description provides the Seller a specific field to describe which product(s) is reported as Other or Bundled. If Other is selected in the Product Name data field, Sellers must describe the product(s) in Product Name Description or explain why Other was selected. If Bundled is selected, Sellers must list the bundled products, exactly as spelled in Appendix A, separated by a delimiter, to be specified during the system design process.

28. Quantity, Units, Rate, Rate Minimum, and Rate Maximum (Field Nos. 32–36)

281. The NOPR did not propose modifications to the Quantity, Units, Rate, Rate Minimum, and Rate Maximum data fields and no comments were submitted on this topic; therefore, we retain these data fields without changes.[310] We continue to require Sellers to report the Rate, Rate Minimum, or Rate Maximum, if specified in the contract. Additionally, we will require Sellers to report descriptive rate information in the Rate Description data field for every contract as of the implementation date of the new EQR system, as described below.

29. Rate Description (Field No. 37)

a. NOPR Proposal

282. The Commission proposed to modify the definition of Rate Description to: ''Text description of rate. If the rate is currently available on eTariff or eLibrary, or successors of these systems, a citation of the FERC Accession Number and the relevant FERC tariff, including page number or section label may be included instead of providing the entire rate algorithm. If the rate is not available on eTariff or eLibrary, or successors of these systems, include the rate algorithm, if rate is calculated in the contract, including bases and methods of calculations, and a detailed citation to the contract.'' [311]

283. The Commission proposed that, if a Seller reports ''0'' for Rate, Rate Minimum, or Rate Maximum and then leaves two of these data fields blank, or if a Seller reports ''0'' for all these rate-related data fields, then the Seller must report a Rate Description.[312]

284. The Commission proposed to continue requiring Sellers to report information in at least one of the four rate-related fields, *i.e.,* Rate (Field No. 34), Rate Minimum (Field No. 35), Rate Maximum (Field No. 36), or Rate Description (Field No. 37). Additionally, the Commission proposed that if the Rate, Rate Minimum, and Rate Maximum are not specified in the contract, then the Seller should leave these data fields blank and describe the rate in the Rate Description data field. The Commission explained that this proposed requirement would clarify the rate components of a contract, particularly in the absence of rate specifications in a contract, and help ensure that rates are reported with sufficient specificity.[313] Finally, as stated above, the Commission proposed to eliminate the character limitations for Rate Description, among other data fields.

b. Comments

285. ECC recommends revising the definition of Rate Description to allow either the FERC Accession Number or the tariff page or section to be reported as long as the description of the location within the document is sufficiently detailed. ECC endorses the proposal to remove the character limit for the Rate Description data field.[314]

c. Commission Determination

286. We find that the detailed rate information included in the Rate Description data field is critical to the Commission and the public. Therefore, after the new EQR system is implemented, we will require Sellers to include this information for all reported contracts. In addition, Sellers will need to report the Rate Description even if they report one or more of the other rate-related data fields, (*i.e.,* Rate, Rate Minimum, or Rate Maximum). Consistent with these determinations, we will also remove the character limit for the Rate Description data field, which will allow Sellers to report a more detailed Rate Description.

287. We will require Sellers to report descriptive rate information for every contract and adopt the following definition of Rate Description: ''Text description of rate. If the rate is available in eLibrary or eTariff, or

[306] *Id.* P 84.
[307] *Id.* P 88.
[308] *Id.*
[309] *Id.*
[310] *Id.* P 124.
[311] *Id.* P 91.
[312] *Id.*
[313] *Id.*
[314] ECC Comments at 14–15.

successors of these systems, a citation to the relevant FERC tariff information must be provided, including either the FERC Accession Number or the Tariff Title, Section Title and Tariff Record Title. If the rate is not available in eLibrary or eTariff, or successors of these systems, include the rate algorithm, if rate is calculated in the contract, including bases and methods of calculations, and a detailed citation to the contract.'' We find that this requirement will enable data users to locate rate and other contract information more easily, using the eTariff or eLibrary systems, including the effective dates of contracts.

30. Rate Unit (Field Nos. 38, 66 and Appendix D)

a. NOPR Proposal

288. The Commission proposed to add three new reporting options for the Rate Unit data field: (1) mills/kWh to reflect the units specified in certain contracts; (2) MW/min to reflect units for reporting ramping; and (3) MW/0.1 Hz as an option for reporting frequency response.[315]

b. Comments

289. No comments were submitted on this topic.

c. Commission Determination

290. We adopt the NOPR proposal to add mills/kWh, MW/min and MW/0.1 Hz as new reporting options for the Rate Unit data field, and add them to Appendix D of the EQR Data Dictionary, Version 4.0.

31. Point of Receipt Balancing Authority Area (PORBAA) (Field No. 39)

a. NOPR Proposal

291. The Commission proposed to update the name ''Point of Receipt Balancing Authority (PORBA)'' to ''Point of Receipt Balancing Authority Area (PORBAA)'' in the Contract data. The Commission also proposed to modify the definition to: ''The registered Balancing Authority Area where the jurisdictional transmission or transmission-related product is received, if designated in the contract. The Balancing Authority Area will be identified with the abbreviation used in OASIS applications. If receipt occurs at a trading hub, then report the standardized hub name from the list of allowable names.'' [316]

b. Comments

292. No comments were submitted on this topic.

c. Commission Determination

293. We adopt the field name of Point of Receipt Balancing Authority Area (PORBAA) (Field No. 39) and the modified definition, as proposed in the NOPR. The new definition clarifies the reporting requirements for the modified PORBAA data field by replacing the reference to ''where service begins'' with ''where [the] product is received'' and further reflects that a contract may have multiple transmission-related products sold pursuant to its terms and conditions. Also, the proposed definition replaces ''NERC Control Area'' with ''Balancing Authority Area'' to reflect current NERC nomenclature. We clarify that PORBAA should only be reported if designated in the contract.

32. Point of Receipt Specific Location (PORSL) (Field No. 40)

a. NOPR Proposal

294. The Commission proposed to modify the definition of PORSL to: ''The specific location at which the jurisdictional transmission or transmission-related product is received if designated in the contract. If more than one point of receipt is listed in the contract, a description of the collection of points may be used. 'Multiple' is acceptable if the contract contains more than one Point of Receipt Specific Location.'' [317]

295. Further, the Commission proposed to modify the reporting of PORSL to apply only to jurisdictional transmission or transmission-related products, if specified in the contract. In particular, PORSL would only be required if the Product Names are: Interconnection Agreement, Negotiated-Rate Transmission, Network Integration Transmission Service Agreement (currently referred to as Network), Network Operating Agreement, or Point-to-Point Agreement.[318]

296. The Commission further explained that the proposed XBRL–CSV system would allow the elimination of the current 50-character space limitation, which would provide filers more space to list multiple PORSLs, if specified in the contract. The Commission further proposed to remove the requirement to report the standardized hub name in this field because this information, if applicable, would already be captured in the modified PORBAA data field (Field No. 39).[319]

b. Comments

297. EEI states that PORSL should only be required if designated in the contract, and that only long-term firm point-to-point transmission agreements contain PORSLs. EEI and ECC state that the Commission should not require PORSLs to be reported for Interconnection Agreements, Network Operating Agreements, and Network Integration Transmission Service Agreements because they lack points of receipt.[320] EEI further states that umbrella short-term and non-firm point-to-point transmission service agreements lack points of receipt, and thus, the field should not be required for such agreements.[321] ECC states that Network Service and Network Operating Agreements may cover an entire system and Interconnection Agreements may discuss a point of interconnection, but that differs from a point of receipt, which is not defined in the Commission's pro forma Interconnection Agreements.[322]

298. Further, EEI states that the sentence in the proposed definition stating, '''Multiple' is acceptable if the contract contains more than one Point of Receipt Specific Location,'' is confusing. EEI asserts that a long-term firm point-to-point contract typically has one point of receipt/point of delivery pair and the NOPR wording erroneously implies the pro forma OATT permits a long-term firm point-to-point contract to have multiple points of receipt. EEI states that there could be pre-Order No. 888 exchange agreements that have more than one point of receipt, but such agreements are rare and any such exchanges are best addressed by the existing approach.[323]

c. Commission Determination

299. We adopt the following modified definition of PORSL (Field No. 40): ''The specific location at which the jurisdictional transmission or transmission-related product is received, if designated in the contract.'' This data field is required for long-term, firm, point-to-point transmission agreements. We clarify that PORSL is not required for Interconnection Agreements, Network Operating Agreements, Network Integration Transmission Service Agreements, and umbrella short-term and non-firm point-to-point service agreements that do not list specific points of receipt. In response to EEI's comment that the definition proposed in the NOPR was

[315] NOPR, 185 FERC ¶ 61,043 at P 94.

[316] *Id.* P 95.

[317] *Id.* P 98.

[318] *Id.* P 99.

[319] *Id.* P 98.

[320] EEI Comments at 15; ECC Comments at 14.

[321] EEI Comments at 15.

[322] ECC Comments at 14–15.

[323] EEI Comments at 16–17.

confusing because it stated that multiple PORSLs can be reported for one contract, we modify the definition, as set forth above, to remove the references to multiple points of receipt.

33. Point of Delivery Balancing Authority Area (PODBAA) (Field No. 41)

a. NOPR Proposal

300. The Commission proposed to update the data field name Point of Delivery Balancing Authority (PODBA) to Point of Delivery Balancing Authority Area (PODBAA) in the Contract data (Field No. 41). The Commission further proposed to modify the definition of PODBAA in the Contract data to: ''The registered Balancing Authority Area where a jurisdictional product is delivered and/or service ends for a transmission or transmission-related jurisdictional product. The Balancing Authority will be identified with the abbreviation used in OASIS applications. If delivery occurs at the interconnection of two Balancing Authority Areas, the Balancing Authority Area that the product is entering should be used. If delivery occurs at a trading hub, then report the standardized hub name from the list of allowable names.'' The Commission proposed to change the word ''sale'' to ''product,'' consistent with the focus on reporting information about the sale of discrete products in the EQR. Additionally, the Commission proposed to replace ''NERC Control Area'' with ''Balancing Authority Area'' to reflect current NERC nomenclature. The standardized list of allowable hub names would continue to be available on the Commission's website.[324]

b. Comments

301. No comments were submitted on this topic.

c. Commission Determination

302. We adopt the data field name Point of Delivery Balancing Authority Area (PODBAA) in the Contract data and the definition of this data field, as proposed in the NOPR.

34. Point of Delivery Specific Location (PODSL) (Field No. 42)

a. NOPR Proposal

303. The Commission proposed to collect PODSL in the Contract data (Field No. 42) for jurisdictional transmission or transmission-related products, if the contract specifies a PODSL. The Commission therefore proposed to modify the definition of PODSL in the Contract data to: ''The specific location at which the jurisdictional transmission or transmission-related product is delivered if designated in the contract.'' [325]

b. Comments

304. EEI states that, similar to point of receipt, point of delivery is a transmission service term and the point of delivery concept is associated with point-to-point transmission service, not interconnection service or network service. For certain agreements, like Network Operating Agreements, and Network Integration Transmission Service Agreements, short-term and non-firm point-to-point agreements, points of delivery would be found only on OASIS.[326]

305. ECC requests clarification that if the proposal to eliminate the requirement to report points of delivery for non-transmission contracts is adopted, when reporting a contract for the sale of Energy at a specific delivery point, those fields should be left blank.[327]

c. Commission Determination

306. We adopt the following definition of PODSL (Field No. 42), as proposed in the NOPR: ''The specific location at which the jurisdictional transmission or transmission-related product is delivered if designated in the contract.'' This data field is required for long-term, firm, point-to-point transmission contracts. We clarify that PODSL is not required for Interconnection Agreements, Network Operating Agreements, Network Integration Transmission Service Agreements, and umbrella short-term and non-firm point-to-point service agreements that do not list specific points of delivery. In response to ECC's request, we clarify that the PODSL data field should be left blank in the Contract data when reporting a contract for the sale of Energy at a specific delivery point.

35. Begin Date and End Date (Field Nos. 43–44)

a. NOPR Proposal

307. The Commission proposed to modify the data field format to YYYYMMDD, and to modify the definition of Begin Date and End Date to the ''First date for the sale of the product at the rate specified'' and the ''Last date for the sale of the product at the rate specified,'' respectively.[328] The Commission explained that the current definitions of Begin Date and End Date include the hours and minutes for the sale, timing components which do not apply to products listed in the Contract data.[329]

b. Comments

308. ECC and IGS support the proposal to eliminate the hours and minutes from the Begin Date and End Date data fields in the Contract data.[330]

c. Commission Determination

309. We adopt the NOPR proposal to implement the data field format YYYYMMDD and the modified definitions for Begin Date and End Date, as proposed in the NOPR.

36. Transaction Identifier (Field No. 50)

a. NOPR Proposal

310. The Commission proposed to modify the data field name from Transaction Unique Identifier to Transaction Identifier and to modify the definition to: ''A reference number assigned by the Seller for each transaction or multiple related products in a transaction.'' The Commission explained that the proposed Transaction Identifier is a filer-selected designation that relates multiple records of data to a single transaction, and may therefore be used multiple times if needed. For example, if a sale includes capacity and energy, the Transaction Identifier could be the same for both records of data. The Transaction Identifier is assigned by the Seller and can contain information about the type of product being sold. Sellers have the option to report multiple related products in one transaction using the same identifier to demonstrate which products/transactions are linked with each other.[331]

b. Comments

311. No comments were submitted on this topic.

c. Commission Determination

312. We adopt Transaction Identifier as the data field name and modify the definition, as proposed in the NOPR.

37. Transaction Begin Date and Transaction End Date (Field Nos. 51 and 52)

a. NOPR Proposal

313. The Commission proposed to modify the definitions of Transaction

[324] NOPR, 185 FERC ¶ 61,043 at PP 100–102.

[325] *Id.* P 103.

[326] EEI Comments at 16.

[327] ECC Comments at 14–15.

[328] NOPR, 185 FERC ¶ 61,043 at P 104.

[329] *Id.* PP 104–105.

[330] ECC Comments at 15; IGS Comments at 4.

[331] NOPR, 185 FERC ¶ 61,043 at P 106.

Begin Date and Transaction End Date to: ''First date and time the product is sold at the specified price'' and ''Last date and time the product is sold at the specified price,'' respectively.[332]

b. Comments

314. No comments were submitted on this topic.

c. Commission Determination

315. We adopt the NOPR proposal to modify the definitions of Transaction Begin Date and Transaction End Date. The new definitions clarify that when a change in price occurs for a particular product during the quarter in which it is sold, each price change must be listed as a separate line item in the EQR, and the transactions should not be aggregated.[333]

38. Trade Date (Field No. 53)

a. NOPR Proposal

316. The Commission proposed to modify the definition of Trade Date to: ''The date upon which the parties made the legally binding agreement on the price of a transaction. If the Trade Date cannot be identified, then report the Contract Execution Date in the Trade Date data field.''

317. The Commission explained that currently, Trade Date is required only for transactions associated with a contract executed on or after July 1, 2013.[334] The Commission proposed to remove the July 1, 2013 date limitation and require a Trade Date to be reported for all transactions, including those associated with a contract executed prior to July 1, 2013.[335]

b. Comments

318. No comments were submitted on this topic.

c. Commission Determination

319. We adopt the NOPR proposal to modify the definition of Trade Date and to remove the July 1, 2013 date limitation on Trade Date reporting. Removing the July 1, 2013 date limitation will result in more complete and consistent transactional information in the EQRs.

39. Exchange/Brokerage Service (Field No. 54)

a. Commission Determination

320. We adopt the NOPR proposal to cease collecting data related to Exchange/Brokerage Service (Field No. 54) and to delete Appendix H from the EQR Data Dictionary, as discussed in Section II.I.3 of this final rule.[336]

40. Type of Rate (Field No. 55)

a. NOPR Proposal

321. The Commission proposed to modify the definition of the reporting option Electric Index in the Type of Rate data field to: ''A calculation of a rate based upon an index or a formula that contains an electric index component. An electric index includes an index published by an index publisher, such as ICE and the Chicago Mercantile Exchange Group (CME), or a price published by an RTO/ISO (*e.g.,* PJM West or Illinois Hub). If the transaction uses an electric-based index in any way, either as a base price or to determine a basis, report as electric index.'' Additionally, the Commission proposed to remove the July 1, 2013 date limitation and require a Type of Rate to be reported for all transactions, including those associated with a contract executed prior to July 1, 2013.[337]

b. Comments

322. No comments were submitted on this topic.

c. Commission Determination

323. We adopt the modified definition of the Electric Index reporting option in the Type of Rate data field, as proposed in the NOPR, to clarify the reporting requirements. In addition, we adopt the NOPR proposal to remove the current date limitation of July 1, 2013, which will result in more complete and consistent transactional information.

41. Time Zone (Field No. 56)

a. NOPR Proposal

324. The Commission proposed to modify the definition of Time Zone to: ''The time zone where the transaction takes place.'' [338]

b. Comments

325. No comments were submitted on this topic.

c. Commission Determination

326. We adopt the modified definition of Time Zone. Sellers may continue to report the Time Zone based on the delivery point or where the trade occurs because some Sellers may capture trades in their reporting systems based on the time zone associated with the delivery point of a trade and other Sellers may capture trades based on the time zone associated with where the Seller's trading offices are located. Further, as explained in the NOPR, the use of the term ''transaction'' instead of ''sale'' is more consistent with other reported Transaction data in the EQR.

42. Point of Delivery Balancing Authority Area (PODBAA) (Field No. 57)

a. NOPR Proposal

327. The Commission proposed to modify the data field name to Point of Delivery Balancing Authority Area (PODBAA) in the Transaction data. The Commission also proposed to modify the definition of PODBAA to ''The registered Balancing Authority Area abbreviation used in OASIS applications. If delivery occurs at a trading hub, then report the standardized hub name from the list of allowable names.'' The proposed definition removed reference to the NERC Control Area.[339]

b. Comments

328. No comments were submitted on this topic.

c. Commission Determination

329. We adopt the data field name Point of Delivery Balancing Authority Area (PODBAA) in the Transaction data, and we adopt the following definition of PODBAA, as proposed in the NOPR: ''The registered Balancing Authority Area abbreviation used in OASIS applications. If delivery occurs at a trading hub, then report the standardized hub name from the list of allowable names.''

43. Point of Delivery Specific Location (PODSL) (Field No. 58)

a. NOPR Proposal

330. The Commission proposed to modify the definition of PODSL in the Transaction data (Field No. 58) to ''The specific location at which the product is delivered. If delivery occurs at a trading hub, then the specific location is not required.'' [340] The Commission explained that if delivery occurs at a hub, this information, if applicable, would already be captured in the modified PODBAA data field (Field No.

[332] *Id.* PP 107–108.

[333] *Id.*

[334] *See* Order No. 768–A, 143 FERC ¶ 61,054 at P 44 (where the Commission stated that ''the Trade Date requirement will be applied prospectively so that only the Trade Date for transactions entered into on or after July 1, 2013 and reported in the third quarter of 2013 EQR must be reported.'').

[335] NOPR, 185 FERC ¶ 61,043 at P 109.

[336] *Id.* P 110.

[337] *Id.* P 111.

[338] *Id.* P 112.

[339] *Id.* P 113.

[340] *Id.* P 114.

57) in the Transaction data and would therefore not be collected in PODSL.

b. Comments

331. No comments were submitted on this topic.

c. Commission Determination

332. We adopt the definition of PODSL (Field No. 58), as proposed in the NOPR: ''The specific location at which the product is delivered. If delivery occurs at a trading hub, then the specific location is not required.'' If delivery occurs at a specific hub, this information would already be captured in the modified PODBAA data field (Field No. 57) in the Transaction data. Accordingly, the PODSL data field (Field No. 58) may be left blank if the PODBAA data field specifies a hub name.

44. Class Name (Field No. 59)

a. Commission Determination

333. We adopt the NOPR proposal to eliminate the BA-Billing Adjustment reporting option in the Class Name data field in the Transaction data, as discussed in Section II.I.1 of this final rule. The remaining reporting options for Class Name in the Transaction data, including F—Firm, NF—Non-firm, UP—Unit Power Sale, and N/A—Not Applicable, remain unchanged.

45. Term Name (Field No. 60)

a. NOPR Proposal

334. The Commission proposed to modify the definition of Term Name in the Transaction data of the EQR to: ''Transactions with durations of one year or greater are long-term. Transactions with shorter durations are short-term.'' [341]

b. Comments

335. No comments were submitted on this topic.

c. Commission Determination

336. We adopt the proposed definition of Term Name.

46. Increment Name and Increment Peaking Name (Field Nos. 61–62)

337. The NOPR did not propose modifications to the Increment Name and Increment Peaking Name data fields in Transaction data and no comments were submitted on these topics; therefore, we retain these data fields without changes.[342]

47. Transaction Quantity, Price (Field Nos. 64–65)

338. The NOPR proposed to increase the decimal limit to ten decimal places for the Transaction Quantity and Price data fields, as discussed above. We adopt the decimal limit increase and make no other changes to these data fields.[343]

48. Standardized Quantity (Field No. 67)

a. NOPR Proposal

339. The Commission proposed to modify the definition of Standardized Quantity to: ''For Product Names Energy, Capacity, and Booked Out Power only. Specify the quantity in MWh if the product is Energy or Booked Out Power and specify the quantity in MW-month if the product is Capacity.'' The Commission explained that Booked Out Power transactions should be reported in MWh and not MW-month, which should only be used for Capacity transactions. Additionally, the Commission proposed to remove the July 1, 2013 date limitation and require a Standardized Quantity to be reported for all transactions, including those associated with a contract executed prior to July 1, 2013. The Commission explained that, as with reporting Trade Date, Standardized Price and Type of Rate, Standardized Quantity is currently required only for transactions associated with a contract executed on or after July 1, 2013. Finally, the Commission proposed to increase the decimal limit, as described above.[344]

b. Comments

340. No comments were submitted on this topic.

c. Commission Determination

341. We adopt the modifications proposed in the NOPR to the definition of Standardized Quantity to provide clarity on reporting requirements. In addition, we adopt the NOPR proposal to remove the current date limitation of July 1, 2013, to enable the collection of information about the standardized quantity for transactions, regardless of when parties executed the relevant contract. We believe this will result in more complete and consistent transactional information. Finally, we increase the four-decimal limit to ten decimal places for Standardized Quantity.

49. Standardized Price (Field No. 68)

a. NOPR Proposal

342. The Commission proposed to modify the definition of Standardized Price to: ''For Product Names Energy, Capacity, and Booked Out Power only. Specify the price in $/MWh if the product is Energy or Booked Out Power and specify the price in $/MW-month if the product is Capacity.'' The Commission explained that Booked Out Power transactions should be reported in MWh and not MW-month, which should only be used for Capacity transactions. Additionally, the Commission proposed to remove the July 1, 2013 date limitation and require a Standardized Price to be reported for all transactions, including those associated with a contract executed prior to July 1, 2013. The Commission explained that, as with reporting Trade Date, Standardized Quantity and Type of Rate, Standardized Price data is currently required only for transactions associated with a contract executed on or after July 1, 2013. Finally, the Commission proposed to increase the decimal limit, as described above.[345]

b. Comments

343. No comments were submitted on this topic.

c. Commission Determination

344. We adopt the NOPR proposal to implement modifications to the definition of Standardized Price because these modifications provide clarity for filers regarding reporting requirements. In addition, we adopt the NOPR proposal to remove the current date limitation of July 1, 2013, to enable the collection of information about the standardized price for transactions, regardless of when parties executed the relevant contract. We believe this will result in more complete and consistent transactional information. Finally, we increase the six-decimal limit to ten decimal places for Standardized Price.

50. Total Transmission Charge and Total Transaction Charge (Field Nos. 69–70)

345. The NOPR did not propose modifications to the Total Transmission Charge and Total Transaction Charge data fields and no comments were submitted on these topics. We retain these data fields and associated definitions, with the exception of removing the reference to Field Nos. 64, 65 and 69 in the definition of Total Transaction Charge.[346] Thus, the new definition for Total Transaction Charge

[341] *Id.* P 116.
[342] *Id.* P 124.
[343] *Id.* P 17.
[344] *Id.* P 118.
[345] *Id.* PP 121–23.
[346] *Id.* P 124.

will be: ''Transaction Quantity times Price plus Total Transmission Charge.''

51. Index Reporting Data (Field Nos. 71–74)

346. As discussed in section II.I.2 of this final rule, we adopt the NOPR proposal to eliminate the requirement for Sellers to identify index price publisher information in the EQR. Accordingly, we will remove Field Nos. 71–74 of the EQR Data Dictionary, and Appendix G, which are associated with collecting this data.

52. Fields Dependent on Future System Design

347. Possible revisions to certain system-generated data fields, including Filer Unique Identifier (Field No. 1), Contract Unique ID (Field No. 15), and Transaction Unique ID (Field No. 45), depend on future system design.[347] Therefore, any proposed changes to these current data fields were not set forth in the NOPR, and the proposed reporting requirements and definitions for these data fields would be issued after publication of the FERC EQR taxonomies, at which point interested parties would be able to provide comments.

III. Information Collection Statement

348. The collection of information contained in this final rule is being submitted to the Office of Management and Budget (OMB) for review under section 3507(d) of the Paperwork Reduction Act of 1995, 44 U.S.C. 3507(d). Respondents subject to the filing requirements of this final rule will not be penalized for failing to respond to these collections of information unless the collections of information display a valid OMB control number.

349. *Title:* FERC–920, Electric Quarterly Report (EQR).

350. *Action:* New EQR filing system and additional reporting requirements for all filers.[348]

351. OMB Control No.: 1902–0255.

352. *Respondents:* Electric utilities.

353. *Frequency of Responses:* Quarterly.

354. *Necessity of the Information:* The Commission proposes to implement a new collection method for EQR reporting based on the XBRL–CSV standard; amend its regulations to require Regional Transmission Organizations (RTO) and Independent System Operators (ISO) to produce reports containing market participant transaction data; and modify or clarify EQR reporting requirements.

355. *Abstract:* The final rule will affect entities required to file EQRs. The revisions in this final rule will: (a) require the adoption of a new collection method based on the XBRL–CSV standard; (b) require RTOs and ISOs to produce reports containing market participant transaction data in XBRL–CSV format that adhere to the FERC EQR taxonomies; and (c) make substantive changes to eliminate or modify the information collected in the EQR. The information collected in the EQR is required to be submitted quarterly to the Commission under existing regulations and reporting requirements adopted under the FPA. Compliance with the changes in this final rule is mandatory.

356. *Burden and Cost:* In response to the NOPR, CAISO and ECC submitted comments relating to the estimates in the Information Collection Statement. Based on those comments, the Commission revises its estimates in Tables 2–4, 6, and 8 below to reflect an overall increase in burden estimates. CAISO states that the NOPR estimates the work involved for RTOs/ISOs that do not currently produce transaction data reports for their market participants as approximately $25,000 over a five-year period. According to CAISO, this estimate does not accurately reflect the work that RTOs/ISOs would need to undertake to design, test, and implement transaction data reports or administer them on a going forward basis. CAISO states that the NOPR's estimate is likely off by an order of magnitude to complete the initial work to design the transaction reports, let alone begin to effect software design changes and undertake functional testing.[349]

357. ECC comments that the Commission underestimates the burden of developing or purchasing software to enable filing in a new format. ECC suggests that Commission staff should talk to a variety of utilities including those that outsource the filing of EQRs and those that developed their own software or purchased third-party software to file EQRs during the last major EQR software change to better understand what the costs are. ECC also notes that, in addition to the costs of dealing with the changes proposed by the NOPR and the costs of compiling and filing EQR data each quarter, there are ongoing costs of keeping up with Commission orders and technical conferences.[350]

358. The Commission responds to CAISO's comments by adjusting specific estimates in Table No. 6: Development Burden Estimate for RTO/ISO Reports, which reflects the burden estimate for the first-year development of a reporting system or modification of existing reporting systems. This burden estimate includes formatting the transaction data reports using the FERC EQR taxonomies in the XBRL–CSV format and making the data reports available to Sellers.

359. In consideration of CAISO's and ECC's comments related to the design, testing, and implementation of transaction data reports prior to the launch of the new system, we increased the Average Burden Hours per Response from 320 to 800 hours for RTOs/ISOs Without Existing Transaction Data Reports in Table No. 6.[351] We also note that CAISO-produced transaction data reports will benefit and reduce the burden for approximately 150 entities that currently report their CAISO transactions in the EQR. Further, in response to ECC's concerns regarding the costs of developing or purchasing additional software, the Commission recognizes that Sellers not using the FERC Templates may incur additional costs for developing or purchasing software and has, accordingly, adjusted the burden estimates in Table Nos. 2 through 5. In those tables, the estimates increased for the total burden per response to reflect the additional time and cost required to develop and implement a solution. The Commission does not anticipate that filers using FERC Templates would need to purchase software from a third-party vendor to submit their EQRs into the new system; rather, the increase in cost estimates reflects the time required to adjust their internal processing of EQR filings.

[347] As discussed in this final rule, the Commission removes the requirement to report the ''Filer Unique Identifier'' (Field No. 71) in the Index Reporting Data of the EQR.

[348] This action is unrelated to the OMB renewal in Docket No. IC25–17–000 that is requesting an extension of the current information collection under FERC–920 (OMB Control No. 1902–0255).

[349] CAISO Comments at 7–8.

[350] ECC Comments at 15–16.

[351] NOPR, 185 FERC ¶ 61,043 at P 133.

360. The Commission estimates that affected respondents would incur the following burden and other costs.[352] The estimated hourly cost is based on FERC's 2025 Commission-wide average salary cost (salary plus benefits) of $103.00/hour. The FERC full-time equivalent (FTE) average cost for wages plus benefits is representative of the corresponding cost for the industry respondents. The estimated number of respondents increased to 3,672, based on normal industry fluctuations.[353] The change in total annual burden cost shown in Table No. 1 is due to the cost for complying with the modifications to the EQR data fields and associated requirements.

TABLE NO. 1—CHANGES IN BURDEN FOR THE DATA COLLECTED DUE TO MODIFICATION OF DATA FIELDS AND ASSOCIATED REQUIREMENTS

No.	Formula	Incremental burden category	Current	Updated total for the data collected in the EQR	Difference between current and updated total
(a)		Number of Respondents[354]	3,672	3,672	0
(b)		Annual Number of Responses per Respondent	4	4	0
(c)	(a)(b) = (c)	Total Annual Number of Responses	14,688	14,688	0
(d)		Average Burden Hours per Response[355]	18.1	20.0	1.9
(e)		Hourly Cost per Response[356]	$103	$103	$0
(f)	(b)(d) = (f)	Total Annual Burden Hours per Respondent[357]	72	80	8
(g)	(d)(e) = (g)	Total Burden Cost per Response	$1,864	$2,060	$196
(h)	(b)(g) = (h)	Total Annual Burden Cost per Respondent	$7,457	$8,240	$783
(i)	(a)(f) = (i)	Total Annual Burden Hours for All Respondents	265,853	293,760	27,907
(j)	(e)(i) = (j)	Total Annual Burden Cost for All Respondents	$27,382,859	$30,257,280	$2,874,421

361. The compliance burden estimate for the modification of the data fields in the EQR is shown in Table No. 1. The difference is between the current OMB burden inventory and the estimated burden of complying with this final rule. The estimated burden to comply with the modification of data fields and associated requirements decreases over the first three years. The estimated increase in Average Burden Hours of 1.9 hours is based on a weighted estimate for Years 1 through 3, whereby 60% of Respondents would use the FERC Templates for submissions, 25% of Respondents would create a submission system based on the XBRL–CSV standard, and 15% of Respondents would have no change to their submission. The Average Burden Hours per Response estimate in the NOPR reflected an estimate of 2.2 hours based on a simple annual average calculation; however, we find that applying a quarterly weighted average results in a more accurate estimate. This estimated increase, as shown in Table No. 1, Row (d), results in new total Average Burden Hours per Response of 20 hours. The Annual Burden Cost per Respondent for complying with the modification of data fields and associated requirements would increase by $783, bringing the total estimated Annual Burden Cost per Respondent to $8,240 (Table No. 1, Row (h)).

362. The burden estimate related to changing the submission format to XBRL–CSV is shown in Table Nos. 2 through 5. These tables reflect an overall increase in the burden estimates included in the NOPR based, in part, on comments received in response to the NOPR and further review of the costs associated with transitioning to XBRL–CSV. The Commission recognizes that the burden on an individual filer may differ from the estimated burden in this final rule because the burden estimates are based on an average of the burden for all EQR filers. EQR filers vary significantly in the size and scope of filings based, in part, on the size of the company and the number of quarterly transactions it must report to the EQR.

363. Table Nos. 2–4 reflect that, once implemented, this final rule will enable Sellers to: (1) submit EQRs using pre-formatted FERC Templates that adhere to the FERC EQR taxonomies (Column (A) of Table Nos. 2–4); (2) prepare XBRL–CSV submission files that adhere to the FERC EQR taxonomies (Column (B) of Table Nos. 2–4), or (3) submit a response that indicates there was no change from the previous quarter (Column (C) of Table Nos. 3–4).

TABLE NO. 2—ONE-TIME FORMATTING SUBMISSION IN XBRL–CSV FOR FIRST FILING QUARTER OF FIRST YEAR, BURDEN ESTIMATE FOR SUBMISSION IN XBRL–CSV

Row No.	Formula	Incremental burden category	Filers using FERC templates for submissions (A)	Filers creating custom submissions (B)	Filers with no change to submission (C)
(a)		Number of Respondents[358]	2,203	918	551
(b)		Number of Responses per Respondent	1	1	1

[352] Burden is the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a federal agency. For further explanation of what is included in the information collection burden, refer to 5 CFR 1320.3.

[353] The estimated number of respondents is based on the Q2 2025 EQR submissions.

[354] The Number of Respondents of 3,672 is based on the 2025 OMB inventory of respondents. The Number of Respondents of 3,672 is the total number of EQR filers as of Q2 2025, which matches the current OMB inventory.

[355] The estimated increase in Average Burden Hours per Response of 1.9 hours is a weighted average estimate for Year 1 through Year 3.

[356] The estimated hourly cost is based on FERC's 2025 Commission-wide average salary cost (salary plus benefits) of $103/hour. Commission staff believes the FERC FTE average cost for wages plus benefits is representative of the corresponding cost for the industry respondents.

[357] The formulas shown in Table No. 1 apply solely to the columns labeled Current and Updated Total for the Data Collected in the EQR.

[358] For the first filing quarter of Year 1, we estimate that: 60% of Respondents would use the FERC Templates for submissions, 25% would create their own XBRL–CSV submission system, and 15% would have no change to their submission over the prior quarter.

TABLE NO. 2—ONE-TIME FORMATTING SUBMISSION IN XBRL–CSV FOR FIRST FILING QUARTER OF FIRST YEAR, BURDEN ESTIMATE FOR SUBMISSION IN XBRL–CSV—Continued

Row No.	Formula	Incremental burden category	Filers using FERC templates for submissions (A)	Filers creating custom submissions (B)	Filers with no change to submission (C)
(c)	(a)(b) = (c)	Total Number of Responses	2,203	918	551
(d)		Average Burden Hours per Response	10	40	1
(e)		Hourly Cost per Response	$103	$103	$103
(f)	(b)(d) = (f)	Total Burden Hours per Respondent	10	40	1
(g)	(d)(e) = (g)	Total Burden Cost per Response	$1,030	$4,120	$103
(h)	(b)(g) = (h)	Total Annual Burden Cost per Respondent	$1,030	$4,120	$103
(i)	(a)(f) = (i)	Total 1st Quarter Burden Hours	22,030	36,720	551
(j)	(e)(i) = (j)	Total 1st Quarter Burden Cost	$2,269,090	$3,782,160	$56,753

TABLE NO. 3—BURDEN ESTIMATE FOR SECOND, THIRD, AND FOURTH FILING QUARTERS OF FIRST YEAR SUBMISSION IN XBRL–CSV

Row No.	Formula	Burden category	Filers using FERC templates for submissions (A)	Filers creating custom submissions (B)	Filers with no change to submission (C)
(k)		Number of Respondents[359]	2,203	918	551
(l)		Number of Responses per Respondent for Quarters 2, 3, and 4 of First Year.	3	3	3
(m)	(k)(l) = (m)	Total Number of Responses for Quarters 2, 3, and 4 of First Year.	6,609	2,754	1,653
(n)		Average Burden Hours Per Response	4	6	1
(o)		Hourly Cost Per Response	$103	$103	$103
(p)	(l)(n) = (p)	Total Burden Hours per Respondent	12	18	3
(q)	(n)(o) = (q)	Total Burden Cost per Response	$412	$618	$103
(r)	(l)(q) = (r)	Total Annual Burden Cost per Respondent	$1,236	$1,854	$309
(s)	(k)(p) = (s)	Total Burden Hours for Quarters 2–4 of First Year	26,436	16,524	1,653
(t)	(o)(s) = (t)	Total Burden Cost for Quarters 2–4 of First Year	$2,722,908	$1,701,972	$170,259

TABLE NO. 4—YEARS 2 & 3 ANNUAL BURDEN ESTIMATE FOR SUBMISSION IN XBRL–CSV

Row No.	Formula	Burden category	Filers using FERC templates for submissions (A)	Filers creating custom submissions (B)	Filers with no change to submission (C)
(u)		Number of Respondents[360]	2,203	918	551
(v)		Annual Number of Responses Per Respondent	4	4	4
(w)	(u)(v) = (w)	Total Annual Number of Responses	8,812	3,672	2,204
(x)		Average Burden Hours Per Response	1	1	0.25
(y)		Hourly Cost Per Response	$103	$103	$103
(z)	(x)(y) = (z)	Total Burden Cost per Response	$103	$103	$26
(D)	(v)(x) = (D)	Total Annual Burden Hours per Respondent	4	4	1
(E)	(D)(y) = (E)	Total Annual Burden Cost per Respondent	$412	$412	$103
(F)	(x)(w) = (F)	Total Annual Burden Hours for All Respondents	8,812	3,672	551
(G)	(F)(y) = (G)	Total Annual Burden Cost for All Respondents	$907,636	$378,216	$56,753

TABLE NO. 5—SUMMARY OF BURDEN FOR FORMATTING SUBMISSIONS IN XBRL–CSV FOR FILING YEARS 1 THROUGH 3

Row No.	Formula	Description	Totals
(H)	(iA) + (iB) + (iC) + (sA) + (sB) + (sC) + 2((FA) + 2(FB) + 2(FC)) = (H).	Three-Year Total Burden Hours	129,984
(I)	(H)/3 = (I)	Average Burden Hours per Year (forecast through third year).	43,328
(J)		Hourly Cost	$103
(K)	(H)(J) = (K)	Three-Year Total Burden Cost	$13,388,352
(L)	(K)/3 = (L)	Average Annual Total Burden Cost (forecast through third year).	$4,462,784

364. For the filers using the FERC Templates, *i.e.,* an estimated 60% of filers, the Total Burden Cost per Respondent for the first filing quarter of the first year would be $1,030 and would decrease to $412 on a quarterly basis for filing quarters 2 through 4 of the first year, as shown in Table Nos. 2 and 3. In each quarter of years 2 and 3, the estimated Total Burden Cost per Response is expected to decrease further to $103 per response for Years 2 and 3, as shown in Table No. 4. For filers creating submissions in XBRL–CSV format, the Total Burden Cost per Respondent would follow a similar downward quarterly trend over time. For filers that make a submission with no change to the data from the previous quarter, the Total Burden Cost per Respondent is estimated to be 1 hour for Year 1 (Table No. 2–3) and 0.25 hours per response over Years 2–3, as shown in Table No. 4.

365. As shown in Table No. 4, Row (u), after the first submission in XBRL–CSV, we estimate that 551 Respondents, *i.e.,* 15% of 3,672 Total Respondents, as shown in Table No. 1, Row (a), would elect to use the new option that would only require filers to confirm that no changes to the EQR occurred from the previous quarter. We estimate that 2,203 Respondents, as shown in Table No. 3, Row (k), *i.e.,* 60% of 3,672 Total Respondents, would continue to use the FERC Templates in the second quarter of Year 1 and beyond. The Average Burden Hours per Respondent for filers creating their own XBRL–CSV submissions (*i.e.,* 918 Respondents),[361] as shown in Table No. 3, Row (k), Column (B), decreases on a quarterly basis from 40 hours in the first quarter of Year 1 (Table No. 2, row (f)), to 18 hours for each of the remaining filing quarters of Year 1, and 4 hours for each filing quarter in Years 2 through 3 (Table No. 2, row (d)). We anticipate that the Annual Burden Hours per Respondent would decrease further, as these Respondents become more familiar with the new system.

366. As reflected in Table Nos. 2 through 4, we estimate that changing the submission format to XBRL–CSV would result in the following expenses. Filers using FERC Templates would, on average, incur a total expense of $3,090 that declines from Years 1 through 3.[362] For those filers creating custom XBRL–CSV submissions, we expect a total expense of $6,798 for the same time period.[363] Finally, for those filers with no changes to their submissions after the initial quarter of Year 1, we estimate a total expense of $618 for the same time period.[364]

367. Table Nos. 6 through 8 estimate the burden on RTOs/ISOs to produce and make available transaction data reports that adhere to the FERC EQR taxonomies for use by their market participants in submitting EQRs. Table No. 6 outlines the burden estimate for RTOs/ISOs to implement this proposed requirement in the first year. Specifically, for RTOs/ISOs that currently make available transaction data reports to their market participants, the first year's Total Burden Cost per Respondent to create XBRL–CSV formatted reports, as shown in Row (h), Column (A) of Table No. 6, is estimated to be $8,240. For RTOs/ISOs that do not currently make available transaction data reports to their market participants, the first year's Total Burden Cost per Respondent is estimated to be $82,400, as shown in Row (h), Column (B) of Table No. 6. Table No. 7 reflects the estimated annual costs that RTOs/ISOs would incur in Years 2 and 3 to maintain their systems.

TABLE NO. 6—DEVELOPMENT BURDEN ESTIMATE FOR RTO/ISO REPORTS

Row No.	Formula	Burden category	RTOs/ISOs with existing transaction data reports (A)	RTOs/ISOs without existing transaction data reports (B)
(a)	.....	Number of Respondents	5	1
(b)	.....	Response per Respondent to Incorporate New System Requirements	1	1
(c)	(a)(b) = (c)	Total Number of Responses	5	1
(d)	.....	Average Burden Hours per Response	80	800

[359] For Year 1, second, third and fourth filing quarters, we estimate that: 60% of Respondents would use the FERC Templates for submissions, 25% would create their own XBRL–CSV submission system, and 15% would have no change to their submission over the prior quarter.

[360] For Years 2 and 3, we estimate that 60% of Respondents would use the FERC Templates for submissions, 25% would create an XBRL–CSV submission, and 15% would have no change to their submission over the prior quarter.

[361] Calculated as 25% of 3,672 Total Respondents, as shown in Table No. 4, Row (u).

[362] $3,090 is the sum total of $1,030 (Table No. 2, Row (h), Column (A)) + $1,236 (Table No. 3, Row (r), Column (A)) + ($412*2) (Table No. 4, Row (E), Column (A), where $412 is multiplied by 2 to reflect the Total Annual Burden Cost per Respondent for Years 2 and 3).

[363] $6,798 is the sum total of $4,120 (Table No. 2, Row (h), Column (B)) + $1,854 (Table No. 3, Row (r), Column (B)) + ($412*2) (Table No. 4, Row (E), Column (B), where $412 is multiplied by 2 to reflect the Total Annual Burden Cost per Respondent for Years 2 and 3).

[364] $600 is the sum total of $103 (Table No. 2, Row (h), Column (C)) + $309 (Table No. 3, Row (r), Column (C)) + ($103*2) (Table No. 4, Row (E), Column (C), where $103 is multiplied by 2 to reflect the Total Annual Burden Cost per Respondent for Years 2 and 3).

TABLE NO. 6—DEVELOPMENT BURDEN ESTIMATE FOR RTO/ISO REPORTS—Continued

Row No.	Formula	Burden category	RTOs/ISOs with existing transaction data reports (A)	RTOs/ISOs without existing transaction data reports (B)
(e)		Hourly Cost per Response	$103	$103
(f)	(d)(e) = (f)	Total Burden Cost per Response	$8,240	$82,400
(g)	(b)(d) = (g)	Total Burden Hours per Respondent	80	800
(h)	(g)(e) = (h)	Total Burden Cost per Respondent	$8,240	$82,400
(i)	(a)(g) = (i)	Total Annual Burden Hours for All Respondents	400	800
(j)	(i)(e) = (j)	Total Annual Burden Cost	$41,200	$82,400

TABLE NO. 7—ANNUAL BURDEN ESTIMATE FOR RTO/ISO REPORTS, FORECASTED FOR YEARS 2 AND 3

Row No.	Formula	Burden category	All RTO/ISO (E)
(k)		Number of Respondents	6
(l)		Annual Number of Responses per Respondent	1
(m)	(k)(l) = (m)	Total Number of Responses	6
(n)		Average Burden hours per Response	36
(o)		Hourly Cost per Response	$103
(p)	(n)(o) = (p)	Total Burden Cost per Response	$3,708
(q)	(l)(n) = (q)	Total Annual Burden Hours per Respondent	36
(r)	(l)(p) = (r)	Total Burden Cost per Respondent	$3,708
(s)	(k)(q) = (s)	Total Annual Burden Hours	216
(t)	(o)(s) = (t)	Total Annual Burden Cost	$22,248

TABLE NO. 8—SUMMARY OF BURDEN FOR ALL RTOS/ISOS FOR YEARS 1 THROUGH 3

Row No.	Formula	Burden category	Totals
(u)	(iA) + (iB) + 2(sE) = (u)	Three-Year Total Burden Hours	1,632
(v)	(v) = (u)/3	Average Burden Hours per Year	544
(w)		Hourly Cost	$103
(x)	(u)(w) = (x)	Three-Year Total Burden Cost	$168,096
(y)	(y) = (x)/3	Average Annual Total Burden Cost	$56,032

368. The Commission directs its staff to work with Sellers and RTOs/ISOs on the initial implementation of the proposed reporting requirements and filing process by convening staff-led technical conference(s). The conference(s) will be available via webcast.

369. *Internal Review:* The Commission has reviewed the changes and has determined that the changes are necessary. These requirements conform to the Commission's need for efficient information collection, communication, and management within the energy industry. The Commission has assured itself, by means of internal review, that there is specific, objective support for the burden estimates associated with the information collection requirements.

370. Interested persons may obtain information on the reporting requirements by contacting the following: Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426 [Attention: Kayla Williams, Office of the Executive Director, email: *DataClearance@ferc.gov,* phone: (202) 502–8663]. Please send comments concerning the collection of information and the associated burden estimates to the Commission and to the Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th Street NW, Washington, DC 20503 [Attention: Desk Officer for the Federal Energy Regulatory Commission]. For security reasons, comments to OMB should be submitted by email to: *oira_submission@omb.eop.gov.* Comments submitted to OMB should include Docket Number RM23–9–000 and any related information collection and its respective OMB Control Number [Form No. 920 (1902–0255).

IV. Environmental Analysis

371. The Commission is required to prepare an Environmental Assessment or an Environmental Impact Statement for any action that may have a significant adverse effect on the human environment.[365] The Commission has categorically excluded certain actions from this requirement as not having a significant effect on the human environment.[366] The actions taken in this final rule fall within the categorical exclusions in the Commission's regulations for rules regarding information gathering, analysis, and dissemination. Accordingly, no environmental assessment is necessary and none has been prepared in this rule.

V. Regulatory Flexibility Act

372. The Regulatory Flexibility Act of 1980 (RFA)[367] generally requires a

[365] *Reguls. Implementing the Nat'l Env't Pol'y Act,* Order No. 486, 52 FR 47897 (Dec. 17, 1987), FERC Stats. & Regs. Preambles 1986–1990 ¶ 30,783 (1987) (cross-referenced at 41 FERC ¶ 61,284).

[366] 18 CFR 380.4.

[367] 5 U.S.C. 601–612.

description and analysis of final rules that will have significant economic impact on a substantial number of small entities. The Commission is not required to perform this sort of analysis if the proposed activities within the final rule would not have such an effect.

373. As discussed above, the EQR is required to be filed under FPA sections 205(c) and 220. The final rule updates to the filing requirements and the method through which respondents submit EQR data to the Commission. The annual cost currently associated with filing the EQR is $7,457 per respondent, which includes preparing the data and submitting it to the Commission. The Commission estimates an annual increase of $783 per respondent to implement the modifications to the data fields. In addition, the Commission estimates an increase in the first-year cost for submitting EQRs in XBRL–CSV format. The costs for submitting the EQR in XBRL–CSV in the first year would be $2,266 per respondent for the 60% of filers that are anticipated to use FERC Templates; $5,974 for the 25% of respondents that are anticipated to create their own XBRL–CSV submission system; and $412 for the remaining 15% of respondents that are anticipated to have no change to their submission during the first year.

374. In Years 2 and 3, the Commission estimates that the XBRL–CSV submission cost would decline further to a level of $412 per year for the respondents that used FERC Templates or created their own systems. For respondents that submit EQRs without changes in Year 1, the annual cost would decline from $412 to $103 per respondent.

375. Overall, the estimated costs for Years 1–3 would total $11,330 for filers using the FERC templates, $15,038 for filers creating their own submission systems, and $8,858 for filers with no change over the prior quarter. The Commission's cost estimates for compliance with this rule are small increases in EQR filing costs and the Commission certifies that these costs would not have a significant economic impact on small entities.

376. At the time of the proposed rule, the Commission analyzed the number of small firms impacted by this rule. Using the small business definitions defined by the Small Business Administration (SBA),[368] small entities were determined by employee counts as EQR filers fall into power generation, transmission, or distribution categories. The employee totals ranged from 250 employees (*e.g.,* solar) to 1,000 employees (*e.g.,* electric power distribution). The Commission found that approximately 42% of respondents would be considered small and 58%—the majority of respondents—would not be considered small.[369] The Commission estimates that this approximation remains accurate.

377. Given the number of respondents that are categorized as small, the Commission is taking steps to ease the burden of the transition by helping respondents through the development of FERC Templates, which will reduce the economic burden on small filers.

378. Due to the small estimated average costs of implementation, the availability of FERC Templates, and the fact that a majority of firms are considered large, the Commission certifies that the revised requirements set forth in this final rule will not have a significant economic impact on a substantial number of small entities, and no regulatory flexibility analysis is required.

VI. Document Availability

379. In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*).

380. From the Commission's Home Page on the internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

381. User assistance is available for eLibrary and the Commission's website during normal business hours from FERC Online Support at 202–502–6652 (toll free at 1–866–208–3676) or email at *ferconlinesupport@ferc.gov,* or the Public Reference Room at (202) 502–8371, TTY (202) 502–8659. Email the Public Reference Room at *public.referenceroom@ferc.gov.*

VII. Regulatory Planning and Review

382. Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. The Office of Information and Regulatory Affairs (OIRA) has determined this regulatory action is not a ''significant regulatory action,'' under section 3(f) of Executive Order 12866, as amended. Accordingly, OIRA has not reviewed this regulatory action for compliance with the analytical requirements of Executive Order 12866.

VIII. Effective Date and Congressional Notification

383. This rule is effective May 26, 2026. The Commission has determined, with the concurrence of the Administrator of the Office of Information and Regulatory Affairs of OMB, that this rule is not a ''major rule'' as defined in section 351 of the Small Business Regulatory Enforcement Fairness Act of 1996.

List of Subjects in 18 CFR Part 35

Electric power rates, Electric utilities, Reporting and recordkeeping requirements.

By the Commission.

Issued: March 19, 2026.

Carlos D. Clay,

Deputy Secretary.

In consideration of the foregoing, the Commission amends part 35, chapter I, title 18, Code of Federal Regulations, as follows:

PART 35—FILING OF RATE SCHEDULES AND TARIFFS

■ 1. The authority citation for part 35 continues to read as follows:

Authority: 16 U.S.C. 791a–825r, 2601–2645; 31 U.S.C. 9701; 42 U.S.C. 7101–7352.

■ 2. Amend § 35.10b by revising the introductory text and adding paragraph (d) to read as follows:

[368] The small business size standards are provided in 13 CFR 121.201. In 13 CFR 121.201, the SBA uses the North American Industry Classification System (NAICS) codes. The Commission used the SBA standards for the utilities subsector (221). [NAICS Codes 221111 (Hydroelectric Power Generation), 221112 (Fossil Fuel Electric Power Generation), 221113 (Nuclear Electric Power Generation), 221114 (Solar Electric Power Generation), 221115 (Wind Electric Power Generation), 221116 (Geothermal Electric Power Generation), 221117 (Biomass Electric Power Generation, 221118 (Other Electric Power Generation), 221121 (Electric Bulk Power Transmission Control), 221122 (Electric Power Distribution)]. SBA classifies utilities subsector companies with 250 to 1000 employees as small businesses depending on more specific industry categories.

[369] 88 FR 73784.

§ 35.10b Electric Quarterly Reports.

Each public utility as well as each non-public utility with more than a *de minimis* market presence shall file an updated Electric Quarterly Report with the Commission covering all services it provides pursuant to this part, for each of the four calendar quarters of each year, in accordance with the following schedule: for the period from January 1 through March 31, file by July 31; for the period from April 1 through June 30, file by October 31; for the period July 1 through September 30, file by January 31 of the following year; and for the period October 1 through December 31, file by April 30 of the following year. Electric Quarterly Reports must be prepared in conformance with the Commission's guidance posted on the FERC website (*https://www.ferc.gov*).

* * * * *

(d) Each RTO/ISO must prepare and make available transaction data reports to its market participants that adhere to the Commission's filing and formatting requirements for use by its market participants in submitting their EQRs.

■ 3. Amend § 35.41 by revising paragraph (c) to read as follows:

§ 35.41 Market behavior rules.

* * * * *

(c) *Price reporting.* To the extent a Seller engages in reporting of transactions to publishers of electric or natural gas price indices, Seller must provide accurate and factual information, and not knowingly submit false or misleading information or omit material information to any such publisher, by reporting its transactions in a manner consistent with the procedures set forth in the *Policy Statement on Natural Gas and Electric Price Indices,* issued by the Commission in Docket No. PL03–3–000, and any clarifications thereto. In addition, Seller must adhere to any other standards and requirements for price reporting as the Commission may order.

* * * * *

[FR Doc. 2026–05709 Filed 3–23–26; 8:45 am]

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Part IV

Department of Health and Human Services

Office of the Secretary

45 CFR Parts 160 and 162

Administrative Simplification; Adoption of Standards for Health Care Claims Attachments Transactions and Electronic Signatures; Final Rules

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

45 CFR Parts 160 and 162

[CMS–0053–F]

RIN 0938–AT38

Administrative Simplification; Adoption of Standards for Health Care Claims Attachments Transactions and Electronic Signatures

AGENCY: Office of the Secretary, Department of Health and Human Services (HHS).

ACTION: Final rule.

SUMMARY: This final rule implements requirements of the Administrative Simplification subtitle of the Health Insurance Portability and Accountability Act of 1996 (HIPAA), and the Patient Protection and Affordable Care Act, as amended by the Health Care and Education Reconciliation Act of 2010, enacted on March 30, 2010—collectively, the Affordable Care Act. Specifically, this final rule adopts standards for health care claims attachments transactions, which will support health care claims transactions, and a standard for electronic signatures to be used in conjunction with health care claims attachments transactions.

DATES:

Effective Date: This final rule is effective on May 26, 2026. The incorporation by reference of certain material listed in this rule is approved by the Director of the Federal Register as of May 26, 2026.

Compliance Date: Compliance with these regulations is required by May 26, 2028.

FOR FURTHER INFORMATION CONTACT:

Geanelle G. Herring, (410) 786–4466.

Shaheen Halim, (410) 786–0641.

Shelley Harrow, (410) 786–6875—Regulatory Impact Analysis.

Christopher Wilson, (410) 786–3178.

SUPPLEMENTARY INFORMATION:

I. Executive Summary

A. Purpose/Need for the Regulatory Action

Despite the health care industry's widespread use of electronic health records (EHR) and broad implementation of the Health Insurance Portability and Accountability Act of 1996 (HIPAA) transaction standards, the exchange of health care claims attachments has remained largely manual, frequently relying on fax, mail, or portal uploads. This final rule adopts standards for the electronic exchange of clinical and administrative documentation to support claims-related processes. Standardizing health care claims attachment transactions is intended to reduce administrative burden and improve data exchange efficiency between health plans and health care providers.

B. Summary of the Provisions

This final rule implements requirements of the Administrative Simplification subtitle of HIPAA and the Affordable Care Act. Specifically, this final rule adopts definitions of ''attachment information'' and ''electronic signature'' in 45 CFR 162.103 and ''health care claims attachments transaction'' in § 162.2001. This rule also adopts standards for health care claims attachments transactions in § 162.2002(a) through (d) and standards for electronic signatures, to be used in conjunction with health care claims attachments transactions, in § 162.2002(e).

In this final rule, we are adopting the following X12N standards and Health Level 7 (HL7®) implementation guides (IG) for use by covered entities in health care claims attachments transactions:

- X12N 277—Health Care Claim Request for Additional Information [006020X313].
- X12N 275—Additional Information to Support a Health Care Claim or Encounter [006020X314].
- *HL7 IG for Clinical Document Architecture (CDA) Release 2:* Consolidated CDA (C–CDA) Templates for Clinical Notes (US Realm) Draft Standard for Trial Use Release 2.1, Volume One—Introductory Material, June 2019 with Errata (HL7 C–CDA IG Volume One).
- *HL7 IG for CDA Release 2:* C–CDA Templates for Clinical Notes (US Realm) Draft Standard for Trial Use Release 2.1, Volume Two—Templates and Supporting Material, June 2019 with Errata (HL7 C–CDA IG Volume Two).
- *HL7 CDA Release 2 Attachment IG:* Exchange of C–CDA Based Documents, Release 2, March 2022 (HL7 Attachments IG).[1]
- *HL7 IG for CDA Release 2:* Digital Signatures and Delegation of Rights, Release 1 (Digital Signatures Guide).

C. Summary of the Differences Between the Notice of Proposed Rulemaking and Final Rule

The proposed rule included proposals to support both health care claims and prior authorization transactions, as well as a standard for electronic signatures to be used in conjunction with these transactions. Commenters expressed broad support for the HHS proposal to adopt health care claims attachment standards. Conversely, commenters overwhelmingly expressed two concerns about the proposals for prior authorization attachments standards: (1) potential misalignment when paired with the currently mandated X12N 278 transaction standard for prior authorization; and (2) potential misalignment between HHS's proposed attachment standard for prior authorization transactions with the requirements in CMS's then-proposed, but now finalized, rule titled: ''CMS Medicare and Medicaid Programs; Patient Protection and Affordable Care Act; Advancing Interoperability and Improving Prior Authorization Processes for Medicare Advantage Organizations, Medicaid Managed Care Plans, State Medicaid Agencies, Children's Health Insurance Program (CHIP) Agencies and CHIP Managed Care Entities, Issuers of Qualified Health Plans on the Federally-Facilitated Exchanges, Merit-Based Incentive Payment System (MIPS) Eligible Clinicians, and Eligible Hospitals and Critical Access Hospitals in the Medicare Promoting Interoperability Program final rule'' (hereinafter referred to as the CMS Interoperability and Prior Authorization final rule) (89 FR 8758). Upon considering these comments, along with further analysis and consultations with standard setting organizations (SSO), we have elected not to finalize health care attachments standards supporting prior authorization transactions at this time.

In the proposed rule, we proposed the adoption of the 2017 iteration of one of the IGs (the HL7 CDA Release 2 Attachment IG: Exchange of C–CDA Based Documents, Release 1, March 2017) (HL7 Attachments IG) (87 FR 78438). Based on the comments received, we examined the history of changes to the HL7 Attachments IG and determined that the cumulative changes in the March 2022 iteration constitute ''maintenance updates'' because they refine the IG's existing content rather than adding new content. Further consultation with the designated standards maintenance organization (DSMO) indicates that the maintenance updates reflected in the March 2022

[1] The proposed rule that preceded this final rule named an earlier iteration of this HL7 Attachments IG (Release 1, March 2017). The iteration of the HL7 Attachments IG named in this final rule (Release 2, March 2022) contains cumulative technical updates that are defined as ''maintenance.'' Additional discussion regarding this can be found in section III.E. of this final rule.

iteration of the HL7 Attachments IG better facilitate the implementation of Version 6020 of the X12N 275 and X12N 277 standards for claims attachment, which the Secretary of Health and Human Services (the Secretary) is adopting in this final rule. Therefore, this final rule adopts the March 2022 iteration of the HL7 Attachments IG rather than the proposed March 2017 iteration.

D. Summary of Costs and Savings

Based on the estimates included in the Regulatory Impact Analysis (RIA), the primary net annualized cost, discounted at 7 percent, to the industries is approximately $303.75 million. This estimate includes the difference between the primary net annualized costs of $478.23 million, which includes the regulatory review costs of $14.13 million, and primary net annualized savings of $781.98 million.

II. Background

This background discussion presents a history of statutory provisions and regulations relevant to this final rule.

A. Legislative Authority for Administrative Simplification

1. Standards Adoption and Modification Under the HIPAA Administrative Simplification Provisions

Congress addressed the need for a consistent framework for electronic transactions and other administrative simplification issues in HIPAA (Pub. L. 104–191, enacted on August 21, 1996). Through subtitle F of title II of HIPAA, Congress added to title XI of the Social Security Act (the Act) a new Part C, titled: ''Administrative Simplification,'' which required the Secretary to adopt standards for certain transactions to enable health information to be exchanged more efficiently and to achieve greater uniformity in the transmission of health information. For purposes of this and later discussion in this final rule, we sometimes refer to this statute as the ''original'' HIPAA provisions.

Section 1172(a) of the Act provides that any standard adopted by the Secretary under the HIPAA Administrative Simplification provision shall apply, in whole or in part, to the following persons, referred to as ''covered entities'': (1) a health plan; (2) a health care clearinghouse; and (3) a health care provider who transmits any health information in electronic form in connection with a HIPAA transaction. In general, section 1172 of the Act provides that any standard adopted under HIPAA is to be developed, adopted, or modified by an SSO. The statute requires consultation with four organizations named at section 1172(c)(3)(B) of the Act. In adopting a standard, section 1172(f) of the Act requires the Secretary to rely upon recommendations of the National Committee on Vital and Health Statistics (NCVHS) and consult with appropriate federal and state agencies and private organizations.

Section 1172(b) of the Act provides that a standard adopted under HIPAA must be consistent with the objective of reducing the administrative costs of providing and paying for health care. The transaction standards adopted under HIPAA enable financial and administrative electronic data interchange (EDI) using a common structure, as opposed to the many varied, often proprietary, transaction formats on which the industry had previously relied. This lack of uniformity across transaction formats engendered an administrative burden.

Section 1173(g)(1) of the Act, which was added by section 1104(b) of the Affordable Care Act, further addresses the goal of uniformity by requiring the Secretary to adopt a single set of operating rules for each transaction. These operating rules are required to be consensus-based and reflective of the necessary business rules and operations affecting both health plans and health care providers.

Section 1173(a) of the Act provides that the Secretary must adopt standards for financial and administrative transactions, and data elements for those transactions, to enable health information to be exchanged electronically. The original HIPAA provisions require the Secretary to adopt standards for the following transactions: (1) health claims or equivalent encounter information; (2) health claims attachments; (3) enrollment and disenrollment in a health plan; (4) eligibility for a health plan; (5) health care payment and remittance advice; (6) health plan premium payments; (7) first report of injury; (8) health claim status; and (9) referral certification and authorization (prior authorization). Section 1104(b)(2)(A) of the Affordable Care Act added the requirement for the Secretary to adopt a standard for electronic funds transfers. Additionally, section 1173(a)(1)(B) of the Act requires the Secretary to adopt standards for any other financial and administrative transactions the Secretary determines appropriate.

Sections 1173(c) through (f) of the Act provide that the Secretary must adopt standards that: (1) select or establish code sets for appropriate data elements for each listed health care transaction; (2) address and ensure security for health care information; (3) specify procedures for electronic signatures in coordination with the Secretary of Commerce, compliance with which will be deemed to satisfy both state and federal statutory requirements for written signatures for the listed transactions; and (4) address the transmission of appropriate standard data elements needed for the coordination of benefits, sequential processing of claims, and other data elements for individuals who have more than one health plan. Section 1174 of the Act requires the Secretary to review the adopted standards and adopt modifications to them, including additions to the standards as appropriate, but not more frequently than once every 12 months.

Section 1175 of the Act prohibits health plans from refusing to conduct a transaction as a standard transaction.[2] It also prohibits health plans from delaying a transaction or adversely affecting, or attempting to adversely affect, a person or the transaction itself on the grounds that the transaction is in a standard format. Additionally, it establishes a timetable for covered entities to comply with any standard, implementation specification, or modification as follows: (1) for an initial standard or implementation specification, no later than 24 months following its adoption; and (2) for modifications, as the Secretary determines appropriate, but no earlier than 180 days after the modification is adopted.

Sections 1176 and 1177 of the Act establish civil money penalties (CMP) and criminal penalties to which covered entities may be subject, for violations of HIPAA Administrative Simplification provisions. The Department of Health and Human Services (HHS) administers the CMPs under section 1176 of the Act, while the U.S. Department of Justice administers the criminal penalties under section 1177 of the Act. Section 1176(b) of the Act sets out limitations on the Secretary's authority and provides the Secretary certain discretion with respect to imposing CMPs. For example, section 1176(b)(1) provides that no CMPs may be imposed with respect to an act if a penalty has been imposed under section 1177 of the Act with respect to such an act. Section 1176(b)(2)(A) generally precludes the Secretary from imposing a CMP for a violation corrected during the 30-day

[2] See 45 CFR 162.103 for the definition of standard transaction.

period beginning when an individual knew or, by exercising reasonable diligence, would have known that the failure to comply occurred. The original HIPAA provisions are discussed in greater detail in the August 17, 2000 Health Insurance Reform: Standards for Electronic Transactions final rule (65 FR 50312) (hereinafter referred to as the Transactions and Code Sets final rule), and the December 28, 2000 Standards for Privacy of Individually Identifiable Health Information final rule (65 FR 82462). We refer readers to those documents for further information.

2. Affordable Care Act Amendments to HIPAA Administrative Simplification

Section 1104(c)(3) of the Affordable Care Act reiterated the original HIPAA requirement to adopt a health claims attachment standard, and directed the Secretary to promulgate a final rule to establish a transaction standard and a single set of associated operating rules.[3] Section 1104(c)(3) of the Affordable Care Act requires that the adopted standard be ''consistent with the X12 Version 5010 transaction standards,'' provides that the Secretary must adopt the standard and operating rules by January 1, 2014, to be effective no later than January 1, 2016, and that the Secretary may adopt the standard and operating rules on an interim final basis. We interpret the 24 month ''effective date'' under section 1104(c)(3) of the Affordable Care Act to mean that the compliance date for covered entities should be 24 months after the effective date of this final rule. Unlike the original HIPAA provisions, the Affordable Care Act provision makes no allowance for an extended period for small health plans to achieve compliance.

B. Prior Rulemaking

In the Transactions and Code Sets final rule (65 FR 50312), we implemented some of the HIPAA Administrative Simplification requirements by adopting standards for electronic transactions developed by SSOs, and medical code sets to be used in those transactions. We adopted X12 Version 4010 standards for administrative transactions, and the National Council for Prescription Drug Programs (NCPDP) Telecommunication Version 5.1 standard for retail pharmacy transactions, which were specified at 45 CFR part 162, subparts K through R.

Since then, we have adopted several modifications to the HIPAA standards, including in the Health Insurance Reform: Modifications to the Health Insurance Portability and Accountability Act (HIPAA) Electronic Transaction Standards final rule (hereinafter referred to as the Modifications final rule) which appeared in the January 16, 2009 **Federal Register** (74 FR 3296). That rule, among other things, adopted updated versions of the standards, X12 Version 5010, and the NCPDP Telecommunication Standard Version D.0 and equivalent Batch Standard, Version 1, Release 2. We also adopted the NCPDP Batch Standard Version 3.0 for the Medicaid pharmacy subrogation transaction. Covered entities were required to comply with Version 5010, Version D.0, and Version 3.0 standards on January 1, 2012, though with respect to the latter, small health plans were required to comply on January 1, 2013.

In the HIPAA Administrative Simplification: Standards for Electronic Health Care Claims Attachments proposed rule (hereinafter referred to as the Standards for Electronic Health Care Claims Attachments proposed rule), which appeared in the September 23, 2005 **Federal Register** (70 FR 55990), we proposed to adopt certain health care claims attachments standards. As opposed to a standard with generalized applicability, that proposed rulemaking proposed to adopt health care claims attachment standards with respect to specific services, including ambulance services, clinical reports, emergency department, laboratory results, medications, and rehabilitation services. However, public comments we received on those proposals persuasively argued that the standards lacked technical maturity and that interested parties were not ready to implement the electronic exchange of clinical data, so we did not finalize adopting them.

HHS issued a proposed rule titled: Administrative Simplification: Adoption of Standards for Health Care Attachments Transactions and Electronic Signatures, and Modification to Referral Certification and Authorization Transaction Standard that appeared in the December 21, 2022 **Federal Register** (87 FR 78438) (hereinafter referred to as the HIPAA Standards for Health Care Attachments proposed rule). In that proposed rule, we proposed new requirements for HIPAA covered entities that we believed would improve the electronic exchange of health information and a new electronic signature standard. We provided a 90-day public comment period.

We later issued a correcting document titled: Administrative Simplification: Adoption of Standards for Health Care Attachments Transactions and Electronic Signatures, and Modification to Referral Certification and Authorization Transaction Standard; Correction, which appeared in the March 17, 2023 **Federal Register** (88 FR 16392) (hereinafter referred to as the HIPAA Standards for Health Care Attachments proposed rule correction notice). That notice corrected typographical and technical errors in the HIPAA Standards for Health Care Attachments proposed rule by conforming the proposed regulations text to the proposed policies discussed in the preamble.

Subsequently, we extended the public comment period for the proposed rule by another 30 days via a notice that appeared in the March 24, 2023 **Federal Register** titled: ''Adoption of Standards for Health Care Attachments Transactions and Electronic Signatures, and Modification to Referral Certification and Authorization Transaction Standard: Extension of Comment Period'' (88 FR 17780). We believed it was important for the public to have the opportunity to review and comment on the corrected proposed rule because most of the corrections to the proposed rule were in the regulation text.

In the HIPAA Standards for Health Care Attachments proposed rule (87 FR 78445), we proposed to adopt attachments standards that would apply to health care claims or equivalent encounter transactions and to referral certification and authorization (prior authorization) transactions.[4] In this final rule, HHS adopts standards only for health care claims attachments transactions or equivalent encounter transactions, which will support health care claims transactions. HHS further adopts a standard for electronic signatures to be used in conjunction with health care claims attachments transactions. We thus refer to the attachment standards being adopted in this final rule as ''health care claims attachment standards.'' In section III.A.

[3] As we noted in the Administrative Simplification: Adoption of Standards for Health Care Attachments Transactions and Electronic Signatures, and Modification to Referral Certification and Authorization Transaction Standard proposed, at that time CAQH CORE had developed operating rules for attachments but the NCVHS had yet to evaluate them and make a recommendation to the Secretary, thus they were not proposed for adoption (87 FR 78445).

[4] We clarify that, in this final rule, we frequently use the shorthand ''health care claims'' to speak of health care claims or equivalent encounter information transactions under 45 CFR 161.1101. We note that attachments would most likely be requested for health care claims (§ 161.1101(a)) involving payment, rather than for ''equivalent encounter information'' transactions (§ 161.1101(b)) involving the ''transmission of encounter information for the purpose of reporting health care.''

of this final rule, we explain why we elected not to move forward with the proposals to adopt an attachments standard for prior authorization transactions.

C. Standards and Code Sets Organizations

The HIPAA Standards for Health Care Attachments proposed rule presented information about the organizations responsible for developing and maintaining the transaction standards and code sets that we are adopting in this final rule. Information about each organization's balloting process—the process by which they vet and approve the products they develop and changes thereto—is available on their respective websites. We provide links to these websites in this section.

As we stated previously, the law requires any standard adopted under HIPAA to be developed, adopted, or modified by an SSO. Section 1171 of the Act provides that an SSO is an organization accredited by the American National Standards Institute (ANSI) that develops standards for information transactions, data elements, or any standard that is necessary to, or will facilitate the implementation of, administrative simplification. Pursuant to section 1172(c)(3) of the Act, a HIPAA SSO must develop, adopt, and modify standards in consultation with certain organizations: the National Uniform Billing Committee (NUBC), National Uniform Claim Committee (NUCC), Workgroup for Electronic Data Interchange (WEDI), and American Dental Association (ADA). The two SSOs associated with this final rule are the Accredited Standards Committees (ASC) X12 and HL7, both of which maintain websites where the required IGs may be obtained. One other organization, the Regenstrief Institute (Regenstrief), a health research institution and not an SSO, maintains a code set named Logical Observation Identifiers Names and Codes (LOINC), which is important to this rulemaking.

1. X12 [5]

The first SSO associated with this final rule is X12, which develops and maintains standards for the electronic exchange of business-to-business transactions. An ANSI-accredited organization, X12 membership is open to all individuals and organizations. An X12 subcommittee known as Subcommittee N: Insurance (X12N) develops and maintains electronic standards specific to the insurance industry, including, but not limited to, health insurance. Comprised of volunteers, X12N develops standards for electronic health care transactions for common administrative activities including: (1) claims; (2) remittance advice; (3) claims status; (4) enrollment; (5) eligibility; (6) authorizations and referrals; and (7) electronic health care claims attachments. X12N is responsible for obtaining consensus on the standards from the entire organization and producing draft documents that it makes available for public review and comment, which it addresses as necessary before voting on any proposal. Proposals must then be reviewed and ratified by a majority of the X12N voting members and X12's executive committee.

2. HL7 [6]

The second SSO associated with this final rule is HL7, an ANSI-accredited SSO that develops and maintains standards for the exchange, integration, sharing, and retrieval of electronic health information that supports clinical practice and the management, delivery, and evaluation of health services. Its domain is principally clinical data, and its specific emphasis is the interoperability between health care information systems. HL7's membership is open to all individuals and organizations, and it focuses its interface requirements on the entire health care industry, not just a subset of it.

HL7 conducts a multi-step process called balloting to solicit feedback and comments on standards and specifications prior to publication.[7] A technical committee, such as a workgroup, develops the standard or specifications, which is then submitted for consideration under the balloting process. All HL7 members are eligible to vote and submit feedback on standards, regardless of whether they are members of the committee that developed the standard. Non-members may also vote on a given ballot for a standard, though to do so they must pay an administrative fee. After reviewing feedback received during voting, HL7 technical committees vote on ''recommendations,'' which require a two-thirds majority for approval. HL7 standards are available to the public on its website, and the website also describes in more detail HL7's balloting process.[8] HL7 standards are free and open source, and documentation is available to anyone to ensure that all implementers can equally access information.

3. The Regenstrief Institute (Regenstrief) [9]

Regenstrief is a health research institution that develops and maintains a code set, LOINC, which is the code system, terminology, and vocabulary for identifying individual clinical results and other clinical information. Regenstrief supports the development of a code system for attachments use cases and works closely with the HL7 Payer/Provider Information Exchange (PIE) Work Group (formerly known as the Attachments Work Group) to develop a set of LOINC codes to uniquely indicate the type and content of attachment information in electronic transmissions. Regenstrief maintains LOINC through its LOINC Committee, which is composed of volunteer representatives from academia, industry, and government who serve as subject matter experts in their domains of expertise. That committee establishes overall naming conventions and policies for the development process.

D. Industry Standards, Code Sets, and IGs

1. Electronic Data Interchange (EDI) and Transaction Standards

In the HIPAA Standards for Health Care Attachments proposed rule, we discussed how HIPAA transactions involve the electronic transmission of information between two parties to carry out health care-related financial or administrative activities (87 FR 78441). These activities include health insurance claims submissions and prior authorization requests, and HIPAA standards for those transactions require uniformity for EDI of those transmissions.

The benefit of HIPAA standards is that they use a common interchange structure, eliminating covered entities' need to have information technology (IT) systems that accommodate multiple proprietary, and potentially continually changing, data formats. The interchange structure uniformity enables covered entities to exchange medical, billing, and other information to process transactions more expeditiously and cost-effectively, reduces handling and processing time, and eliminates the risk of lost paper documents, thereby reducing administrative burdens,

[5] X12. (n.d.). Retrieved from *https://X12.org/.*

[6] Health Level Seven International. (n.d.). Retrieved from *https://www.HL7.org/.*

[7] Health Level Seven International. (n.d.). HL7 Balloting. Retrieved from *https://confluence.hl7.org/display/HL7/HL7+Balloting.*

[8] Health Level Seven International. (n.d.). Retrieved from *https://www.hl7.org/.*

[9] Logical Observation Identifiers Names and Codes from Regenstrief. (n.d.). Retrieved from *https://loinc.org/.*

lowering operating costs, and improving overall data quality.

HIPAA transaction standards specify: (1) data interchange structures (message transmission formats); and (2) data content (all of the data elements and code sets inherent to a transaction and not related to the format of the transaction). Implementation specifications detail the nature, location, and content format of each piece of information transmitted in a transaction. Standardization of transactions also involves: (1) specification of the data elements that are exchanged; (2) uniform definitions of those specific data elements in each type of electronic transaction; (3) identification of the specific codes or values that are valid for each data element; and (4) specification of the business actions each party must take to ensure the exchange of administrative transactions occurs smoothly and reliably, regardless of the technology employed.

a. IGs—X12

As discussed in section II.C.1. of this final rule, X12 develops and maintains standards for the electronic exchange of business-to-business transactions. X12N publishes transmission standards that apply to many lines of insurance business. For example, the X12N 820 message format for premium payment may be used for automobile and casualty insurance. X12 implementation specifications, referred to by the industry as IGs and written collaboratively by X12N workgroups, make these general standards functional for industry-specific uses. The specifications are based on X12 standards, but contain detailed instructions for using the standard to meet a specific business need. X12's implementation specifications for HIPAA transaction standards adopted by the Secretary are known as ''Technical Reports Type 3'' (TR3). Each X12N IG has a unique version identification number represented in a parenthetical, where the highest version number represents the most recent version. HHS adopted the then-updated Version 5010 of the X12 standards in the Modifications final rule (74 FR 3296), while this final rule adopts Version 6020 of the X12N 275 and X12N 277 standards, the rationale for which we discuss in section III. of this final rule.

b. IGs—HL7

HL7's PIE Workgroup develops standards for electronic health care attachments. The workgroup, which includes industry experts representing health care providers, health plans, and health technology vendors, is also responsible for creating and maintaining the IGs. The IGs are sets of instructions and associated code tables that describe, list, or itemize the content, format, and code to be sent, and specify how such information is to be conveyed in an electronic health care attachment.

The HL7 CDA is an XML-based (a computer programming language) markup standard that specifies the encoding, structure, and semantics of clinical documents for purposes of transmitting attachment information. XML-coded files have the same characteristics and information as hard copy documents, so regardless of how data are sent within a transaction, they can be read and processed by both people and machines. An important feature of the CDA standard is that it allows the entire body of an electronic document to be replaced by an image, for example, a scanned copy of a page or pages from a medical record. That permits the clinical content to be conveyed by an image or text document, but a header still supports automated document management. The CDA header contains standardized, machine-readable data elements, such as document type, patient and provider identifiers, and service dates that enable health information technology (health IT) systems to automatically route, index, associate, and manage attachment documents even when the document body consists of images or other non-structured content. This feature of the CDA standard is relevant because it accommodates health care attachments that may not be conducive to XML formatting, such as medical imaging, video, or audio files.

HL7 also produces the C–CDA standard that provides specifications for formatting document templates, depending on whether they are structured or unstructured, enabling the CDA to create numerous specific document types, known as templates. The HL7 C–CDA IG document templates are designed to be electronic versions of the most common types of paper document attachment information. Attachment information not included in a template may be created by using instructions included in the finalized unstructured document IG; supported unstructured formats include MSWORD, PDF, Plain Text, RTF Text, HTML Text, GIF Image, TIF Image, JPEG Image, and PNG Image.

2. Code Sets

Transaction data content standardization involves identifying the specific codes or values for each data element. Health care EDI requires many types of code sets, including large medical data code sets and classification systems for medical diagnoses, procedures, and drugs, and smaller code sets to identify categories, such as facility type, currency, units, or a state within the United States. Large data code sets include those developed and maintained by federal agencies, such as the Centers for Medicare & Medicaid Services' (CMS) Healthcare Common Procedure Coding System (HCPCS), and by private organizations, such as the American Medical Association's (AMA) Current Procedural Terminology (CPT®) and the ADA's Code on Dental Procedures and Nomenclature (CDT Code).[10] [11] These code sets have been adopted through rulemaking under HIPAA in the Transactions and Code Sets final rule (65 FR 50312) and are mandated for use in federal and state health care programs, such as Medicare, Medicaid, and the Children's Health Insurance Program (CHIP). SSOs require or permit their use in their standards.

3. IGs as HIPAA Standards

Section 1172(d) of the Act directs the Secretary to establish specifications for implementing each of the adopted standards. As we explained previously, SSOs have developed IGs by which to implement the same standards for different business purposes. In the HIPAA Standards for Health Care Attachments proposed rule, we proposed an approach we have taken with previous HIPAA Rules that adopted a specific IG as both the ''standard'' and the ''implementation specifications'' for each health care transaction (87 FR 78442).

In pursuing this approach, we were mindful that section 1104(c)(3) of the Affordable Care Act requires that the Secretary promulgate a final rule to establish a transaction standard and a single set of operating rules for health care attachments that is ''consistent with the X12 Version 5010 transaction standards.'' We interpreted this requirement to mean that the proposed health care attachment implementation specifications must be compatible with X12 standards generally, meaning any standard we adopt for attachment information can be electronically transmitted by an X12 transmission standard in the same transaction (87 FR 78442). The Affordable Care Act was enacted in 2010, at which time we had adopted Version 5010 of the X12 standards. A decade later, we

[10] CPT® is a registered service mark of the American Medical Association.

[11] The CDT code set is a proprietary code set.

interpreted the Affordable Care Act's mandate as referencing the then-current standards—the X12 Version 5010—but not specifically requiring adherence in perpetuity to a static standard, which would contravene the HIPAA standards paradigm that is premised on standards evolution over time and be contrary to logic as X12 continues to publish newer versions of its standards. Therefore, in the HIPAA Standards for Health Care Attachments proposed rule, we proposed to adopt Version 6020 of certain X12 standards (87 FR 78447).

Additionally, we proposed to adopt transaction standards that can be used together in a single electronic transmission (87 FR 78447 through 78449). HL7 standards can work in conjunction with other standards like X12. The HIPAA covered entities who would use the health care claims attachment standard are currently using X12 transaction standards, so adoption of a health care claims attachment standard using X12 standards, which are being finalized in this final rule, should have minimal impact on covered entities.

Separately, we are also aware that SSOs are developing and piloting other types of standards. In the HIPAA Standards for Health Care Attachments proposed rule, we solicited public comment on this and any alternative implementation specifications that may be considered compatible with X12 Version 5010 (87 FR 78442). Commenters were supportive of our proposals pertaining to claims attachments, however, commenters expressed concerns about the proposals to include prior authorization within the attachment transaction. Commenters identified additional standards for consideration, specifically the HL7 Fast Healthcare Interoperability Resources (FHIR®) standard.[12] We summarize the alternatives that commenters recommended we consider, and provide our full response to these comments, in section III.D.2. of this final rule.

E. The NCVHS Recommendations to the Secretary

In the proposed rule, we stated that the NCVHS is a statutorily designated advisory committee that provides the Secretary with recommendations on health information policy and standards (87 FR 78447).[13] Among the ways it does so is by convening regular forums with industry groups on key issues related to population health, standards, privacy and confidentiality, and data access and use. Pursuant to HIPAA, the NCVHS advises the Secretary on the adoption of standards, implementation specifications, code sets, identifiers, and operating rules for HIPAA transactions. For readers' reference, we include here the process discussion also found in the HIPAA Standards for Health Care Attachments proposed rule.

The NCVHS held a number of hearings and made several sets of recommendations to the Secretary on claims attachment standards, which are reflected in the administrative record and described in prior **Federal Register** notices. For example, the HIPAA Standards for Health Care Attachments proposed rule discusses the NCVHS subcommittee hearings, correspondence to the Secretary, and its March 30, 2022 recommendation urging prompt adoption of a claims attachments standard (87 FR 78443 and 78444).

The NCVHS Standards Subcommittee held a November 17, 2011 hearing on health claims attachments to gather information regarding new business needs, priorities, issues, and challenges. Participant testimony addressed the development status of standards and implementation specifications. Some organizations testified regarding their interest in serving as attachments operating rules authoring entities. In a letter to HHS dated March 2, 2012, the NCVHS Subcommittee on Standards advised HHS that it was premature to make formal recommendations regarding the adoption of any standard, implementation specification, or operating rule associated with health care attachments.[14] On May 5, 2012, the NCVHS recommended that the Council for Affordable Quality Healthcare (CAQH), a nonprofit entity whose stated mission is to improve the efficiency, accuracy, and effectiveness of industry-driven business transactions, be designated as the operating rules authoring entity.[15]

The NCVHS Subcommittee held a second hearing on health claims attachments on February 27, 2013, where it identified a trend toward convergence of administrative and clinical information. In a June 21, 2013 letter, the NCVHS recommended that the Secretary adopt a number of initial attachments-related transaction standards by January 1, 2016 (the date by which the Affordable Care Act required claims attachment standards to be effective), but advised HHS to take a comprehensive and incremental approach to considering attachment standards to promote innovation and flexibility.[16] The NCVHS noted there was industry consensus that adoption of standards should not be limited to ''claim attachments,'' but, rather, should be more inclusive of any kind of attachment with administrative or clinical information. It recommended that attachments-related transaction standards should be applied to claims, eligibility, prior authorization, referrals, care management, post-payment audits, and any other administrative processes for which supplemental information is needed. Among other recommendations, the NCVHS advised HHS that attachment standards should support structured and unstructured data, and both solicited and unsolicited transmissions. It further advised that attachments standards should be defined for two types of transactions: (1) Query (the electronic solicitation of an attachment); and (2) Response (the electronic transmission of an attachment). The NCVHS held another hearing on health care attachments on February 15, 2016, and on July 5, 2016 sent the Secretary a letter titled: ''Recommendations for the Electronic Health Care Attachment Standard.'' [17] This letter consolidated its previous recommendations on attachments and advised that updated versions of the available standards were ready for industry use, and there was unanimous testimony that the health care industry was eager to see them adopted. The NCVHS recommended that HHS complete additional rulemaking to adopt the recommended standards

[12] Health Level Seven International. (2023). Guide to Using HL7 Trademarks. Retrieved from *http://www.hl7.org/legal/trademarks.cfm?ref=nav.* HL7 requires the registered trademark with the first use of its name in a document, for which policies are available on its website at *www.HL7.org.*

[13] At the time this final rule was being drafted, the NCVHS website was undergoing maintenance. National Committee on Vital and Health Statistics. (n.d.). Retrieved from *https://ncvhs.hhs.gov/.* Website references herein to NCVHS recommendation and artifacts reflect access made prior to the initiation of maintenance mode and also appeared in the proposed rule. Current inquiries seeking NCVHS recommendation letters and other artifacts referenced herein should be directed to: *FACMT@cdc.gov.*

[14] National Committee on Vital and Health Statistics. (2012, March 2). Claim Attachments. Retrieved from *https://ncvhs.hhs.gov/wp-content/uploads/2014/05/120302lt1.pdf.*

[15] National Committee on Vital and Health Statistics. (2021, May 5). Recommendations to Designate an Authoring Entity and Ensure Industry Collaboration for the Development of Operating Rules for Health Care Administrative Transactions. Retrieved from *https://ncvhs.hhs.gov/wp-content/uploads/2014/05/120505lt.pdf.*

[16] National Committee on Vital and Health Statistics. (2013, June 21). Attachments Standards for Health Care. Retrieved from *https://ncvhs.hhs.gov/wp-content/uploads/2014/05/130621lt2.pdf.*

[17] National Committee on Vital and Health Statistics. (2016, July 5). Recommendations for the Electronic Health Care Attachment Standard. Retrieved from *https://ncvhs.hhs.gov/wp-content/uploads/2018/03/2016-Ltr-Attachments-July-1-Final-Chair-CLEAN-for-Submission-Publication.pdf.*

considering the length of time that had elapsed since the 2005 publication of the previous, and, ultimately, premature Standards for Electronic Health Care Claims Attachments proposed rule (70 FR 55990), and subsequent technology advancement and stakeholder readiness.

On March 30, 2022, the NCVHS sent the Secretary a letter titled: ''Recommendations to Modernize Aspects of HIPAA and Other HIT [(Health Information Technology)] Standards to Improve Patient Care and Achieve Burden Reduction.'' [18] This letter continued to stress previous recommendations urging the Secretary to adopt a standard for electronic attachments as soon as possible, and also stated—

> We recognize that there is ongoing debate and no definitive industry consensus about the role of attachments (*i.e.,* documents) as opposed to data (*i.e.,* a string of data elements not structured within a document). While the vision with APIs [(Application Programming Interfaces)] based on FHIR seem to be driving toward more of a data-driven transaction, we see more than sufficient industry demand for a document-based attachment standard, and we do not foresee any imminent demise of the utility of digital documents. We suggest short-term publication of an attachment rule, with consideration for emerging standards based on recent input from industry and other advisory group discussions. This could add immediate value for industry and could support future actions as HIPAA's procedural requirements may be updated to allow for non-document type digital attachment data.[19]

Based on the NCVHS's previous recommendations to the Secretary, and particularly in consideration of its most recent March 30, 2022 recommendation, we are finalizing adoption of a document-based attachments standard for healthcare claims or equivalent encounter transactions in this final rule.

F. Other Industry Recommendations

1. Consensus-Based Organization Support

Industry consensus-based organizations, which vet proposals before they are presented to the NCVHS, agree that the standards we proposed are sufficiently mature to support health care business needs. Both WEDI and the CAQH Committee on Operating Rules for Information Exchange (CORE) have described the benefits that adopting health care attachments standards would bring in automating and streamlining workflows that, today, are primarily manual processes and sources of significant administrative burden. We discussed their perspectives in the HIPAA Standards for Health Care Attachments proposed rule (87 FR 78443).

In May 2019, CAQH CORE issued a document titled: ''Report on Attachments: A Bridge to a Fully Automated Future to Share Medical Documentation,'' where it reported evidence from its 2018 environmental scan indicating a high degree of industry readiness and interest in the attachments standard.[20] The report noted that ''the health care industry continues to wait for an electronic attachments standard that can simplify the exchange of necessary medical information and supplemental documentation.'' Specifically, the report stated that ''health plans, providers and vendors lack the direction needed to support broad use of automation in the attachment workflow, or for industry to coalesce around the use of even a small number of electronic solutions,'' leading to largely manual, and often paper-based, processes, and ultimately underscoring the need to standardize electronic attachment exchange methods.

2. Other Recent Public Comment Support

CMS published the Reducing Administrative Burden to Put Patients Over Paperwork request for information (RFI), which appeared in the **Federal Register** on June 11, 2019 (84 FR 27070). That RFI solicited public comment on ideas for regulatory, subregulatory, policy, practice, and procedural changes to reduce unnecessary administrative burdens for clinicians, providers, patients, and their families, with an aim to improve quality of care, lower costs, improve program integrity, and make the health care system more effective, simple, and accessible. To be clear, the RFI did not relate to, and was not for the purpose of, soliciting comments on HHS's efforts pertaining to HIPAA Administrative Simplification. Nevertheless, many commenters, including organizations representing physician provider groups, insurance payers, health technology vendors, health care financial managers, and health IT standard advisory bodies, called for the publication of a HIPAA electronic attachments proposed rule to be accelerated, as well as guidance on other standards, such as electronic signature protocols to achieve these goals. These commenters indicated that adoption of a HIPAA attachments standard could help reduce administrative burden in many clinical and administrative situations where documents need to be shared, and relieve providers of current burdensome, largely paper-based, processes.

In preparation for its August 25, 2020 Standards Committee Meeting, the NCVHS invited the public to provide feedback on the CAQH CORE operating rules for prior authorization transactions. In response, commenters expressed their support for the adoption of an attachment standard. Commenters also provided input on current standards development efforts underway to address prior authorization challenges, including recommendations for the Secretary to explore or allow the use of other standards or alternative approaches.[21] In that regard, we acknowledge there is a growing base of evidence that may support our adopting attachment standards that rely on emerging technologies, such as APIs. We refer readers to section III.D.2. of this final rule for a summary of public comments received on the proposed rule regarding emerging technologies, such as APIs, and our response to them.

III. Provisions of the Proposed Rule, Analysis of and Responses to the Public Comments Received, and Final Provisions

In response to the HIPAA Standards for Health Care Attachments proposed rule, which appeared in the December 21, 2022 **Federal Register** (87 FR 78438), we received more than 120 timely pieces of correspondence commenting on health care claims and prior authorization attachments.

In general, commenters were supportive of HHS's efforts to adopt health care claims attachments standards that could potentially mitigate

[18] National Committee on Vital and Health Statistics. (2022, March 30). Recommendations to Modernize Aspects of HIPAA and Other HIT Standards to Improve Patient Care and Achieve Burden Reduction. Retrieved from *https://ncvhs.hhs.gov/wp-content/uploads/2022/04/Recommendation-Letter-HIT-Standards-Modernization-to-Improve-Patient-Care-March-30-2022.pdf.*

[19] National Committee on Vital and Health Statistics. (2022, March 30). Recommendations to Modernize Aspects of HIPAA and Other HIT Standards to Improve Patient Care and Achieve Burden Reduction. Retrieved from *https://ncvhs.hhs.gov/wp-content/uploads/2022/04/Recommendation-Letter-HIT-Standards-Modernization-to-Improve-Patient-Care-March-30-2022.pdf.*

[20] The Council for Affordable Quality Healthcare Committee on Operating Rules for Information Exchange. (2019). CAQH CORE Report on Attachments: A Bridge to a Fully Automated Future to Share Medical Documentation. Retrieved from *https://www.caqh.org/hubfs/43908627/drupal/core/core-attachments-environmental-scan-report.pdf.*

[21] National Committee on Vital and Health Statistics. (2020, August 25). NCVHS Standards Subcommittee on Standards Hearing on Request for NCVHS Review of CAQH CORE Operating Rules for Federal Adoption. Retrieved from *https://ncvhs.hhs.gov/wp-content/uploads/2020/09/Standards-Transcript-8-25-20Final-508.pdf.*

longstanding issues pertaining to the manual transmission of health care claims attachments. Importantly, however, commenters recommended that HHS, at this time, adopt only standards for health care claims attachments transactions and *not* for prior authorization attachments transactions, as we had also proposed. We explain in this final rule that we are confining the scope of this rule's finalized policies to claims attachments transactions, and we explain our rationale for not finalizing our proposals to adopt the X12N 278 standard for prior authorization attachments transactions.

A. Decision Regarding the Adoption of X12N 278—Health Care Services Request for Review and Response (006020X315)

In the HIPAA Standards for Health Care Attachments proposed rule, we proposed to adopt Version 6020 of the X12N 278—Health Care Services Request for Review and Response (006020X315) as the standard a health plan must use to electronically request attachment information from a health care provider to support a prior authorization transaction (87 FR 78447). That standard, we noted, is unique in that it is also used for a health care provider's request for prior authorization, as reflected in § 162.1302(b)(2)(ii) (87 FR 78447). We also proposed to incorporate the same by reference in § 162.920. Version 6020 of the X12N 278 standard would have been a modification to the existing HIPAA transaction standard, as we previously adopted Version 5010 of the X12N 278 standard in the January 16, 2009 Modifications final rule (74 FR 3296).

The X12N 278 standard supports prior authorization transactions for health care that has yet to be rendered by the requesting provider, as well as responses from health plans for authorizations or for referrals to another provider, such as when a provider refers a patient to a specialist or for inpatient care.[22] Using the X12N 278 standard for prior authorization transactions, the health plan transmits a response to the health care provider. This response contains coded information that can then be utilized in a health care claim to indicate that the billed items or services were approved by the health plan before being rendered, or that a referral to another provider has been approved.

After reviewing public comments, we are not adopting an attachments standard for prior authorization at this time. Commenters cited limited industry experience implementing the X12N 278 standard for prior authorization attachments, variability in current prior authorization workflows, and potential conflict with other federal interoperability initiatives requiring FHIR-based prior authorization API capabilities. Instead, we are adopting standards only for health care claims attachments. This approach reflects current industry readiness and supports administrative simplification while allowing continued evaluation of evolving standards for prior authorization.

Comment: Although several commenters expressed support for HHS's efforts to reduce the burden of prior authorizations by adopting electronic standards to create a streamlined prior authorization process that meets the needs of health plans and providers, more commenters opposed HHS's finalizing the proposed adoption of X12N 278 standard with respect to prior authorization attachments transactions. Commenters asserted that: (1) there is a lack of agreement on data element standardization within the industry; (2) entities have a wide range of prior authorization workflows and common definitions; (3) previous attempts to leverage the X12N 278 standard to support prior authorizations have failed; (4) the X12N 278 standard for prior authorization transactions was never fully implemented in the industry; (5) the X12N 278 standard for prior authorization transactions will not support the requests or responses of a FHIR-based questionnaire; and (6) HHS's goal of efficient, cost-effective, simplified interoperability may be impeded by health IT vendors constantly having to deal with exceptions due to conflicting requirements across various rulemaking efforts.

Commenters also expressed concern that HHS's proposed X12N 278 standard for prior authorization attachments transactions that appeared in the HIPAA Standards for Health Care Attachments proposed rule may conflict with provisions of a CMS proposed (and now finalized) rule that appeared nearly simultaneously in the **Federal Register**, on December 13, 2022 titled: ''Medicare and Medicaid Programs; Patient Protection and Affordable Care Act; Advancing Interoperability and Improving Prior Authorization Processes for Medicare Advantage Organizations, Medicaid Managed Care Plans, State Medicaid Agencies, Children's Health Insurance Program (CHIP) Agencies and CHIP Managed Care Entities, Issuers of Qualified Health Plans on the Federally-Facilitated Exchanges, Merit-Based Incentive Payment System (MIPS) Eligible Clinicians, and Eligible Hospitals and Critical Access Hospitals in the Medicare Promoting Interoperability Program'' (hereinafter referred to as the CMS Interoperability and Prior Authorization proposed rule) (87 FR 76238).

Commenters also requested clarification or provided HHS with certain recommendations for consideration in the event HHS finalized the adoption of the X12N 278 standard for prior authorization attachments transactions. A commenter recommended that if HHS were to adopt the X12N 278 standard, HHS should continue the use of Version 5010 and not adopt Version 6020 of the X12N 278 standard, asserting that it offers no additional functionality, is untested, and may contain errors.

Response: We appreciate the comments submitted in response to our proposal to adopt a standard for health care attachments transactions that would include the prior authorization transaction standard. Upon further consideration, and as we explain herein, we have elected not to finalize the prior authorization transaction standard proposal. Rather, we are adopting only the standards for health care claims attachments transactions. Our decision reflects substantive consideration of several interrelated concerns raised by commenters, many of which point to foundational issues that could have impeded effective implementation.

First, numerous commenters cited the lack of industry consensus regarding data element standardization. Prior authorization processes vary widely across health plans, and there is currently no agreed-upon, consistent set of data elements that supports a level of automation and interoperability consistent with HIPAA Administrative Simplification goals. While a standard like the X12N 278 is intended to create a unified structure, in practice the diversity of clinical and operational use cases would have made its application difficult to scale.

Second, commenters emphasized that prior authorization workflows differ significantly across organizations and are often not standardized even within the same type of entity. These workflows include clinical decision-making, review protocols, timing of documentation, and routing processes, all of which influence where and how attachment information is requested and supplied. While a technical standard could, in theory, be inserted into any

[22] *See* 45 CFR 162.1301.

point in the workflow, the absence of shared operational expectations and integration strategies greatly increases the risk of fragmentation, workarounds, and vendor-specific implementations, which would undermine the goal of interoperability and could increase, rather than reduce, provider burden.

Third, many commenters pointed out that previous attempts to use the X12N 278 standard to support prior authorization have not been successful. There is limited industry adoption and very few operational use cases that demonstrate consistent, real-world functionality of the standard in the context of attachments. The lack of implementation and testing means that critical issues related to content sufficiency, response timing, and payload alignment remain unresolved. Interested parties also raised specific concerns that Version 6020 offers no additional functional value over Version 5010, and, in fact, could introduce unvetted changes that have not been adequately tested or validated.

In addition, we acknowledge commenters' concern that adopting a prior authorization attachment standard under HIPAA could conflict with requirements of the aforementioned, and now finalized, CMS Interoperability and Prior Authorization final rule that appeared in the January 17, 2024 **Federal Register** in which CMS mandated the use of a FHIR Prior Authorization Support API by CMS-regulated health plans and payers (89 FR 8758).

We also acknowledge certain commenters' suggestions that the current low adoption rate for Version 5010 of the X12N 278 standard may itself be attributable to the absence of a mandated prior authorization attachments standard. Though that is a plausible contributing factor, it would not mitigate the practical concerns about industry readiness, data variability, and implementation barriers that commenters identified. Simply requiring the use of a standard in this context—without sufficient groundwork to ensure feasibility and alignment—would risk ineffective uptake and could impose new burdens rather than resolve existing ones.

In light of these reasonable concerns, we concluded it would be imprudent to now proceed to finalize adoption of a prior authorization attachments standard, so the finalized policies in this final rule are limited to attachments for the health care claims or equivalent encounter transactions and associated electronic signature standards. This permits us to focus our regulatory resources, and the industry to focus its resources, on a narrower set of transactions for which there is stronger implementation maturity, standards infrastructure, and stakeholder alignment.

We remain committed to improving the prior authorization process and recognize the importance of establishing electronic standards that reduce burden and promote interoperability. We will continue to monitor testing of alternative transaction standards, including FHIR-based solutions, and will continue to engage with industry-led SSOs to evaluate readiness for potential adoption of a prior authorization attachments standard.

B. Overview of Final Requirements

Nearly every health plan has various requirements for health care providers to submit additional information beyond that contained in a HIPAA transaction. A health care provider may transmit this additional information in a ''solicited'' or an ''unsolicited'' fashion. In solicited transmissions, a health care provider transmits additional information pursuant to a health plan's specific electronic request (87 FR 78444). Conversely, in unsolicited transmissions there are no specific electronic requests. Rather, they typically occur pursuant to pre-established health plan requirements for health care providers to transmit additional information—to support, for example, certain diagnoses, items, services, or medications—that are set forth in trading partner agreements or other guidance (87 FR 78444).

Although health care providers may transmit this additional information electronically via an attachment to a health care claims transaction, today and historically health care providers have frequently transmitted the information via burdensome manual processes that often involve paper mail, fax, and phone because there have been no previously adopted HIPAA standards for health care claims attachments.

We are adopting standards for health care claims attachment transactions in this final rule. In doing so, we first define the term ''attachment information.''

C. Definitions of Attachment Information and Health Care Claims Attachments Transaction

In adopting an attachment transaction standard, we determined we needed to define ''attachment information'' and ''health care claims attachments transaction.'' We proposed to separately define the two terms to prevent the definition of health care claims attachments transaction from becoming too unwieldy and further clarify this in our responses to comments later in this section.

1. Definition of Attachment Information

We proposed to define attachment information in § 162.103 as documentation that enables the health plan to make a decision about health care that is not included in either of the following:

- A health care claims or equivalent encounter information transaction, as described in § 162.1101.
- A referral certification and authorization transaction, as described in § 162.1301(a) and the portion of § 162.1301(c) that pertains to authorization.

We used the term ''attachment information'' in our proposed definition of the health care claims attachments transaction in § 162.2001 to specify the information transmitted by a health care provider or requested by a health plan. The proposed rule discussed how the NCVHS recommended defining attachments as ''any *supplemental documentation needed* about a patient(s) to support a specific health care-related event (such as a claim, prior authorization, or referral) using a standardized format'' (87 FR 78444 and 78445, emphasis in original).[23] We incorporated key aspects of their recommendation into our proposed definition of ''attachment information,'' while attempting to ensure that the definition was broad and general enough to include all possible patient-related information that could be generated with respect to health care services. The full discussion of the proposed definition of ''attachment information,'' to which we refer readers, further details the NCVHS's recommendations for the definition to include reference to ''documentation,'' ''supplemental,'' and ''needed'' (87 FR 78445).

We solicited public comments on the proposed definition of ''attachment information'' and received feedback from interested parties, which we considered in developing this final rule.

Comment: Multiple commenters expressed support for the proposed definition of attachment information. Some commenters indicated that the definition proposed for attachment information sufficiently captures what is necessary for solicited and

[23] National Committee on Vital and Health Statistics. (2016, July 5). Recommendations for the Electronic Health Care Attachment Standard. Retrieved from *https://ncvhs.hhs.gov/wp-content/uploads/2018/03/2016-Ltr-Attachments-July-1-Final-Chair-CLEAN-for-Submission-Publication.pdf.*

unsolicited exchange of supplementary medical information.

Response: We appreciate commenters' support of our proposed definition of ''attachment information.''

Comment: A commenter agreed that the proposed definition of ''attachment information'' needs to be broad and general enough to include all possible patient-related information that could be generated with respect to health care services. The commenter acknowledged that HHS explicitly defined the documentation as supplemental, meaning it is documentation ''that is not included'' in a health care claims or prior authorization transaction, which the commenter believed means that the health care attachment standards are dependent upon and linked to the accuracy and completeness of these other HIPAA transaction standards. The commenter also noted that effective adoption of the health care attachments standards is impossible without effective adoption of the other standards, and requested that HHS actively support and verify the effective use of those HIPAA transaction standards, and these health care attachment standards once finalized, as HHS did during the health care industry's transition from International Classification of Diseases (ICD), Ninth Revision (ICD–9) to ICD, Tenth Revision (ICD–10).

Response: We appreciate the commenter's observations supporting a broad and general definition of ''attachment information,'' and agree that the definition must be sufficiently inclusive to encompass the full range of patient-related documentation a health plan may require in support of a health care claim or equivalent encounter transaction.

We likewise agree with commenters that the finalized definition should appropriately exclude documentation already required or contained within other adopted HIPAA transaction standards and clarify that this exclusion is deliberate and consistent with the principles of administrative simplification and the goal of reducing duplicative documentation burdens.

As noted in the HIPAA Standards for Health Care Attachments proposed rule, we initially proposed a definition of ''attachment information'' that would have applied with respect to both claims and prior authorization transactions. For the reasons articulated in section III.A. of this final rule, we are not finalizing adoption of a prior authorization attachment transaction standard, so the finalized definition of ''attachment information'' applies only in the context of health care claims or equivalent encounter information transactions. This narrowed scope is reflected in the revised definition we are finalizing in § 162.103, which specifies that ''attachment information'' is documentation that enables a health plan to make a decision about health care that is not included in a health care claims or equivalent encounter information transaction, as described in § 162.1101.

Comment: Several commenters suggested changes to the proposed definition of ''attachment information'' or associated requirements on health plans. A commenter recommended that the definition be revised to state that attachment information should ''enable providers to make decisions about what healthcare content the payer requires in the healthcare attachment.'' Another commenter suggested that HHS dictate that payers, after receipt of an initial attachment, not be able to serially add documentation requirements.

A different commenter was concerned that too broad a definition could allow payers to require supplemental documentation for routine care such as vaccines, well child visits, or routine prescriptions, which could potentially increase financial burden on small and independent pediatricians who provide safety net care to rural or low-income or both populations. That commenter recommended that HHS consider adopting the NCVHS's definition of ''attachment information'' as it only included supplemental information without which a claim could not be properly adjudicated.

Response: We appreciate the commenters' concerns but do not believe it is appropriate or necessary to modify the definition of ''attachment information'' to account for such concerns as our proposal was intended to identify the type of documentation exchanged. Ultimately, payers' business and payment-decision rules fall outside the scope of HIPAA. In other words, though we appreciate that health care providers may experience added burden should health plans request additional documentation following an initial submission, HIPAA transaction standards govern the format and content of the electronic exchange, not payers' business practices or the quantum of documentation they may require. Therefore, we are finalizing a slightly modified definition of ''attachment information,'' revised only to account for the fact that we are not adopting prior authorization attachments standards.

We also continue to believe that it is crucial that the definition of ''attachment information'' in HHS's administrative simplification implementing regulations be broad and general enough to apply to all situations where a health plan requires attachment information to support a health care claims or equivalent encounter information transaction. In this final rule, we are adopting a definition of ''attachment information'' that incorporates key aspects of the NCVHS's definition. Though our definition of ''attachment information'' does not include the NCVHS-recommended term ''supplemental,'' it incorporates that concept as it specifies documentation ''that is not included'' in a health care claims or equivalent encounter information transaction, as described in § 162.1101, to express that the documentation would be supplemental.

In our finalized definition, we chose not to limit the definition strictly to documentation without which a claim ''could not be adjudicated,'' as suggested by the commenter, because such a narrow framing may not accommodate the diversity of documentation that different health plans may reasonably require based on their benefit structures, medical necessity criteria, or regulatory obligations. For example, certain documentation may not by itself determine a claim's payability but may still be necessary under specific plan policies or for administrative or compliance purposes.

The commenter was concerned that a broad definition of ''attachment information,'' such as the definition being finalized in this rule, could prompt health plans to require documentation for routine services, which could administratively or financially burden small health care providers, especially those serving rural or underserved populations. However, we note that nothing prohibits a health plan from requiring such documentation today under the manual processes currently in widespread use (which are more labor and resource intensive than an electronic transaction). Therefore, we do not agree that finalizing this definition of ''attachment information'' or the adoption of a standard for health care claims attachments in and of themselves would cause health plans to make broad requests for documentation. We also believe the definition we are finalizing appropriately balances flexibility with restraint by tying the use of attachment information directly to a standard claims or equivalent encounter transaction and explicitly excluding any information already required by the transaction standard itself, which would ensure that attachment information is supplemental in nature and transaction-

specific while also providing sufficient adaptability across diverse payer-provider contexts.

Comment: Multiple commenters stated that there was a critical need to improve the clarity of the proposed definition of ''attachment information'' as they believed the scope of the proposed definition could be expansively interpreted as applying to all use cases, permitting a ''kitchen sink'' approach to the eligible activities to which the mandated standards would apply, rather than the definition of ''attachment information'' being tied to ''a specific transaction'' such as the claims transactions. The commenters further stated that the proposed definition potentially would include any information exchange between a health care provider and other information source (for example, a clinical laboratory or immunization registry) and a health plan.

Response: We reiterate that we believe the definition of the term ''attachment information'' is adequately narrow. In the proposed, and finalized, definition of the health care claims attachments transaction in § 162.2001, ''attachment information'' refers to information transmitted by a health care provider or requested by a health plan that is necessary to make a decision about a health care claim and that is not included in the standard health care claims or equivalent encounter transaction, as described in § 162.1101. Though the definition must be sufficiently broad to encompass the various documentation that a health plan may require ''to make a decision about health care,'' it also must be clearly tied to the health care claim or equivalent encounter transaction. The finalized definition does not apply to all information exchanges between health care providers and other entities nor does it permit a ''kitchen sink'' approach to its application. It also would not authorize any action beyond those already permitted under health plan policies.

Therefore, we continue to believe the finalized definition of ''attachment information'' in § 162.103 appropriately balances clarity and flexibility, ensuring that it is broad enough to be functional in practice while remaining anchored to a defined transaction use case.

Comment: A commenter stated that they interpreted the language in the proposed definition of ''attachment information'' as not being inclusive of information needed for fraud, waste, and abuse purposes. The commenter recommended that HHS include a reference to fraud, waste, and abuse in the definition of ''needed'' in the proposed definition of ''attachment information.'' The commenter also pointed to HHS's language in the Executive Summary, part A, that the purpose of [the proposed] rule is to ''determine the necessity of a health care service as part of making a coverage decision'' and stated that fraud, waste, and abuse must be considered when a service is deemed medically unnecessary in order to maintain CMS program integrity.

Response: The definition of ''attachment information'' adopted in this final rule is intended to ensure that health plans have the documentation necessary to support proper claims processing and payment determinations. While this information may inform a payment determination, the determination itself may also depend on additional factors such as plan policies or clinical review requirements. Accordingly, certain documentation may be necessary for evaluating coverage without being solely determinative of claim adjudication. This approach would also allow health plans to use attachment information for administrative purposes, including fraud, waste, and abuse detection and prevention, without requiring a separate explicit reference to these activities in the definition.

2. Definition of the Health Care Claims Attachments Transaction

In the HIPAA Standards for Health Care Attachments proposed rule, we proposed to add a new Subpart T to 45 CFR part 162—Health Care Attachments (87 FR 78446). In Subpart T, in § 162.2001, we proposed to define the ''health care attachments transaction'' for health care claims transactions and prior authorization transactions. Specifically, we proposed that any of the following different types of transmissions would constitute a ''health care attachments transaction'': (1) the transmission of attachment information from a health care provider to a health plan in support of a referral certification and authorization transaction or in support of a health care claims or equivalent encounter transaction; and (2) a request from a health plan to a health care provider for attachment information. For each type of transmission, we specified the entity type from which the transaction is being transmitted and to which it is being sent, the information being transmitted, and the purpose of the transmission. We noted that the overarching purpose for each type of transmission—to enable a health plan to make a decision about health care—is incorporated into the definition of ''attachment information.'' We further specified the purpose for the two transmission types in § 162.2001(a), as discussed later in this section.

Because we are adopting only an attachment standard for health care claims, as that term is used in this rule to include health care claims or equivalent encounter information transactions, and not a standard that includes the prior authorization transaction, in § 162.2001 we rename what we had called the ''health care attachments transaction'' to the ''health care claims attachments transaction.'' [24] The finalized definition has been revised from what we had proposed to remove language specific to prior authorization (that had read in part, ''in support of a referral certification and authorization transaction'') and reformat the outline structure to account for that, so that it applies exclusively to claims attachments. Aside from that, the definition remains the same as we had proposed.

In the HIPAA Standards for Health Care Attachments proposed rule, to align with the proposed rule's scope which addressed health care attachments for health care claims or equivalent encounter information *and* prior authorization transactions, we also proposed to make a conforming change to the definition of ''transaction'' in § 160.103. We proposed to replace ''(10) Health claims attachments'' with ''(10) Health care attachments'' (87 FR 78446). Because we are not adopting the prior authorization attachments standards, we are not finalizing this proposed change. But, to align with the focus on health care attachments for health care claims or other equivalent encounter information transactions, we retain the word ''care'' from our proposal and are finalizing the definition of ''transaction'' with modification, so it reads ''Health care claims attachments.''

Comment: The majority of commenters who provided feedback on our proposed definition of the health care attachments transactions opposed the proposal. A commenter stated that because the proposed definition refers to attachments for both claims and prior authorization transactions and not just claims, it arbitrarily collapsed the two use cases into one definition, to which the commenter objected. The commenter indicated that using attachments for prior authorization transactions diverges from the statutory

[24] As we observe at n.4, while this also includes ''equivalent encounter information'' transactions (§ 161.1101(b)), attachments more likely would be requested for health care claims (§ 161.1101(a)) involving payment as opposed to the ''transmission of encounter information for the purpose of reporting health care.''

construct, which could result in confusion and difficulty unraveling them down the road.

Another commenter recommended that the proposed health care attachments transaction definition include only attachment information created and maintained by a health care provider and explained that the proposed definition was too broad and could lead to the capture of all possible patient-related health services information. The commenter stated that such a broad definition might inadvertently cause disruption to claim adjudication processes and place a greater burden on health care providers, believing that it would not limit attachment information to only what was needed for a plan to make decisions about care. Instead, a health plan might demand all possible patient-related information that could be generated with respect to health care services before deciding whether or not to cover an item or service or when conducting a post-payment audit. The commenter also stated that health care entities, such as laboratories, do not create or routinely maintain all possible patient-related information that could be generated with respect to health care services; do not routinely receive electronic attachment information from clinicians; and cannot transmit this information to health plans when requested to support claims processing. The proposed definition, the commenter claimed, could cause laboratories to receive innumerable requests from health plans for electronic attachment information that they did not create and do not maintain.

Response: As discussed in section III.A. of this final rule, numerous commenters opposed our proposal to adopt a health care attachment standard to include prior authorization as a use case and opposed the adoption of a standard for prior authorization attachments transactions, and, after further consideration, we are not finalizing adoption of a standard for prior authorization attachments transactions. We further note that the health care claims attachment definitions and standards we are adopting in this rule do not include references, or otherwise extend, to prior authorization attachment transactions.

Our proposed definition of the ''health care attachments transactions'' was intended to encompass the different types of transmissions such a transaction would encompass. For each type of transmission, we specified the entity type from which the transaction would be transmitted and to which it would be sent, the type of information being transmitted, and the purpose for the transaction. We also noted in the HIPAA Standards for Health Care Attachments proposed rule that the overarching purpose for the two types of transmissions was to enable a health plan to make a decision about health care in support of the health care transaction and that specification of the information transmitted by a health care provider or requested by a health plan in support of the transaction was incorporated into the definition of attachment information (87 FR 78446).

We emphasize that HIPAA transaction standards govern the format and conduct of electronic transactions; determinations about the amount or type of documentation that a health plan may request in support of adjudication remain subject to health plan business rules and other governing law. The term ''attachment information,'' as defined in our finalized definition at § 162.103, is limited to documentation not included in a standard claims transaction that enables a health plan to make a decision about health care. These limitations ensure that the standard does not encompass all conceivable patient-related information.

We also clarify that this rule does not create new requirements for entities that do not originate or maintain the documentation at issue. The standard applies only to the exchange of documentation that a health care provider or other covered entity already maintains and transmits as part of a claims adjudication process.

Final Action: After considering the public comments, and for the reasons discussed previously, in § 162.103, we are finalizing, with modification, the definition of ''attachment information'' as: documentation that enables the health plan to make a decision about health care that is not included in a health care claims or equivalent encounter information transaction, as described in § 162.1101.

We are also finalizing the addition of a new Subpart T to 45 CFR part 162—Health Care Claims Attachments. In Subpart T, in § 162.2001, we are finalizing the definition of the ''health care claims attachments transaction'' as the transmission of either of the following:

- Attachment information from a health care provider to a health plan in support of a health care claim or equivalent encounter information transaction, as described in § 162.1101.
- A request from a health plan to a health care provider for attachment information.

Last, because we are not adopting an attachments standard for prior authorization transactions in this final rule, as discussed in section III.A. of this final rule, we are finalizing, with modification, the proposed definition of ''transaction'' in § 160.103 by amending paragraph (10) to add the word ''care,'' (Health care claims attachments).''

D. Attachments Transaction Standards

In the HIPAA Standards for Health Care Attachments proposed rule (87 FR 78445 through 78451), we proposed to adopt certain industry consensus standards that, when used together, provide the functionality necessary for the transmission of electronic health care attachment information.[25] The standards being adopted in this final rule are for requesting and transmitting attachment information. In this section, we describe the new requirements for covered entities to use: (1) certain X12N standards for requesting and transmitting attachment information and HL7 standards for clinical information content; and (2) electronic signatures standards. We also describe how the HL7 Attachments IG utilizes the LOINC code set to identify attachment information in a consistent manner.

1. Electronic Health Care Claims (or Equivalent Encounter Information) Attachments Transactions

Health plans often require health care providers to submit additional information in association with the claims payment process. Additional information is frequently in a format, such as medical imaging or free text, not supported by the discretely defined health care claims transaction standard data fields. Claims payment is a multi-step process that may include pre-payment review, payment adjudication, and post-payment activities such as audits or recoupment reviews. The claims attachment transaction standards adopted in this final rule apply to the transmission of solicited and unsolicited attachments used in support of these stages of the claims payment process, including post-payment review activities related to claim adjudication. These standards do not apply to attachments exchanged as part of a separate claims appeal or dispute resolution process. Appeals and related

[25] For additional information about the business and operational processes involved in the exchange of these standards, we refer readers to the aforementioned November 2017 WEDI whitepaper and the HL7 CDA® R2 Attachment Implementation Guide: Exchange of C–CDA Based Documents, Release 1 (Universal Realm) for more technical information. Both are available at: *https://build.fhir.org/ig/HL7/CDA-ccda-2.1-sd/.*

transactions are outside the scope of this rule and would require separate standards to be adopted through future rulemaking.

In the HIPAA Standards for Health Care Attachments proposed rule, we proposed to adopt standards for requesting and transmitting attachment information, and to define attachment information in § 162.103, as documentation that enables the health plan to make a decision about health care that is not included in a health care claim or equivalent encounter information transaction, as described in § 162.1101. We also proposed to adopt X12N standards with respect to the transmission of attachment information and HL7 standards with respect to the clinical content of attachments. Specifically, as detailed in the sections that follow, we proposed to adopt three X12N TR3 implementation specifications for health care claims attachments (87 FR 78445) and three HL7 IGs for the clinical information embedded in those transactions (87 FR 78445).

a. Scope of Health Care Claims Attachments Transactions

Section 1173(a) of the Act requires the Secretary to adopt standards for ''health claims attachments,'' and section 1104(c)(3) of the Affordable Care Act reiterated that requirement, directing the Secretary to promulgate a final rule to adopt a transaction standard and a single set of associated operating rules. In the proposed rule, we stated that the proposed attachments standards would satisfy the requirement to adopt a standard to support health care claims but would also support prior authorization transactions (87 FR 78445). Because, as we have already explained, in this final rule we are finalizing only a definition for ''health care claims attachments,'' we use that term to refer to attachments for health care claims or equivalent encounter information transactions rather than the proposed rule's broader ''health care attachments'' phrase that was intended to include both the claims and prior authorization transaction standards.

We did not propose to adopt attachments standards for all health care transaction business needs. Rather, we stated that not only would it be challenging to identify standard specifications and appropriate codes for the full array of different health care attachment types used today, but also that it was important that covered entities gain experience with a limited number of standard electronic attachment types so that technical and business issues could be identified to inform potential future rulemaking for other electronic attachments standards (87 FR 78446).

We requested comments on alternative standards and approaches that could address the challenges described in section I.A. We summarize and respond to public comments submitted in response to this request in the next section.

2. Adoption of Electronic Health Care Claims Attachments Transaction Standards

In the proposed rule, we highlighted the NCVHS's July 5, 2016 recommendations to the Secretary on attachments standards, which are the same standards we proposed to adopt (87 FR 78446 and 78447). We title this section to only refer to the health care claims attachments standards that we are adopting in this final rule and emphasize that prior authorization attachments standards are not adopted in this final rule. But, because our proposal had been broader by including prior authorization attachments standards and thus generated comment on the broader proposal, our comment summaries and responses do include some discussion of the full scope of what had been proposed.

As mentioned in the proposed rule, and discussed again in section II.D.3. of this final rule, section 1104(c)(3) of the Affordable Care Act requires that the adopted attachments standard be ''consistent with the X12N Version 5010 transaction standards'' (87 FR 78440), which we interpret as requiring that the health care claims attachment implementation specifications we adopt should generally be compatible with X12N standards. Thus, any standard we adopt for health care claims attachments should be electronically transmitted by an X12N transaction standard in the same transaction.

While the NCVHS did not recommend specific versions of the X12N attachments standards, we proposed to adopt X12N Version 6020 for both the X12N 277—Health Care Claim Request for Additional Information (006020X313) and the X12N 278—Health Care Services Request for Review and Response Version (006020X315) as the standards a health plan must use to electronically request attachment information from a health care provider to support a prior authorization transaction. We proposed to adopt Version 6020 of the standards because they better harmonize with the X12N 275—Additional Information to Support a Health Care Claim or Encounter (006020X314) and the X12N 275—Additional Information to Support a Health Care Services Review (006020X316) (87 FR 78447), and we refer readers to the proposed rule for the full discussion of the use of these standards and their compatibility (87 FR 78446).

Comment: Multiple commenters supported the proposed attachment standards, noting the approach would enable continuous advancements in standards-based attachment content. Commenters underscored the importance that uniform standard requirements would have on furthering industry adoption of automated claims processes, which would help reduce the current manually intensive administrative burden, and, therefore, reduce costs. Similarly, one commenter stated that adopting unified standards would eliminate the need for proprietary data programs, reduce handling and processing time, eliminate the risk of lost paper documents, and, thereby, reduce administrative burden and lower costs.

Another commenter supported HHS's proposals to apply attachment standards for health care claims and prior authorization transactions. The commenter noted that while some in the industry are concerned with the lack of alignment in prior authorization standards (X12 versus FHIR), they agreed with HHS's proposed approach since the absence of an electronic attachments standard had contributed to low industry adoption rates for electronic prior authorization (ePA) transactions.

A commenter noted that, currently, health plans have requirements for submitting supporting documentation that health care providers must follow and that health plans may request further information from a health care provider to make an authorization decision. The commenter noted that health care providers must submit this information via burdensome manual processes through mail, fax, or a portal, with each health plan having different requirements. The commenter further noted that every player has a different portal to submit attachments, and managing the many access usernames and passwords is also burdensome. Therefore, the commenter stated that a standard attachment process, via a standardized electronic format, would greatly improve the process.

Another commenter noted that payers and providers would benefit from having a unified submission method for documents needed for prior authorization, claims, quality, audit, and other use cases. Another commenter stated that adopting the X12 standards

and C–CDA standards would improve patient outcomes.

Response: We thank commenters for the feedback on and support of our proposals. After careful consideration, we are adopting standards for health care claims attachments transactions to help combat the burdensome manual processes health care providers face today when transmitting supporting documentation required by health plans in association with the claims payment process. We agree with commenters that adopting standards for health care claims attachments will yield numerous benefits, including reducing administrative burden and costs, removing the need for proprietary data programs, cutting lengthy processing times, and eliminating the risk of lost paper documents. However, for the reasons extensively discussed in section III.A. of this final rule and as noted repeatedly elsewhere, we are limiting the scope of this rulemaking solely to the adoption of standards for health care claims attachments transactions.

Comment: Multiple commenters noted that the technology and regulatory spaces have significantly evolved over the years, with some expressing concern that HHS's proposals demonstrated ''2016-based thinking'' by proposing the use of X12N standards, which they stated would make the evolution of requesting and responding to supplemental data needs harder and more burdensome. One of these commenters noted that, while they support a national attachments standard for claims and prior authorizations, more flexible technologies are available that would reduce complexity. A commenter requested that HHS consider updating the required attachment standards as new methods are introduced and real-world tested. Another commenter stated that HHS proposed outdated standards, and that HHS should not require adherence to standards that would move the industry backward. Further, a commenter expressed concern about how the proposed standard requirements would fit into the business process for most health care provider organizations and expressed that even though discussion included in the proposed rule was about physically capturing data elements and the transport mechanisms, a more holistic approach would be required to bring the technical capabilities into a product suite to work for the end user. Another commenter expressed that by focusing on a document-based, as opposed to a data-driven, approach, HHS was proceeding down a standards pathway that would make the attachment standards incongruent with the standards mandated in other proposed and final rules, such as the CMS Interoperability and Prior Authorization proposed rule (87 FR 76238). Multiple commenters expressed concern regarding the proposal to adopt standards for prior authorization attachments transactions and recommended that HHS bifurcate the claims attachments and prior authorization attachments standards proposals to finalize *only* the proposed claims attachments standard. A commenter noted that section 1173(a)(1)(A) of the Act specifically calls for the establishment of a claims attachment standard, but contains no provision requiring prior authorization attachments.

Response: We thank commenters for their feedback on the proposed attachment standards and their observations about broader health IT and standards development trends. We acknowledge that industry technologies and regulatory requirements have evolved significantly since 2016 and agree that any adopted standard must balance progress with stability. Newer technologies may offer long-term potential to reduce complexity and improve flexibility in transmitting supplemental clinical information, and we will continue to consider their technical viability and operational maturity across a broad segment of the industry. The X12N standards for health care claims attachments that we finalize here have been used for many years in related HIPAA transactions, are supported by widely adopted infrastructure, and offer a known path for implementation and compliance. Standardizing attachments through X12N Version 6020 allows for the exchange of clinical content in a format that aligns with other existing administrative transactions, increases health care provider and health plan efficiency and reduces the need for burdensome manual submission processes.

While the 2016 NCVHS recommendation mentioned earlier noted the value of a broader attachments strategy that could extend beyond claims to include prior authorization, referrals, and other use cases, and although we had originally proposed a broader strategy to include other use cases, this final rule focuses specifically on claims attachments. This narrower scope is consistent with section 1173(a)(1)(A) of the Act, which requires the Secretary to adopt a health claims attachments transactions standard.

With respect to interoperability, we have taken the CMS Interoperability and Prior Authorization final rule (89 FR 8758) into consideration, and note that adopting a consistent, national claims attachment standard supports broader goals of administrative simplification and compatibility across systems.

Comment: A commenter stated that the proposed rule's reference to the limited uptake of the current referral certification and authorization transaction standard being due to not having established standards for attachments (87 FR 78446) may be a result of an onerous process for certification and authorization. The commenter stated that if limited uptake of the referral certification and authorization transactions is a standards issue, it is imperative that the new attachments standard be simple and practical in order to improve compliance rates.

Response: We thank the commenter for this input. We acknowledge that the limited uptake of the current referral certification and authorization transaction standard (X12N 278 Version 5010), which supports prior authorization, has been documented in multiple reports, but that is separate from the adoption of standards for health care claims attachments, which we are finalizing in this rule. We agree that any future attachment standards, particularly for prior authorization, must be practical and simple to implement in order to improve adoption rates. Past experiences with low utilization of the referral certification and authorization transaction, as mentioned in the 2016 NCVHS Hearing on attachments, demonstrate that overly complex standards or processes can pose barriers to adoption, even when standards are available. For this reason, simplicity in aligning with existing industry workflows, and coordination with SSOs and interested parties, are central considerations in our policy development as we continue to evaluate prior authorization attachments options.

Comment: Multiple commenters, citing numerous rationales, encouraged HHS to consider implementing the FHIR standard, including the HL7® FHIR® Da Vinci Clinical Data Exchange (CDex) IG, for prior authorization attachments transactions. At the larger policy level, commenters described FHIR as an alternative standard aligned with federal and industry interoperability objectives, consistent with administrative simplification principles, and synergistic with certified EHR capabilities. At the practical level, commenters cited FHIR's flexibility and the efficiency of FHIR questionnaires, its ability to support end-to-end prior authorization and provide automated and real time solutions, and its being a

more modern technology. Multiple commenters expressed concern regarding HL7 C–CDA unstructured document media types not supporting FHIR bundles (for example, application/json+fhir). Commenters also noted that use of the FHIR standard would allow systems to adopt FHIR specifications to enable greater advancements within the health care industry.

Multiple commenters expressed concern over HHS proposing two rules that included proposals on prior authorization: (1) the HHS HIPAA Standards for Health Care Attachments proposed rule (87 FR 78438); and (2) the CMS Interoperability and Prior Authorization proposed rule (87 FR 76238). Commenters noted that across these two rules, HHS and CMS proposed the use of two different standards, X12N and FHIR, for prior authorization transactions, which would require implementation of both standards and be confusing and cumbersome. A commenter expressed that doing so would be counterproductive to the goals of administrative simplification. Another commenter noted that adopting both X12N and FHIR standards would create confusion for providers, insurers, and vendors that could lead to delays in prior authorization processing and approvals, increased costs, and would likely result in providers using solely the X12N standard despite incentives to use the FHIR standard. Multiple commenters expressed support for the use of FHIR, citing a desire for alignment with the CMS Interoperability and Prior Authorization proposed rule. A commenter requested that HHS review the standards proposed in the CMS Interoperability and Prior Authorization proposed rule and allow providers to utilize both FHIR and X12 standards to meet the requirements in both rules, while another suggested we be thoughtful in considering how HHS's proposal aligns with CMS's proposal so as to avoid providers' duplication of efforts.

A commenter also recommended that HHS allow data-element driven data sharing via FHIR APIs, which would enable flexibility for targeted requests. Despite a stated preference for health care providers to adopt the FHIR standard and connect to APIs once finalized, a commenter recognized there would be providers that lack the means to finance their vendors' FHIR updates. They therefore proposed the adoption of a safe harbor for providers that would allow for the use of Version 5010 of the X12N 278 standard for prior authorization transactions and the X12N 275 standard for claims transactions.

Response: We appreciate these comments and thank commenters for sharing these important considerations. In its most recent letter to the Secretary (March 30, 2022), the NCVHS recommended that HHS move forward with publishing a claims attachments rule to address longstanding industry needs, while also continuing to monitor and consider emerging standards.[26] As discussed extensively in section III.A. of this final rule and as reiterated elsewhere, we are not in this final rule adopting attachment standards for prior authorization transactions. We note that the NCVHS's March 30, 2022, letter also recommended that CMS publish the CMS Interoperability and Prior Authorization proposed rule, which included proposals for FHIR-based APIs to support prior authorization workflows. This underscores both the ongoing demand for a claims attachments standard today and the importance of continuing to evaluate newer technologies for prior authorization and other use cases. We therefore finalize a claims attachments standard in this rule while leaving open the opportunity to adopt alternative standards applicable to prior authorization in other rulemaking.

Comment: A commenter noted that while they expect claims transactions to remain X12-based, the industry and technology have evolved significantly and are moving toward FHIR standards. Another commenter underscored the need for claims attachments standardization but noted industry concern with the specific technology proposed for the prior authorization attachments standard. The commenter stated that HIPAA regulations view the claims and prior authorization attachment standards separately, and that the claims process occurs after care has been delivered, as opposed to the prior authorization process which occurs in advance of care. Given the different workflows and points at which these two processes occur, the commenter stated the need for the processes to mirror one another or be adopted in tandem is diminished. A commenter stated that the proposed standards are an interim step to move health care providers and payers to electronic data submission. However, the commenter noted that to further advance ePA processes and reduce administrative burden, it is critical to align prior authorization attachments standards across all components of the ePA process, which includes the transmission of clinical information via health care attachments.

Response: We thank commenters for their perspectives on the need for attachment standards in both the health care claims and prior authorization contexts and agree that claims and prior authorization serve distinct business functions and operate under different workflows, with prior authorization typically occurring before items or services have been rendered and claims typically occurring afterwards.

In this final rule, as repeatedly noted, we have elected to adopt standards only for health care claims attachments. That focused approach accommodates the requirement at section 1173(a)(2)(B) of the Act that the Secretary adopt standards for the health claims attachment transaction and public feedback recommending that we not simultaneously finalize claims and prior authorization attachments standards in the same final rule. Finalizing only claims attachments standards now allows the industry to begin realizing the benefits of increased automation that reduces administrative burden, while providing additional time to align on prior authorization attachment standards in future rulemaking. We acknowledge the growing interest in APIs, such as FHIR based approaches, particularly for prior authorization transactions, and that FHIR for API-driven data exchange has already been adopted in other regulatory contexts, such as the CMS Interoperability and Prior Authorization final rule (89 FR 8758).

Finally, we emphasize that the decision not to adopt a standard for prior authorization attachments in this final rule should not be interpreted as abandoning the goal of reducing burden in that area. To the contrary, we recognize that prior authorization remains a major challenge across the health care system, and our action here is intended to allow targeted progress on claims attachments while maintaining flexibility to support emerging standards for prior authorization attachments through separate HHS-led policymaking efforts coordinated with interested parties, including health plans, health care providers, and industry. We encourage the participants in the standards development community to continue to explore how emerging paradigms for information exchange can be extended to address HIPAA transactions, and we welcome

[26] National Committee on Vital and Health Statistics. (2022 March 30). Recommendations to Modernize Aspects of HIPAA and Other HIT Standards to Improve Patient Care and Achieve Burden Reduction. Retrieved from *https://ncvhs.hhs.gov/wp-content/uploads/2022/04/Recommendation-Letter-HIT-Standards-Modernization-to-Improve-Patient-Care-March-30-2022.pdf.*

further dialogue with interested parties about promising approaches.

Comment: A commenter highlighted the significant burden on health plans to ensure their systems can support the standards for health care claims and prior authorization attachments transactions for structured and unstructured documents. The commenter stated that by adopting an approach in the final rule whereby a health plan would be compliant by implementing the use of either, but not necessarily both, structured or unstructured claims and prior authorization documents by the compliance date, HHS could ease health plans' burden as they work to ensure their systems can accommodate structured and unstructured documents for claims and prior authorization attachments transactions. The commenter also noted that HHS could, under such an approach, require that health plans implement the other document type (whether structured or unstructured) within 1 year of the compliance date.

Response: Consistent with section 1104(c)(3) of the Affordable Care Act, we are finalizing a compliance date of 24 months after the effective date of this final rule by which all covered entities must comply. We believe that the fact that we are not finalizing adoption of a prior authorization attachments transaction standard ought to diminish the commenter's burden concerns. HIPAA covered entities will have to support structured and unstructured document types, but we understand the health care industry is moving in that direction and should be able to fully accommodate the requirement within this final rule's compliance timeframe. We encourage all HIPAA covered entities to begin testing their systems early to ensure smooth implementation.

Comment: A commenter noted that current HIPAA regulations do not require health plans to send X12N 277 (Health Care Claim Acknowledgment or Claim Status Response) transactions as a response to an X12N 837 (health care claim) or X12N 278 (standard for prior authorization) transaction. The commenter requested that HHS confirm whether any requirements finalized by this rulemaking would result in a health plan being required to respond to a X12N 837 or X12N 278 transaction with the X12N 275 (Additional Information to Support a Health Care Claim or Encounter) standard to inform the provider of whether the attachment information is needed. The commenter also requested clarification as to whether a health plan that may require an attachment for a claim or prior authorization may then deny the corresponding claim or item or service authorization should a provider fail to provide the attachment, which would have the effect of requiring the provider to resubmit the claim or prior authorization request with the appropriate attachment information.

Response: We appreciate the commenter's feedback and the opportunity to clarify the requirements for how health plans may request attachment information, while also reiterating that HIPAA specifies transaction standards requirements but does not directly address health plans' business rules. HIPAA regulations do not now (and this final rule does not alter this) require health plans to use the X12N 275 transaction to respond to an X12N 837 health care claim or an X12N 278 prior authorization transaction when requesting additional documentation. In other words, the X12N 275 standard may be used to support claim attachments, but HIPAA does not require its use as a mandatory response transaction.

Similarly, currently, the X12N 277 transaction may be used to notify a provider that claim attachment information is needed. HIPAA does not require its use, but health plans may elect to use it to communicate with health care providers about missing documentation. Health plans' business rules typically would specify when they may or may not deny a claim for failure to comply with health plan policies. While we do not currently require the use of the X12N 275 and X12N 277 transactions in these scenarios, we encourage health plans to adopt clear and consistent communication practices, including using these transactions where appropriate, to minimize administrative burden and avoid unnecessary claim denials.

Comment: Multiple commenters supported the proposed adoption of Version 6020 for the X12N 275, X12N 278, and X12N 277 standards. A commenter stated that adopting Version 6020 for these standards would be critical to attachment transactions functionality because Version 6020 includes two key fields: (1) the health plan assigned claim control number to aid with claim reassociation; and (2) the field to capture LOINC for required data elements to identify the specific attachment information. A commenter expressed their appreciation for Version 6020 being tested and implemented in real-world settings.

Response: We thank commenters for their feedback and support of Version 6020 of the standards as a business case in adopting a health care claims attachments transaction standard.

Comment: Multiple commenters expressed concern about HHS's proposal to adopt Version 6020 and, instead, recommended that we adopt a newer version of the X12N attachments standards, such as Version 8020, which a commenter noted has been published. A commenter supported the adoption of Version 6020 of the X12N 275 and X12N 277 standards but recommended that the attachments standards be updated to Version 8020 when possible, while another commenter expressed concern that we would adopt Version 6020 when X12 may recommend Version 8020 be implemented prior to, or shortly after, HHS's action. That commenter encouraged us to ensure that the proposed technical standards are supported, compliant, and not mandated for replacement for no less than 5 years after the implementation date.

Multiple commenters recommended that HHS consult with standards development organizations (SDO) to ensure that the appropriate versions of the standards are finalized and that versioning is aligned. A commenter noted that using the versions proposed in the proposed rule could lead to operational and implementation costs and requested that HHS collaborate with early adopters of the proposed attachments standards. A commenter stated that the proposed Version 6020 of the X12N attachments standards will be problematic for attachment standard transactions because health care providers currently use Version 5010 of the X12N standard, and Version 8020 is being utilized by X12. The commenter expressed the belief that HHS's proposal would create a scenario where the transaction standard floor is lower than the one X12 will potentially recommend, and that is currently used for claims transaction processing. A commenter noted concern over the alignment between the proposed standards in the proposed rule and future HIPAA standards. The commenter encouraged HHS to ensure that future adoption of X12N standards is compatible with the proposed health care attachments standards outlined in the proposed rule. Multiple commenters recommended that HHS wait to adopt attachments transaction standards until the NCVHS makes a determination about recommending the next version of X12N standards. A commenter also stated that the NCVHS is currently evaluating requests from X12 on the adoption of Version 8020 for the X12N 837 and X12N 835 payment/remittance advice standards.

Response: We appreciate the commenters' recommendations and concerns regarding the adoption of specific versions of the X12N 275 and X12N 277 standards for health care claims attachments. Specifically, we understand commenters' concerns regarding the potential for Version 6020 to become outdated, especially since X12 has published Version 8020 and the NCVHS may be considering it. However, the NCVHS has not recommended that any newer version of these standards be adopted under HIPAA, and under the HIPAA regulatory framework, HHS is limited to adopting standards that have completed the formal SDO process and have undergone appropriate evaluation and recommendation, including through the NCVHS. Therefore, we are finalizing the adoption of Version 6020 of the X12N 275 and X12N 277 standards, as they are currently the most recent versions that provide the necessary functionality to support the exchange of attachments in conjunction with claims and are currently the viable and legally supportable standards for the claims attachment transactions.

We agree with commenters that it is important that the attachment standards and the broader suite of adopted HIPAA standards, such as the X12N 837 and 835, be aligned. We are committed to ongoing coordination with SDOs, such as X12, and with the NCVHS to ensure that any future updates to HIPAA standards, including consideration of Version 8020 or later, are harmonized across transaction types to reduce implementation burden and maintain interoperability. We also recognize the importance of maintaining stability in the adoption of new standards. The HIPAA statute allows for the periodic update of standards—indeed, as we discuss in section II.D.3., the HIPAA standards paradigm is premised on standards evolution over time—but we will strive to maintain reasonable implementation timelines and take commenters' feedback into account as we consider future rulemaking and versioning policies.

Finally, as we extensively discuss in section III.A. of this final rule and reiterate elsewhere, we are not finalizing the proposed adoption of standards for prior authorization attachments at this time and, therefore, in this rule, are not adopting an updated version of the X12N 278 transaction standard.

a. Adoption of X12N Standards for Health Care Claims Attachments Transactions

(1) Adoption of Standards for Request From a Health Plan to a Health Care Provider for Attachment Information

(a) X12N 277—Health Care Claim Request for Additional Information (006020X313)

In the proposed rule, we proposed to adopt the X12N 277—Health Care Claim Request for Additional Information (006020X313) as the standard a health plan must use to electronically request attachment information from a health care provider to support a health care claim in § 162.2002(e)(1), and also proposed to incorporate the same by reference in § 162.920 (87 FR 78447). We explained that the X12N 277 standard for claims transactions contains two noteworthy fields: (1) the health plan assigned claim control number that is assigned by the health plan to link the attachment request with the original claim, enabling reassociation when the provider responds via the X12N 275 transaction; and (2) the LOINC code set for HIPAA that is used to identify the specific type of attachment requested (87 FR 78447).

Comment: Multiple commenters strongly supported HHS's proposed adoption of the X12N 277 standard for claims attachments, and a commenter recommended that we finalize this standard as proposed. Commenters noted that the current claims attachment process is complex and cumbersome and that adopting consistent electronic claims attachment standards would reduce administrative burden and associated costs. A commenter urged HHS to strongly enforce this new standard, if finalized. Multiple commenters discussed how health plans have implemented an electronic claims attachment standard outside the HIPAA context and achieved significant efficiencies in denials, appeals, and time to payment using clinical documents rather than granular data elements for claims processing. A commenter noted that this example of successful real-world implementation and return on investment strengthens the argument for immediate claims attachments standards adoption.

Response: We thank these commenters for their support for our proposals to adopt a health care claims attachment standard.

HHS administers HIPAA Administrative Simplification requirements related to the format and content of electronic administrative health care transactions for which we have adopted standards. Consistent with our approach of responding to complaints of non-compliance and conducting proactive compliance reviews, should we identify a HIPAA covered entity that fails to conduct, or fails to properly conduct, an adopted transaction standard, it may be subject to enforcement action.

As discussed in the final action section, we are finalizing adoption of the X12N 277 transaction standard in § 162.2002(d). The regulatory text has been reordered to group related transaction standards together for clarity and ease of reference; this reordering does not change the requirements for the use of the standard.

(2) Adoption of Standards for Transmission of Attachment Information From a Health Care Provider to a Health Plan: X12N 275—Additional Information To Support a Health Care Claim or Encounter (006020X314) and X12N 275—Additional Information To Support a Health Care Services Review (006020X316)

We proposed to adopt, in § 162.2002(d), the X12N 275—Additional Information to Support a Health Care Claim or Encounter (006020X314) as the standard a health care provider must use to electronically transmit attachment information to a health plan to support a health care claims or equivalent encounter information transaction. We also proposed to incorporate the same by reference in § 162.920.

As discussed in the HIPAA Standards for Health Care Attachments proposed rule, the X12N 275 standard for claims transactions may be used with respect to both solicited and unsolicited attachment information (87 FR 78448). We noted in the proposed rule that the X12N 275 standard for claims transactions does not itself contain claims attachment information (87 FR 78448). Rather, the standard serves as the electronic envelope for health care claims attachment information such that the attachment information (which is embedded in an HL7 standard) is transported by the X12N 275. We describe in detail the specific HL7 standards for embedding attachment information in this section of the final rule.

Additionally, we proposed to adopt, in § 162.2002(c), the X12N 275—Additional Information to Support a Health Care Services Review (006020X316) as the standard a health care provider must use to electronically transmit attachment information for electronic prior authorization

transactions. We also proposed to incorporate the same by reference in § 162.920. We are not adopting that standard in this final rule as it only pertains to electronic prior authorization transactions. We clarify that in this final rule, we are only adopting the X12N 275—Additional Information to Support a Health Care Claim or Encounter (006020X314) standard for health care claims attachments.

The X12N 277 transaction set is used for claim status inquiries and responses. When a health care provider submits a claim and the payer needs additional information to continue the review or processing of that claim, it may send the provider a request through a X12N 277—Health Care Claim Request for Additional Information transaction, and the health care provider may use the X12N 275—Additional Information to Support a Health Care Claim or Encounter to transmit the requested information back to the payer. For example, with a surgery for which there is no HCPCS code, for solicited attachment information, the health plan would request attachment information using the X12N 277 standard for claims transactions, and the health care provider would use the X12N 275 standard for claims transactions to respond with the operative note. In a scenario with unsolicited attachment information, the health care provider would transmit the X12N 275 standard for claims transactions to enable the health plan to make a decision about the claim without additional requests for information.

Comment: Multiple commenters supported the adoption of the X12N 275 standard for health care claims transactions. Commenters stated that the present lack of attachments standards under HIPAA burdens the health care industry and noted that evidence from voluntary X12N 275 standard implementations has demonstrated the technical success of the transactions and cost savings. A commenter stated that, due to the X12N standards being foundational and widely implemented across health care providers, health plans, and health IT vendors, they believe it is appropriate to adopt the X12N 275 standard as the basis for exchange to support adoption at scale. A commenter recommended that HHS mandate a version of the X12N 275 standard that is consistent with HIPAA requirements at publication of the final rule. Another commenter expressed support for solicited and unsolicited claims attachment standards and noted that using the X12N 275 standard concurrently with a claims transaction will promote efficiency and decrease costs for providers and health plans. A commenter pointed out that Version 6020 of the X12N 275 standard includes the Binary Data Segment (BDS), which was not part of Version 5010, and is necessary for transmitting properly encoded clinical data.

Response: We thank the commenters for their feedback and support. We agree that the absence of adopted HIPAA attachment standards has contributed to variability and inefficiencies in documentation exchange processes across the health care industry. We appreciate commenters highlighting the value of using the X12N 275 standard for health care claims and encounters, including its technical success in voluntary implementations, alignment with widely adopted foundational X12N standards, and capacity to support health care provider, health plan, and vendor interoperability. We also agree that adopting a consistent standard for solicited and unsolicited claims attachments can reduce administrative burden and promote operational efficiency.

We acknowledge the specific support for Version 6020 of the X12N 275 standard and its enhancements over prior versions, including the BDS that supports the secure and structured transmission of clinical data in attachment transactions. Accordingly, in this final rule, we are adopting Version 6020 of the X12N 275 standard for use in the health care claims attachments transaction, as well as Version 6020 of the X12N 277 standard. We believe this establishes a clear, standards-based foundation for exchanging attachments that will enable greater automation, improve data integrity, and reduce costs across the health care system.

We appreciate commenters' recognition of the need for consistency and predictability in the standards adopted under HIPAA and will continue to engage with parties in the health care industry and SDOs to ensure that future standards development and updates are responsive to industry needs and remain aligned with the HIPAA regulatory framework.

Comment: A commenter stated the X12N 275 standard for health care claims and encounters will not work with unstructured documentation. Another commenter recommended that HHS permit trading partners to agree upon other documentation, not covered by the HL7 C–CDA, that would be allowed to be transported via the X12N 275 standard.

Response: We further evaluated the commenter's assertion that the X12N 275 standard for claims transactions would not work with unstructured documentation and determined the assertion is incorrect, having confirmed that the X12N 275 standard for claims transactions does support the submission of unstructured documentation. The versions that we are adopting in this final rule include the BDS, which, in the HL7 standard, is used to carry attachments, such as documents or images. Moreover, the C–CDA Release 2.1 supports structured and unstructured templates. Therefore, we believe that the standards we are adopting in this final rule are sufficient for broad industry-wide use.

Regarding the comment recommending that we permit trading partners to agree that documentation not covered by the HL7 C–CDA be allowed to be transported via the X12N 275 standard for claims transactions, the types of documentation supported by the HL7 C–CDA broadly cover those that may be requested for the claims payment process. However, we encourage covered entities to negotiate the types of documentation required for implementing the transaction standard during the development of their trading partner agreements.

Comment: A commenter noted that health IT vendors will have to engage in new development work should the proposed X12N 275 standard for claims attachment transactions be finalized as proposed, since such entities have not previously developed those transaction standards.

Response: As discussed previously, we acknowledge that covered entities, or their vendors, will incur a number of one-time costs to implement the new HIPAA transactions. However, over time, we believe the resultant automation will ultimately benefit the industry by reducing burden and costs. We account for this implementation burden in our impact analysis in section VI. of this final rule.

Comment: Multiple commenters expressed that a definition for baseline structured data is needed to achieve administrative burden relief. They also emphasized that it is important that the X12N 837 claim and encounter standard be supported by the X12N 275 standard for claims transactions for additional information at the time of a prior authorization request, initial claim submission, and for claims in paid or denied status.

Response: We do not believe that a definition for baseline structured data is needed because the HL7 C–CDA Release 2.1 broadly covers structured and unstructured document types that may be transmitted under the X12N 275 standard for claims attachment

transactions. We encourage interested parties to engage with SDOs and industry collaboratives to identify and refine the consensus around structured data elements. We also encourage covered entities to negotiate the types of documentation required for implementing the transaction standard during the development of their trading partner agreements.

Final Action: After consideration of the public comments we received, and after consultation with the SSOs, we are finalizing, with modification, our proposal regarding the adoption of certain X12N standards for requesting and transmitting attachment information.

In § 162.2002(c), we are adopting the X12N 275—Additional Information to Support a Health Care Claim or Encounter (006020X314) as the standard a health care provider must use to electronically transmit attachment information to a health plan to support a health care claim or equivalent encounter information transaction. We are also incorporating this standard by reference in § 162.920.

In § 162.2002(d), we are adopting the X12N 277—Health Care Claim Request for Additional Information (006020X313) as the standard a health plan must use to electronically request attachment information from a health care provider to support a health care claim. We are also incorporating this standard by reference in § 162.920.

E. Adoption of HL7 IGs for Health Care Claims Attachment Information

The HL7 CDA standard is the only currently available SSO-created, NCVHS-recommended implementation specification in the United States designed to support the HIPAA transactions. Other standards for the exchange of clinical information are being developed and piloted. However, due in part to its readiness, we stated in the proposed rule that we believe the HL7 CDA IG set is the most appropriate standard for adoption at this time (87 FR 78448).

We proposed to adopt the following three HL7 IGs as HIPAA standards for the attachment information included in health care attachments transactions:

- *HL7 IG for CDA Release 2:* C–CDA Templates for Clinical Notes (US Realm) Draft Standard for Trial Use Release 2.1, Volume One—Introductory Material, June 2019 with Errata (HL7 C–CDA IG Volume One).
- *HL7 IG for CDA Release 2:* C–CDA Templates for Clinical Notes (US Realm) Draft Standard for Trial Use Release 2.1, Volume Two—Templates and Supporting Material, June 2019 with Errata (HL7 C–CDA IG Volume Two).
- *HL7 CDA Release 2 Attachment IG:* Exchange of C–CDA Based Documents, Release 1, March 2017 (HL7 Attachments IG).

We refer readers to the detailed discussion in the proposed rule on the purpose and functionality of each IG and how they interact with each other (87 FR 78448).

These IGs provide specifications for creating and transmitting both structured and unstructured health care attachment documents. Structured documents are machine-readable with standardized sections and codes, while unstructured documents (for example, scanned images, video, patient logs, etc.) have metadata (that is, information that describes, explains, or gives context to other data) but no internal tagging. The HL7 Attachments IG also defines criteria for creating new templates when none exist.

In the HIPAA Standards for Health Care Attachments proposed rule, we proposed to adopt the March 2017 iteration of the HL7 Attachments IG. The SDO engaged in its regular maintenance process with respect to that IG, and, in March 2022, published the Release 2 iteration of it. Commenters on the proposed rule encouraged us to adopt the March 2022 iteration, as opposed to the March 2017 iteration that we had proposed to adopt.

We carefully examined the history of changes to the HL7 Attachments IG between March 2017 and March 2022 and determined that the cumulative changes reflected in the March 2022 iteration of the IG constitute ''maintenance updates'' because, rather than adding new content, the updates address *errata* in the existing IG content. Maintenance refers to ''activities necessary to support the use of a standard adopted by the Secretary, including technical corrections to an implementation specification, and enhancements or expansion of a code set.'' [27] Maintenance updates to standards are non-substantive in nature, unlike modifications to standards which require rulemaking to be adopted by the Secretary.

We also consulted the DSMOs, which apprised us that the maintenance updates reflected in the March 2022 iteration of the HL7 Attachments IG better facilitate implementation of Version 6020 of the X12N 275 and X12N 277 standards for claims attachments adopted by the Secretary in this final rule. Our own in-depth evaluation along with our consultations with the DSMOs persuade us that we can confidently conclude that adopting the newer March 2022 iteration of the HL7 Attachments IG would be functionally equivalent to adopting the March 2017 iteration of the HL7 Attachments IG with errata.

Having established that the March 2022 iteration is functionally equivalent to the proposed March 2017 HL7 Attachments IG with maintenance updates, and to avoid industry confusion with respect to which IG iteration should be used, in this final rule we are adopting the March 2022 iteration of the HL7 Attachments IG which is Release 2.

Comment: Multiple commenters expressed support for the adoption of the proposed HL7 IGs for the exchange of claims attachments information. A commenter stated that the HL7 C–CDA is widely implemented and has demonstrated its value through the flexibility it provides in delivering solicited and unsolicited information in various formats. Another commenter stated that if HHS proceeds with the implementation of the claims attachments standards for payment purposes, they support proceeding with the HL7 C–CDA standard for now.

Response: We thank commenters for their feedback and support of our proposal.

Comment: Multiple commenters expressed concern regarding HL7's indication that it will no longer make updates to the HL7 CDA and C–CDA standard, in favor of moving towards FHIR solutions, and recommended that HHS work with HL7 to continue maintaining the HL7 C–CDA standard or develop a plan for a FHIR-based solution. A commenter urged HHS to ensure that HL7 will continue to support and develop guides based on the HL7 CDA standard as needed.

Response: HL7 is required, as an SSO, to continue to maintain any IGs that are adopted by the Secretary as HIPAA standards. Like all SSOs, HL7 holds weekly workgroup meetings and quarterly membership meetings to ensure that adopted standards meet the needs of HIPAA covered entities and, should a modification be needed to a standard, the workgroup would undertake its process to update it. SSOs, SDOs, or DSMOs maintain their standards in accordance with ANSI requirements and their own ANSI-approved policies; maintenance is an ANSI requirement and is embedded in each SSO's processes, so it is not governed by expectations or assumptions.

We did include a request for comment in the HIPAA Standards for Health Care Attachments proposed rule (87 FR

[27] *See* 42 CFR 162.103.

78444) on other standards to consider for prior authorization transactions, to which we received numerous comments advocating for the FHIR standard. We will consider these comments in our future planning with respect to the health care transaction standards adopted under HIPAA Administrative Simplification.

Comment: A commenter expressed support for an approach that enables advancing standards-based attachment content. Additionally, since it was not referenced in the proposed rule, multiple commenters sought clarification as to whether the HL7 CDA® R2 IG: C–CDA Templates for Clinical Notes STU Companion Guide Release 3 (US Realm) Standard for Trial Use, May 2022 (HL7 C–CDA Companion Guide) may be used under the proposed health care attachments template recognition approach.

Multiple commenters recommended that HHS consider adopting the HL7 C–CDA Companion Guide. The commenters noted the HL7 C–CDA Companion Guide provides additional templates and best practices useful for attachments transactions and guidance to document creators to ensure higher levels of consistency and quality.

A commenter noted that the HL7 C–CDA Companion Guide is the primary guide to specify templates for use in the Office of the National Coordinator for Health Information Technology's (ONC) [28] Certification Program (ONC Health IT Certification Program) and sought confirmation of its belief that it represents templates applicable to attachments without a separate template needing to be defined. The commenter stated additional rulemaking would be needed following the publication of the next version of the HL7 C–CDA Companion Guide if HHS decided to reference this IG in the final rule. The commenter expressed concern that this would hinder industry's ability to use the HL7 C–CDA Companion Guide. Commenters also encouraged HHS to make the HL7 C–CDA Companion Guide eligible for use without specifically being referenced under the proposed health care attachments template recognition approach so that future updates to templates used within the IG could be used immediately upon publication through the accepted process.

Response: We are adopting the C–CDA implementation specifications because they are already implemented and widely used in EHR systems. The HL7 C–CDA Companion Guide, which is a collection of IGs that provides standardized templates for structuring C–CDA documents, is a set of IGs defined by HL7 as a ''library of C–CDA templates,'' and their functionality allows that any templates created with them are compliant with the HL7 C–CDA standard. These templates essentially serve as blueprints for how specific medical information should be organized and presented when exchanging patient data between systems using the C–CDA standard.[29] If compatible with the HL7 C–CDA release adopted, these templates are acceptable for use once an associated LOINC code is available.

Comment: A commenter expressed support for a consistent format that would eliminate manual processes to send and receive data and allow for information to be automatically recorded into a patient's record, stating that this change would eliminate manual processes. The commenter also noted that health IT vendors are currently only required to support three HL7 C–CDA templates and stated that requiring health IT vendors to support all template types would require significant development effort while, concurrently, numerous other regulatory requirements go into effect. The commenter noted that integrating EHRs and revenue cycle products to support CDA generation would require significant development.

Response: We understand that covered entities, or their vendors, will incur a number of one-time costs to implement the new and modified HIPAA transactions, for which we account in the RIA (section VI. of this final rule). Health IT vendors are not covered entities and therefore are not directly required to comply with the requirements. While HIPAA covered entities must comply with the requirements of this final rule, they are not required to possess technology that implements every template in the C–CDA; rather the attachments they transmit must be in accordance with the standard. We are adopting both the HL7 CDA and X12N standards for health care claims attachments transactions. Our goal is to automate health care transactions as much as possible, which will ultimately decrease costs.

Comment: A commenter questioned the use of HL7 C–CDA templates to support prior authorization requests and stated that no health plans have mapped their clinical criteria to HL7 C–CDA templates to ensure all the data needed to make the prior authorization decisions are in those templates. The commenter stated that this lack of successful results from real-world testing is a critical issue and that payers use a data-element approach for prior authorizations rather than clinical documents. A commenter stated that the C–CDA unstructured document does not fully support the ability to carry a FHIR bundle, and that use of the C–CDA unstructured document would interfere with the IGs referenced in the CMS Interoperability and Prior Authorization proposed rule that was proposed at the time these comments were submitted. Specifically, the commenter referenced the HL7® FHIR® Da Vinci Coverage Requirements Discovery (CRD) and Document Templates and Rules (DTR) IGs, which support the use of questionnaire and responses, as part of data collection in the prior authorization process. The commenter noted it is important that real-time responses should be considered as part of the prior authorization workflow and recommended that HHS ensure that any requirements for the adoption of ePA APIs by CMS-denominated ''impacted payers'' be harmonized with current HIPAA prior authorization transaction standards and CMS's Interoperability and Prior Authorization rule, which has since been finalized.

Response: We appreciate the comments submitted in response to our proposal to adopt a prior authorization health care attachments transaction standard. As articulated in section III.A. of this final rule, and noted repeatedly elsewhere, we are not finalizing our proposal to adopt prior authorization with the health care claims attachments transaction standard.

Comment: A commenter recommended that C–CDA structured information be allowed and encouraged where appropriate, but not required. The commenter also stated that unstructured documents can, but should not be required to, utilize the Unstructured Document CDA template.

Response: Covered entities may use any adopted documentation format that is supported by, and compatible with, the standards adopted in this rule. The IGs we are adopting also support

[28] On July 25, 2024, HHS announced a reorganization to streamline and bolster technology, cybersecurity, data, and AI strategy and policy functions which had historically been distributed across HHS. As part of the reorganization, ONC has been renamed the Assistant Secretary for Technology Policy and Office of the National Coordinator for Health Information Technology (ASTP/ONC) and has assumed oversight over technology. For more information on this reorganization refer to the press release available at: *https://www.hhs.gov/about/news/2024/07/25/hhs-reorganizes-technology-cybersecurity-data-artificial-intelligence-strategy-policy-functions.html.*

[29] Health Level Seven International. (HL7). Understanding C–CDA and the C–CDA Companion Guide. Retrieved from *https://build.fhir.org/ig/HL7/CDA-ccda-2.1-sd/understanding_c-cda_and_the_c-cda_companion_guide.html.*

unstructured data documents where the HL7 C–CDA structured documents are unable to support the document or do not exist. We note that health plans must specify the types of attachment information that will be necessary to support a claim and encourage health plans conducting electronic transactions with health care providers to accept electronically both structured and unstructured C–CDA documents.

Comment: Multiple commenters expressed that the proposed version of the HL7 Attachments IG is no longer current, noting that an updated version of the HL7 Attachments IG was published in March 2022.[30] A commenter recommended that HHS adopt the ''most recent version'' of all the proposed HL7 IGs in the final rule.

Response: We appreciate these comments and thank commenters for sharing these important considerations, which we interpret to mean that HHS should adopt the most recent iteration of the HL7 Attachments IG that was proposed, including its maintenance updates. As we explain earlier, based on the commenters' suggestions, we reviewed the March 2022 iteration of the proposed HL7 Attachments IG and consulted with standards maintenance organizations and found the March 2022 iteration of the HL7 Attachments IG is functionally equivalent to adopting the March 2017 iteration of the HL7 Attachments IG with errata. Therefore, in this final rule, we are adopting Release 2 of the HL7 Attachments IG, published in March 2022.

Comment: A commenter recommended that HHS work with the NCVHS to develop alternative approaches to meeting the HIPAA EDI requirements that represent a more contemporary basis of interoperability. Multiple commenters stated that the proposal would leave limited ability to improve on the current state of automated support to produce the relevant data to populate the requested document type with the minimum necessary information without substantive user involvement. A commenter further explained that the proposed rule would require the use of C–CDA-based attachments in accordance with the HL7 CDA® R2 Attachment IG: Exchange of C–CDA Based Documents, Release 1—US Realm (STU) and would cover approximately 106 recognized document types. Multiple commenters pointed out that thirteen document types in C–CDA R2.1, of which three are recognized in the ONC Health IT Certification Program and one is recognized in CMS's programs, have defined C–CDA templates, but no clear implementation guidance is provided for all the other 90+ document types that are referenced. Commenters pointed out that this means some would not have a clear C–CDA document to consider, for example, a physician letter or a patient consent for treatment in an unstructured C–CDA document, while others could be structured in C–CDA format, but no agreed upon document templates exist.

Response: We appreciate these comments and thank commenters for sharing these implementation considerations. The C–CDA standard is being adopted because it provides a widely recognized, structured format that supports interoperability and can accommodate a variety of clinical documents. The LOINC code system allows discrete identification of attachment types, including both structured and unstructured documents, and provides modifiers for templates and time windows where applicable. We believe that the C–CDA standard we are adopting broadly covers the types of documents that would be requested for health care claims. Though the standard we are adopting might not address all document types, it balances the need for standardization and efficiency with practical flexibility for health care providers while allowing the system to evolve as new document templates and business needs arise.

The document types in the HL7 Attachments IG have discrete data elements that allow HIPAA covered entities to exchange clinical information as both an unstructured and structured document. Should covered entities have future business needs that give rise to additional document types, these could be exchanged as unstructured documents by obtaining a LOINC code to identify the attachment type.

Comment: Multiple commenters recommended that HHS reconsider adopting the standard for claims attachments transactions, given the substantial guidance still needed to enable supporting a substantially less burdensome documents-based approach. One commenter stated that in order to support a consistent exchange through FHIR-based or X12-based transactions, attachment approaches between the CDex guide and the HL7 Attachments IG need to be aligned.

Response: We appreciate this information and encourage the industry to submit specific requests for changes and enhancements to the transaction standards to the SDO responsible for maintaining the standard.

Comment: Multiple commenters expressed support for the use of the HL7 CDA standard, HL7 C–CDA standard, and HL7 IGs for health care attachment transactions.

Response: We thank the commenters for their feedback and support of our proposal.

Comment: A commenter recommended that HHS name a specific version of the HL7 IGs as a ''floor'' and create a sub-regulatory advancement process. The commenter stated that without a requirement to use specific IGs, the industry will not achieve the level of interoperability necessary to support data exchange. The commenter recommended that HHS establish a process, such as the ONC Standards Version Advancement Process (SVAP), to allow technology to evolve through industry testing while also allowing the industry to provide public comment.

Response: We thank the commenters for their feedback. We note that section 1174(b)(2)(B)(i) of the Act provides authority permitting the routine maintenance, testing, enhancement, and expansion of code sets outside of the rulemaking process. We will further explore regulatory flexibilities with respect to modifications to adopted IGs. With respect to requiring that organizations adopt new and updated code sets, we note that such changes are generally considered maintenance updates, and the Secretary previously adopted LOINC as a code set for use with HIPAA health care transaction standards. Organizations can incorporate maintenance updates to a given IG, including its LOINC codes, without the need for the Secretary to engage in additional rulemaking.

Comment: A commenter recommended that HHS modify the rule to state that the HL7 C–CDA standard be used for all documents covered by the HL7 C–CDA, but not limit health insurance providers, hospitals, and clinicians to solely use HL7 C–CDA permitted documents.

Response: We reiterate that covered entities may use any adopted documentation format that is supported by, and compatible with, the standards adopted in this rule. Additionally, we note that the IGs we are adopting also support unstructured data documents where the HL7 C–CDA structured documents are unable to support the document or do not exist.

Comment: A commenter offered that mandating the HL7 IG standards for HIPAA transactions is an important step forward, but expressed concern that these standards have not yet been tested

[30] Health Level Seven International (HL7). (2022, March 8). HL7 CDA R2 Attachment Implementation Guide: Exchange of C–CDA Based Documents, Release 2—U.S. Realm. Retrieved from *https://www.hl7.org/implement/standards/product_brief.cfm?product_id=464.*

for suitability to the dental industry. The commenter provided specific examples relating to dental claims, noting that only one dental health IT module is certified under the ONC Health IT Certification Program, meaning that the majority of dental EHR systems cannot produce HL7 C–CDA. The commenter noted that dental claims require images as supporting documentation in a variety of formats (for example, BMP, JPG/JPEG, TIFF/TIF, PNG, PDF, TXT, DOC/DOCX, DICOM, GIF), and recommended that HHS allow the use of these file formats instead of mandating the sole use of HL7 C–CDA to account for specialties that may rely on unstructured data exchanges, specifically noting concerns in cases where unstructured data such as MRIs and X-rays are needed. A commenter noted that the dental industry has worked with HL7 to develop two CDA R2 attachment standards and IGs tailored to the needs of the dental industry. These two IGs, which the commenter suggested should be considered for adoption, are: (1) the HL7 CDA® R2 IG: Orthodontic Attachment, Release 1—US Realm which aims to provide a CDA-based set of templates that can be used by a dental provider to a payer for claims; and (2) the HL7 CDA® R2 IG: Exchange of C–CDA Based Documents; Periodontal Attachment, Release 1—US Realm which is used to exchange dental clinical data.

Response: We agree that it is important that HIPAA-adopted standards support the needs of all health care types, including the needs of the dental industry. HL7 has developed two dental C–CDA standards, but, because the NCVHS has not yet recommended them for adoption and because we did not propose them in the HIPAA Standards for Health Care Attachments proposed rule, we cannot adopt them in this final rule. Should the NCVHS make such a recommendation to the Secretary, we may consider adopting these dental standards in future rulemaking. Upon publication of this final rule, we will consider outreach strategies and industry-wide policies and implementation issues, along with sector-specific approaches that may, for example, involve collaborating with multiple interested parties to conduct dental-specific outreach and education.

Final Action: After consideration of the public comments we received, we are finalizing our proposals to adopt the following HL7 IGs as HIPAA standards for the attachment information included in health care claims attachments transactions in § 162.2002(a) and (b):

- *HL7 CDA Release 2 Attachment IG:* Exchange of C–CDA Based Documents, Release 2, March 2022 (HL7 Attachments IG).
- *HL7 Implementation Guide for CDA Release 2:* Consolidated CDA Templates for Clinical Notes (US Realm) Draft Standard for Trial Use Release 2.1, Volume One—Introductory Material, June 2019 with Errata (HL7 C–CDA IG Volume One).
- *HL7 Implementation Guide for CDA Release 2:* Consolidated CDA Templates for Clinical Notes (US Realm) Draft Standard for Trial Use Release 2.1, Volume Two—Templates and Supporting Material, June 2019 with Errata (HL7 C–CDA IG Volume Two).

F. LOINC for HIPAA Attachments

We stated in the HIPAA Standards for Health Care Attachments proposed rule (87 FR 78445) that health plans and health care providers must have a clear and unambiguous way to specify attachment information (for example, a discharge summary, surgical operation note, or cardiovascular disease consult note) to be transmitted or requested in a health care attachments transaction.

As we stated, the LOINC code set was developed for the following three principal purposes:

- To identify the specific kind of information that a health plan electronically requests of a health care provider and a health care provider electronically transmits to a health plan (for example, a discharge summary or a diagnostic imaging report).
- To specify certain optional modifier variables for attachment information (for example, a time period for which the attachment information is requested).
- For structured attachment information, to identify specific HL7 IG: LOINC Document Ontology document templates.

With respect to these three purposes, we discussed that the HL7 Attachments IG contains specific instructions for how to utilize the LOINC code set for HIPAA Attachments (87 FR 78445).

In the proposed rule, we included an overview on tools available from Regenstrief to support utilization of the LOINC for HIPAA Attachments (87 FR 78445).

Comment: Multiple commenters supported the use of the LOINC for HIPAA Attachments, with some stating that LOINC enables health plans to request documents, which will reduce processing delays caused by current inefficient document request processes. A commenter stated that the use of LOINC for HIPAA Attachments is logical, as Regenstrief has online tools for easier searches, including a LOINC database that effectively creates an attachments knowledge base with a twice-yearly release cycle. Commenters noted that they support use of LOINC for HIPAA Attachments to identify the specific kind of information communicated in an attachment request and response. Another commenter stated that the use of LOINC for HIPAA Attachments will help payer and provider relationships by establishing more rules regarding the use of standardized codes and defining specific documentation and terms.

Response: We thank the commenters for their support.

Comment: Multiple commenters expressed support for adopting flexible templates to enable continuous advances in standards-based attachment content. A commenter expressed support for the process discussed in the proposal (87 FR 78449) that accounts for the development of new templates not currently specified in the HL7 C–CDA IG Volume One, HL7 C–CDA IG Volume Two, or HL7 Attachments IG. The commenter noted that the C–CDA Companion Guide maintains templates and that the process discussed would afford flexibility for newly defined or updated templates to expand standards-based coverage of the currently permissible LOINC codes and any newly established LOINC codes. Multiple commenters recommended that HHS establish clear guidelines for when new codes can be requested and how long systems will have to incorporate new LOINC documents into their systems. A commenter recommended that HHS name a specific version of the LOINC for HIPAA Attachments and specify that organizations must adopt updated codes as they are issued.

Response: We thank commenters for their feedback, and we agree that our approach to adopting flexible standards will enable continuous advances in standards-based attachment content. We also acknowledge the commenters' concerns about establishing clear guidelines for when new codes can be requested and the timeframe by which LOINC documents are incorporated into systems. As mentioned earlier, the claims attachment transaction standards we are adopting incorporate numerous implementation specifications containing specific instructions for how to utilize LOINC for HIPAA Attachments to identify the specific information that a health plan electronically requests of a health care provider, including when a health plan can request such information and the time period a request covers. Regenstrief maintains a regular update process and

covered entities would be expected to utilize the LOINC for HIPAA Attachments codes that are valid at the time the transaction is initiated, as specified by the relevant implementation specification as discussed previously in section II.C.3. of this final rule. Commenters strongly support the adoption of the current version of the HL7 C–CDA standard in this final rule, and we are adopting the March 2022 iteration of the HL7 Attachments IG, as discussed previously.

Comment: Multiple commenters stated that providers and payers will require education on correct mapping of fields to use the LOINC code set. Multiple commenters encouraged HHS to ensure that multiple LOINC code sets are supported, and a commenter suggested that HHS require payers to offer providers a list to inform them which documents need to be attached.

Response: We agree with the commenters' points about the utility of education around implementing and using LOINC codes. As discussed in section VI. of this final rule, we anticipate that training will be needed once this rule is finalized. Health plans may choose to develop and create educational materials that contain lists of attachment documents and their associated LOINC codes as an educational tool for health care providers and systems designers.

Comment: A commenter stated that multiple LOINC codes may be needed for a single prior authorization transaction and recommended that HHS ensure that multiple LOINC codes will be supported and that an additional LOINC code validates that the list of required documents from the payer is complete. The commenter stated that delays in prior authorization decisions occur when payers change the nature and type of documentation for a prior authorization request.

Response: We thank commenters for sharing these considerations, but, as we discuss in section III.A. of this final rule, we are not finalizing our prior authorization proposal. Therefore, we need not address LOINC code issues specific to that use case.

G. Electronic Signatures

Section 1173(e)(1) of the Act provides that the Secretary, in coordination with the Secretary of Commerce, must adopt standards specifying procedures for the electronic transmission and authentication of signatures for HIPAA transactions. In the HIPAA Standards for Health Care Attachments proposed rule, we included a discussion of prior rulemaking related to electronic signatures (87 FR 78449), to which we refer readers for details. In the proposed rule, we recognized that electronic signatures would require certain implementation features, including message integrity, nonrepudiation, and user authentication, and proposed that the standard for electronic signatures would be digital signatures—electronic stamps that contain information about both the user creating the signature and the document being signed—as the only technically mature means available that could provide for nonrepudiation in an open network environment. We also provided an overview of our understanding of the use of signatures in health care and reasoning for our proposal regarding electronic signatures (87 FR 78449).

As such, in the HIPAA Standards for Health Care Attachments proposed rule, we proposed to define the term ''electronic signature'' and to adopt the HL7 Implementation Guide for CDA Release 2: Digital Signatures and Delegation of Rights, Release 1 (Digital Signatures Guide) (87 FR 78450). The HIPAA Standards for Health Care Attachments proposed rule (87 FR 78438) that appeared in the December 21, 2022, **Federal Register** contained the full definition of ''electronic signature'' and detailed information about the Digital Signatures Guide so that the public could provide informed comments. However, we acknowledge that a correction notice was published on March 17, 2023 (88 FR 16392) to provide the regulation text that inadvertently was not included in the proposed rule, while subsequently, on March 24, 2023, we published a notice (88 FR 17780) extending by 30 days the public comment period to allow an additional opportunity for the public to provide comment despite the fact there were no changes to the proposed definition of electronic signature or the proposed Digital Signatures Guide, and the proposed regulation text contained in the correction notice reflected the same proposed definition and standard. In this final rule, the definition of electronic signature, the Digital Signatures Guide, and the regulation text have not changed from these previous publications. We discuss this proposal and summarize and discuss the comments we received on it, in this section.

1. Definition of Electronic Signature

In the HIPAA Standards for Health Care Attachments proposed rule (87 FR 78449), we stated that an electronic signature can be any of several types of marks or data that indicate a signatory's intent to sign and included examples of electronic signatures.

We proposed to define the term ''electronic signature'' for purposes of the HIPAA Standards for Health Care Attachments proposed rule as broadly as possible to ensure that it would meet covered entities' current needs and could also encompass future electronic signature technologies. The proposed text in § 162.103 read: ''Electronic signature means an electronic sound, symbol, or process, attached to, or logically associated with attachment information and executed by a person with the intent to sign the attachment information.'' In this final rule we finalize the proposed definition of ''electronic signature'' in § 162.103 and the adoption of the Digital Signatures Guide in § 162.2002(e), with requirements for the use of electronic signatures limited to attachment information transmitted electronically in health care claims attachments transactions, in accord with the attachments transactions we are finalizing.

Comment: Multiple commenters expressed support for the proposed electronic signature definition and the proposed implementation requirements for the use of electronic signatures for health care attachments, offering that electronic signatures are a modern technology that will reduce burden and allow clinicians to focus on patient care rather than paperwork. A commenter expressed support for HHS's approach to electronic signatures that would allow health insurers and clinicians to maintain their existing practices regarding the use of electronic signatures, as there is a wide variety of electronic signature requirements and business practices across organizations. However, this commenter indicated that because the regulation text for the proposed definition and Digital Signatures Guide had not been provided in the December 21, 2022 proposed rule, the Secretary should publish an interim final rule (IFR) with this information and provide an additional opportunity to comment. Additionally, multiple commenters expressed support for HHS limiting the electronic signature requirements to just the adopted electronic standard transactions with no requirements on how a provider will implement a signing process for a health care attachment. Another commenter expressed support for HHS not establishing requirements for when, or by whom, a document should be signed. A commenter expressed support for flexibility, allowing future technologies, like electronic signatures, which could be incorporated as EHRs adopt them.

Response: We thank commenters for their feedback and support for our proposals. As stated previously, a correction notice was published on March 17, 2023 (88 FR 16392) to provide the regulation text that inadvertently was not included in the proposed rule. We also published a notice on March 24, 2023 (88 FR 17780) extending the public comment period by 30 days despite the fact that the correction notice contained no changes to the proposed definition of electronic signature or the proposed adoption of the Digital Signatures Guide, and the proposed regulation text contained in the correction notice reflected the same language for the proposed definition and standard that was included in the proposed rule. In this final rule, these provisions remain unchanged. Therefore, we believe further rulemaking to obtain additional public comment on the definition of electronic signature, the Digital Signatures Guide, and the regulation text is unnecessary.

Comment: A commenter disagreed with the proposed use of non-computable electronic signatures, such as an image of a signature, stating this would not provide identity or support authentication and assertions. Another commenter requested that HHS clarify that health plans cannot require original digital signatures for unstructured documents used in health care attachments. A commenter recommended that HHS should clearly specify ''signature'' versus a ''sound, symbol or process.'' The commenter stated that the current wording could create confusion and complicate the intent of implementing a standardized process. Additionally, the commenter recommended defining an electronic signature as a digital copy of an original signature, attached to or logically associated with attachment information, and executed by a person with the intent to sign the attachment information.

Response: We thank the commenters for raising concerns about the limitations of non-computable electronic signatures, such as scanned images of handwritten signatures. We agree that these forms generally do not provide robust support for identity verification, authentication, or assertion of signer intent. To address these limitations, and as we proposed, this final rule adopts the Digital Signatures Guide, which supports key features necessary for secure electronic signatures, including user authentication, message integrity, and nonrepudiation.

We clarify that this rule does not prohibit health care providers or health plans from using other forms of electronic signatures in contexts outside of the adopted HIPAA standard transaction for health care claims attachments. However, when an electronic signature is used to sign attachment information at the time it is transmitted as part of a HIPAA-standard electronic health care claims attachments transaction, that signature must conform to the Digital Signatures Guide, as finalized in § 162.2002(e). This requirement does not apply to documents created prior to transmission that may later be included in a claims attachment; only signatures affixed in the course of a HIPAA-standard attachment transaction must meet the standard.

With respect to unstructured documents, such as scanned images or PDFs used in attachments, health plans may not impose these electronic signature requirements except when they are transmitted as part of a HIPAA standard claims attachments transaction. In that case, a signature must meet the requirements of the adopted standard, though a health plan may not impose additional electronic signature requirements beyond the adopted standard.

As previously discussed, the definition of electronic signature is deliberately broad to allow for industry flexibility and to avoid restricting current practices. We acknowledge the commenter's concern that the phrase ''electronic sound, symbol, or process'' could create confusion when implementing standardized processes, but this language is intended to encompass a wide range of electronic signature methods already in use across the health care industry, including digital images of handwritten signatures and other forms associated with the signed content. We are not altering the proposed definition that we finalize here, but should we find during the course of implementation of the adopted standard that covered entities require greater specificity, we may provide additional guidance or educational resources, as applicable, or consider further rulemaking.

Comment: Multiple commenters stated that if HHS chooses to finalize the proposed rule, industry should be included in discussions on defining when an electronic signature should be required.

Response: In the proposed rule, we stated that we are not proposing to specify when an electronic signature must be required. Instead, we defer to the industry to continue to establish those expectations (87 FR 78450) consistent with the considerations we mentioned previously, including federal and state laws and regulations, accreditation standards, best practices, and payer requirements. We clarify in this final rule that the finalized HIPAA electronic signature standard applies only to attachment information transmitted by a health care provider in a HIPAA-standard electronic health care claims attachments transaction. Thus, while the health care industry may continue to set expectations for electronic signatures in other contexts, compliance with the adopted HIPAA standard is required in the specific context of claims attachments transactions covered by this rule.

Comment: Multiple commenters provided feedback on the proposed definition of electronic signatures in the context of laboratories, explaining that laboratories face particular issues with respect to electronic signatures, highlighting confusion around what constitutes an electronic signature for electronically placed laboratory orders. Multiple commenters expressed concern regarding the scope of the electronic signatures definition and stated that the proposed definition could impact what is considered an appropriate electronic signature for individual data and medical records included in health care claims attachments, like laboratory orders. The commenters stated that the HL7 Version 2 (V2) messages used to communicate the laboratory order include data that identifies the ordering provider. A commenter noted that some laboratories have experienced declined payment claims for laboratory tests that were placed electronically in an EHR and subsequently transmitted over a secure connection using standard HL7 V2 messages. Multiple commenters also noted that HL7 V2 messages have been used for over a decade without concerns raised regarding the validity of the orders placed. To resolve the electronic signature issues that laboratories face and establish a plan to resolve variations in what constitutes an electronic signature, commenters recommended that HHS convene a stakeholder meeting with, among others, CMS's Clinical Laboratory Improvement Amendments office, ONC, HL7, the Electronic Health Record Association (EHRA), and the American Clinical Laboratory Association.

The commenters referenced language from previous CMS rulemaking, the Medicare Program; Payment Policies Under the Physician Fee Schedule and Other Revisions to Part B for Calendar Year (CY) 2011 final rule (75 FR 73170), which stated that the need for a signature only applies to requisitions, which are paper forms, but does not

impact interested parties who utilize an electronic process for ordering clinical diagnostic laboratory tests.

A commenter noted subsequent conflicting guidance from a CMS-authored Medicare Learning Network Matters fact sheet that suggested laboratory tests must be signed, and the 2012 Physician Fee Schedule final rule, which retracted the policy finalized in the 2011 Physician Fee Schedule final rule. Commenters sought clarification regarding whether the use of EHRs that electronically transmit the necessary data to the laboratory constitutes a valid, signed laboratory order that provides relevant evidence that an authorized health care provider ordered it. Additionally, commenters urged HHS to make it clear that the widely deployed current electronic laboratory ordering process would not be impacted by the HHS digital signature proposal and, therefore, would not require the provision of necessary evidence that the order was placed by an authorized health care provider, as this information is electronically traceable and readily available to both laboratories and providers.

Multiple commenters requested that HHS confirm that it is not proposing that original forms of medical record entries be subject to these requirements and that the proposed definition for digital signatures for health care claims attachments does not change the current policy regarding upstream clinical workflows or place additional requirements on the current electronic laboratory ordering process.

A commenter urged HHS to remove the example in the proposed rule at 87 FR 78449 that reads ''[f]or example, for a laboratory to submit a claim for reimbursement of a laboratory test, a health plan may first require a physician visit and a signed physician order. When the laboratory later bills a health plan for the test, the plan may ask for evidence that it was ordered by an authorized health care provider; if the laboratory is unable to produce a signed order, it may not be reimbursed.'' The commenter stated this could be interpreted to apply to laboratory orders, which is not the intended focus of the health care attachments rule.

Response: We appreciate commenters' concerns regarding the timing of signatures in clinical workflows and the implications for implementing digital signature requirements associated with this rulemaking, particularly with respect to laboratories. We recognize that, in practice, health care providers typically sign clinical notes or other documentation at the point of service or document creation, not at the point when a CDA is later generated and submitted as part of a claims attachment. As such, the process of adding a digital signature at the time of CDA generation may not align with established clinical and documentation workflows. To allay some concern, we clarify that this rulemaking applies solely to claims attachments transmitted as part of an electronic claim transaction and generated for that purpose and does *not* apply to, or alter, upstream clinical documentation processes or related provider practices. To be very clear, this final rule imposes *no* new requirements on clinical workflows, including, but not limited to, how laboratory orders are created, signed, and transmitted from EHRs to laboratory systems.

By contrast, administrative workflows may be affected. Covered entities may need to establish organizational policies or technical workflows that designate how, when, and by whom an electronic signature is applied to a CDA package at the time it is generated for submission as a claims attachment, notwithstanding that an original document was previously signed by a provider. As such, adding a digital signature at the time of attachment generation may differ from established administrative processes and system interfaces, particularly for laboratory documentation and HL7 V2 messages.

We also recognize the historical context cited by commenters, including CMS's 2011 and 2012 Physician Fee Schedule rules (75 FR 7310 and 76 FR 73026) and related CMS guidance, and the resulting concerns about inconsistencies across programs. The scope of this final rule is limited to electronic signatures affixed to, and part of the requirements associated with, HIPAA health care claims attachments transactions, contemporaneous with when such transactions occur. It does not alter existing CMS, or any other, policies regarding electronic laboratory orders or impose documentation standards beyond those required in the HIPAA transaction.

The signature required on a health care claims attachment—at the time of a health care claims attachment transaction—is distinct and different from a signature that may have been affixed for documentation required at the time that health care services were provided, such as an ordering provider's signature on a lab order or provider note. Should a document (created and signed earlier by a provider) later be requested as part of a claims attachment and should a health plan require a signature on the attachment, that signature must be a digital signature that complies with the standard adopted in this final rule. That signature may be applied by the individual or entity submitting the claim, or by an authorized delegate of that submitter; it is not necessary to obtain a new signature from the original author of the clinical document.

Regarding the commenters' concern with the example cited at 87 FR 78449, we acknowledge, in retrospect, it was susceptible to being interpreted as imposing new or conflicting requirements on laboratory ordering processes but emphasize that is not how it should be interpreted. Rather, our intent was to illustrate a scenario in which a health plan, in the context of adjudicating a claim, may request supporting documentation from a provider. Should a health plan require submission of such a document as part of health care claims processes pursuant to a HIPAA health care claims attachment transaction, and should it require on such documentation a signature, the digital signature requirements finalized here would apply to that attachment submission; they would *not* apply, however, to the original clinical order or its format.

We also recognize that questions may arise regarding who may apply the electronic signature on a claims attachment. The finalized standard does not prescribe that a signature must be applied by a specific individual, but, rather, requires that the electronic signature be executed by a person with the intent to sign the attachment information. This allows for organizational delegation consistent with provider policies, state laws, and payer requirements, provided that the signer has appropriate authority and that the technical specifications for authentication, message integrity, and nonrepudiation are met.

We acknowledge the concerns raised by interested parties associated with laboratories and appreciate the possibility that there may be aspects of laboratory-specific workflows, regulatory requirements, and data exchange practices, particularly in relation to ordering, documentation, and claims submission processes, that may require particular attention. We intend to work closely with covered entities generally—but will particularly focus on laboratory-related entities—to support and enforce consistent and practical implementation of this rule's electronic signature requirements. That will involve monitoring implementation challenges and prioritizing collaborative education and coordination to support successful adoption, while avoiding unintended disruption to established processes and operations.

Stakeholder input will also inform our consideration of whether additional guidance or future rulemaking may be necessary to clarify the application of these requirements. Among other things, we will work with affected entities to identify any operational or technical barriers.

Comment: A commenter stated that an organizational delegation policy will have to be in place to add an electronic signature when the CDA is generated, which will need to be done before a technical solution could be implemented. The commenter stated that providers sign clinical notes at the time they are written, not when they create a CDA to send clinical notes electronically.

Response: We appreciate the commenter's concern regarding the timing of signatures in clinical workflows and any implications for implementing digital signature requirements under this rule. The electronic signature requirement finalized in this rule applies only to the claims attachment as transmitted in a HIPAA-standard electronic transaction, regardless of when the underlying clinical document was created. This means that this rulemaking does not require signatures on documents produced prior to the attachment request, though, as we have noted, health plan policies or other law may require that. Rather, pursuant to the requirements of this final rule, an electronic signature is required only on the attachment package being transmitted and only when a health plan requires an electronic signature.

As we clarified in a prior response, covered entities may need to establish organizational policies or technical workflows to designate how, when, and by whom the electronic signature is applied to the attachment package. In some cases, the signature may be applied at the point of CDA assembly, potentially by a delegate authorized to do so, based on pre-existing documentation and previously affixed clinical signatures. This approach is consistent with the flexibility offered in the Digital Signatures Guide, which supports organizational delegation models and does not prescribe specific timing or roles for signing. This clarification aligns with earlier discussion regarding laboratory documentation and HL7 V2 messages, emphasizing that the electronic signature applies to the administrative claims attachment artifact and does not alter upstream clinical workflows or document creation practices.

Comment: Multiple commenters expressed concern regarding the ambiguity of the proposed electronic signature definition and stated that it may create confusion and unintentionally force changes in clinical workflows. A commenter stated that the proposed rule does not address the absence of a practical way to obtain an electronic signature on an electronic test order and explained the ways that the X12N 275 standard, EHRs and Laboratory Information Systems (LIS), and CDA do not fulfill this need. The commenter also explained that the HL7 V2 standard, the HL7 Version 2.5.1 IG: Laboratory Orders Implementation Guide (LOI IG) from EHR, Release 1 and each LIS–EHR interface will have to be updated to include an electronic signature as part of an electronic order. The commenter also noted that guidance documents indicate a signature can be handwritten or electronic, but that there is little guidance on what constitutes an electronic signature.

Response: We appreciate commenters' concerns regarding the feasibility of applying electronic signatures to laboratory test orders and the potential impacts on clinical workflows. As we explain in this final rule, including in the previous responses, our finalized requirements pertain only to electronic health care claims attachments transactions, while the definition of ''electronic signature'' finalized in § 162.103 is deliberately broad to accommodate current industry practices and future innovations.

This final rule *does not* require that electronic test orders, such as those communicated in HL7 V2 messages or the HL7 2.5.1 LOI IG, include an electronic signature (whether such a signature might be required by virtue of some other law or practice would be beyond the scope of this rule). The electronic signature requirements finalized here only apply when a health care provider transmits attachment information electronically as part of a claims attachments transaction, and only if a health plan requires a signature on that attachment.

We acknowledge that laboratory test orders may later be requested by a health plan as a health care claim attachment. This final rule does not address clinical system configurations, but we will monitor implementation issues and, as necessary, engage with parties in the health care industry should additional guidance be necessary to clarify whether or how the requirements of this final rule interact with existing health IT infrastructure.

2. Electronic Signature Standard

In the HIPAA Standards for Health Care Attachments proposed rule, we provided an overview of electronic signatures and their ability to effectively authenticate a signer's identity (87 FR 78450). We included a discussion of the need to be able to electronically validate attachment information signed by a health care provider and nonrepudiation.

We proposed that, where a health care provider uses an electronic signature in a health care attachments transaction, the signature must conform to the implementation specifications in the Digital Signatures Guide. Specifically, we proposed to adopt in § 162.2002(f) (renumbered to § 162.2002(e) in this final rule) the HL7 IG for CDA Release 2: Digital Signatures and Delegation of Rights, Release 1 (Digital Signatures Guide) for electronic signatures for attachment information transmitted by a health care provider in an electronic health care claims attachments transactions specified in § 162.2001(a) (87 FR 78451). We also proposed to incorporate the same by reference in § 162.920. We refer readers to the proposed rule for the full discussion of the support provided by, and specifications of, the Digital Signatures Guide (87 FR 78450).

We solicited comments on the proposed definition of electronic signature and the proposed Digital Signatures Guide as the attachment information electronic signatures standard. We recognize that several commenters, particularly from the laboratory industry, raised important questions about how the finalized electronic signature requirement may intersect with longstanding laboratory workflows, electronic ordering processes, and regulatory obligations. While the digital signature requirement adopted in this rule applies only to the transmission of health care claims attachments and not to the underlying clinical documentation, as noted, we will closely monitor implementation to gauge whether it might be necessary for us to provide additional clarity to ensure consistent and practical implementation across provider types.

Comment: Multiple commenters expressed support for the adoption of the Digital Signatures Guide. A commenter stated that this will help to ensure authentication, message integrity, and nonrepudiation of electronic signatures for claim attachments.

Response: We thank commenters for their feedback and support for our proposal.

Comment: A commenter disagreed with the adoption of the Digital Signatures Guide, stating that the level of authentication will be unnecessary, especially for exchange between entities that have signed business agreements or standard operating procedures (SOPs).

Response: We appreciate the commenter's perspective regarding the use of business agreements or SOPs to establish trust between entities. However, we do not believe that the existence of such agreements alone provides sufficient assurance of the authenticity and integrity of attachment information submitted as part of a claims transaction. As we noted in the proposed rule (87 FR 78450), the lack of an electronic signature means the attachment information cannot be relied upon to be accurate. Electronic signatures offer critical technical safeguards, namely authentication, message integrity, and nonrepudiation, that otherwise cannot be assured by SOPs alone.

Comment: Multiple commenters stated that accommodating the requirements of an electronic signature as described in the Digital Signatures Guide would require updates to workflow, operational interfaces between EHRs and laboratories, and HL7 V2 message formatting, thus increasing documentation burden with no clear benefit. Multiple commenters stated that the Digital Signatures Guide is applicable only to a CDA-based document but cannot be used in an HL7 V2 lab order message that solely contributes data that may be included in a health care attachment. The commenters stated that should HHS finalize the electronic signature proposal, there would be a need to update the CDA and FHIR specifications and corresponding electronic signatures.

Additionally, multiple commenters recommended that an electronic signature should only be required if requested or indicated as required by the health plan. A commenter recommended that the electronic signature proposal only apply to health care attachments as a distinct artifact submitted by a provider to support a claim or referral/prior authorization request to avoid impacting upstream clinical processes.

Response: We appreciate the commenters' concerns about potential impacts to workflows and system interfaces, particularly in relation to laboratory documentation and HL7 V2 messages. We clarify that the electronic signature standard adopted in this final rule applies only to health care attachments submitted as part of a claims transaction. As we previously noted, it does not alter or impose requirements on upstream clinical workflows, such as the creation or signing of clinical notes, lab orders, or other documentation. In some cases, a provider may have already signed the underlying clinical document, so it could be argued that applying a signature to a claims attachment at the time of claims submission is duplicative. To the contrary, a signature applied to a claims attachment would serve a distinct administrative purpose: ensuring authentication, message integrity, and nonrepudiation for the claims attachment itself, independent of the original clinical signature. This rule does not override or conflict with existing messaging or laboratory processes; it applies specifically to the signature applied to the attachment artifact submitted in a health care attachments transaction for claims purposes.

Our intent is to ensure that the electronic signature standard applies only where required for claims attachments when submitted in a health care attachments transaction, without affecting how clinical documentation is authored, signed, or transmitted in routine care.

Comment: Multiple commenters recommended that HHS not adopt the electronic signature provisions. Because the proposed rule regulation text in § 162.2002(f) (renumbered to § 162.2002(e) in this final rule) was missing, commenters expressed concern about HHS finalizing such a requirement.

Response: On March 17, 2023, we published a correction notice that fixed technical and typographical errors that appeared in the December 21, 2022 HIPAA Standards for Health Care Attachments proposed rule. Shortly after that, on March 24, 2023, to ensure that industry would be able to adequately comment on the corrected proposed rule, we extended the proposed rule comment period by 30 days via a **Federal Register** notice titled: Adoption of Standards for Health Care Attachments Transactions and Electronic Signatures, and Modification to Referral Certification and Authorization Transaction Standard: Extension of Comment Period (88 FR 17780). That notice was published prior to the expiration of the proposed rule's initial 90-day public comment period. While the proposed rule inadvertently omitted certain proposed regulation text—§ 162.2002(f) (renumbered to § 162.2002(e) in this final rule), that identified the electronic signature standard we proposed to adopt—the proposed rule did include fulsome preamble discussion of this policy and stated twice (87 FR 78449 and 78450) that the policy would be located in § 162.2002(f). While there is no doubt the correction notice (that did not introduce any new policies) and the comment period extension remedied any perceived shortcomings, even the initial notice of proposed rulemaking, through its fulsome preamble discussion, afforded adequate notice to afford public comment. We have adequate grounds to finalize this proposal.

Comment: A commenter stated that HHS should reiterate that trading partners should determine when an electronic signature is required in an electronic health care attachments transaction and that the HL7 standard is only needed when a health care provider uses an electronic signature in a health care attachments transaction.

Response: We agree. It is important to note that this final rule adopts a generalized definition for electronic signatures applicable to health care claims (or equivalent encounter information) attachments transactions only and adopts the requirement that electronic signatures conform to the standards in the Digital Signatures Guide. It is the health plan's prerogative to determine when and where signatures must be affixed to documents.

Comment: A commenter proposed the use of DocuSign, which the commenter asserted that the Internal Revenue Service uses as its document verification service.

Response: We thank the commenter for the suggestion. We did not propose use of DocuSign in the HIPAA Standards for Health Care Attachments proposed rule since it does not conform to the HIPAA Administrative Simplification transaction standards.

Comment: A commenter expressed that they do not believe a standard for electronic signatures is necessary. The commenter stated that the industry already has trust frameworks and verification for digital transactions between providers and payer organizations and questioned the need for further authentication via an electronic signature standard. Another commenter referenced the use of Trust Credentials and stated that electronic signatures must be bound to the real, ID-proofed identity of a person or organization. The commenter recommended that standards be consistent across federal agencies and digital signatures be verifiable by an out-of-band query to the issuer of the Trust Credential confirming identity and validity. The commenter provided

an overview of existing standards for identity proofing, authentication, and assertions that they stated have been adopted by ASTP/ONC and used by the Direct Standard and the Trusted Exchange Framework and Common Agreement (TEFCA). The commenter also explained how patients, providers, health plans, and devices are ID proofed under DirectTrust and that the real identity is bound to a Trust Credential. Additionally, the commenter described how a Trust Credential is assigned under TEFCA Individual Access Services. The commenter noted that x.509 Certificates are bound to a single entity to allow the ability to identify and remove one bad actor without revoking all credentials.

A commenter recommended that for the industry to reliably utilize digital signatures nationwide, HHS should consider implementing minimum identity assurance requirements using Identity Assurance Levels 2 (IAL2) and the NIST Special Publication (SP) 00–63A and stated that HHS should consider that digital signatures only work if both the signer and the verifier agree to use the same digital signature standard. The commenter recommended implementing Private Signing Key Protection to lower the likelihood of a stolen private key being used to forge a digital signature.

Response: We appreciate commenters' recommendations and perspectives regarding the need for an electronic signature standard, and we recognize that many organizations already operate under trust frameworks such as those supported by DirectTrust and TEFCA. We also understand the importance of identity assurance and credentialing in enabling secure, verifiable transactions.

In this final rule, we adopt the Digital Signatures Guide as the standard for electronic signatures on attachment information transmitted in electronic health care claims attachments transactions. We selected this guide because it supports the core features—authentication, message integrity, and nonrepudiation—essential to ensuring trust in electronic signatures.

While identity management, including credential issuance, proofing, and validation, is critical to the effectiveness of digital signature technologies, it is outside the scope of this regulation. The final rule does not establish minimum identity assurance levels or define a trust framework for all covered entities. We expect such entities to rely on credentialing authorities and certificate management protocols that align with industry's best practices, including those referenced by the commenters (for example, NIST SP 800–63A, IAL2, and x.509 certificate frameworks).

Comment: Multiple commenters recommended that HHS review existing processes that are relevant to these proposals. A commenter referenced the Drug Enforcement Administration's (DEA) definition at 21 CFR part 1311 of Electronic Prescription of Controlled Substances and the DEA's IFR, stating that HHS could use that as a guide. Multiple commenters recommended that HHS evaluate the ANSI X12.58 Security Structures control standard as an X12 native authentication, verification, integrity, and electronic signature method.

Response: We appreciate commenters' recommendations to evaluate existing standards and frameworks that support identity verification, message integrity, and electronic signature functionality, including the DEA's requirements for electronic prescriptions of controlled substances at 21 CFR part 1311 and the ANSI X12.58 Security Structures control standard.

The DEA's framework provides a model for authentication and nonrepudiation in clinical transactions, and the ANSI X12.58 standard was specifically developed to address security controls, including electronic signatures, in the context of X12-based EDI. These standards reflect valuable experience and technical insights into the secure exchange of health care data. With respect to the commenter's suggestion to evaluate the ANSI X12.58 Security Structures standard for authentication and digital signatures in X12 transactions, we appreciate this input. X12.58 is relevant because it provides a structured framework for securing X12-based transactions, including mechanisms for verifying sender identity, ensuring message integrity, and supporting nonrepudiation. While we are not adopting X12.58 as an electronic signature standard at this time, partly to maintain alignment with broader HIPAA standardization efforts and because industry adoption varies, we acknowledge its relevance for securing X12-based transactions.

In this rule, we are finalizing the adoption of the Digital Signatures Guide as the standard for digital signatures on health care claims attachments. We selected this IG because, as mentioned earlier, it directly aligns with the content structure of the adopted attachment standard and includes supplemental specifications to support authentication, message integrity, and nonrepudiation. The CDA-based digital signature model is compatible with the data formats and exchange protocols finalized for use in electronic claims attachments and was developed through consensus processes within the standards development industry.

We agree that there may be opportunities for broader alignment of electronic signature standards across federal programs. We will consider this input in any future rulemaking or technical guidance related to electronic transaction security and authentication. We also encourage ongoing industry collaboration and coordination across SDOs to promote convergence and reusability of authentication methods where appropriate.

Comment: Multiple commenters sought clarification on the relationship between the HIPAA Standards for Health Care Attachments proposed rule (87 FR 78438) that contained electronic signature proposals, and CMS's Interoperability and Prior Authorization proposed rule (87 FR 76238) which contained no such proposals. A commenter noted that there is an overlap of payers seeking attachment information to support prior authorization but that the CMS Interoperability and Prior Authorization proposed rule does not include any proposed requirements for digitally signing medical documentation. A commenter stated that the two proposed rules seem to have contradictory provisions and requested that HHS address these contradictions and confirm if the proposed digital signature requirements apply only to health care attachments and not to other areas of clinical workflow.

Response: We appreciate commenters' requests for clarification on any overlap between the electronic signature requirements finalized in this rule and the proposals in CMS's Interoperability and Prior Authorization proposed rule. We reiterate that in this final rulemaking, we are not finalizing the prior authorization attachments transaction that we had proposed, and the digital signature requirements adopted here do not apply to, or alter, the prior authorization processes or API requirements established under the CMS Interoperability and Prior Authorization final rule. Therefore, the digital signature standard being adopted in this rulemaking will apply only to health care claims attachments transactions. Accordingly, the requirements finalized in this rule operate independently and do not overlap with those applicable to prior authorization under other CMS regulations.

Final Action: After consideration of the public comments we received, we are finalizing our proposals, without

modification, to adopt the definition of electronic signatures in § 162.103 and the Digital Signatures Guide for use with health care claims attachments in § 162.2002(e).

H. Modification to a HIPAA Standard

1. Modifications to Standards

Section 1174 of the Act requires the Secretary to review the adopted standards and consider modifications to them, which include additions to the standards, as appropriate, but not more frequently than once every 12 months. Section 1174(b)(2)(B)(ii) of the Act requires that modifications must be completed in a manner that minimizes disruption and the cost of compliance.

Section 1175 of the Act prohibits health plans from refusing to conduct a transaction as a standard transaction. It also prohibits health plans from delaying the transaction or adversely affecting, or attempting to adversely affect, a person or the transaction itself on the grounds that the transaction is in standard format. It establishes a timetable for covered entities to comply with any standard, implementation specification, or modification as follows: for an initial standard or implementation specification, no later than 24 months (or 36 months for small health plans) following its adoption; for modifications, as the Secretary determines appropriate, but no earlier than 180 days after the modification is adopted. As authorized under the Act, HHS implemented 45 CFR 162.910, which sets out the standards maintenance process and defines the role of DSMOs. The two SSOs associated with this final rule are the ASC X12 and HL7.

In the HIPAA Standards for Health Care Attachments proposed rule, we proposed to modify the adopted Version 5010 of the X12N 278 standard for prior authorization transactions to Version 6020. We refer readers to the proposed rule for the full discussion of the maintenance process for health care transaction standards adopted by the Secretary, as well as an overview of the history of the NCVHS recommendations related to our proposals (87 FR 78451). We summarize public comments submitted regarding this proposal and provide our responses that follow.

Comment: A commenter expressed support for keeping up-to-date with newer versions of X12 standards, but recommended allowing historic versions for an extended period and/or allowing for a reasonable amount of time for systems to be upgraded to the newer X12 standard. The commenter indicated that 2 years would be a good starting point, but recommended a longer window where both standards would be allowed given the large number of requirements occurring over the next few years and specifically referenced several HHS initiatives and regulations. Another commenter recommended that HHS build language into the final rule allowing for regular version updates to standards so that providers and health systems could be more agile in communicating electronic health information. The commenter pointed out that there may be too much specificity in the standard version noted in the proposed rule and stated that some practitioners have had to navigate implementing Version 5010 without the ability to make changes in simple things such as dental documentation.

Response: We appreciate the commenter's feedback. HHS has considered similar recommendations regarding regular upgrades to standards to provide, by rulemaking, HIPAA covered entities with a more routine cadence in the adoption of updated standards and operating rules. We continue to assess potential alternatives within the scope of our authority and consistent with the law and will continue to work with industry to identify means by which updated standards can be more timely adopted and implemented. It is important to note that section 1174 of the Act requires the Secretary to review the adopted standards and adopt modifications to them as appropriate, but not more than once every 12 months. Moreover, modifications must be completed in a manner that minimizes disruption and the cost of compliance.

As discussed in the proposed rule, and again here in this final rule, section 1175(b)(1)(A) of the Act prescribes a 24-month period for which initial compliance is required, and in the case of a small health plan, 1175(b)(1)(B) of the Act allows 36 months for compliance. However, section 1104(c)(3) of the Affordable Care Act, under which we are adopting the health care claims attachment standards, reiterated the original HIPAA requirement to adopt a health care claims attachment standard and a single set of associated operating rules, and spoke specifically to timing, providing that the Secretary must adopt the standard and operating rules by January 1, 2014, to be effective no later than January 1, 2016, and that the Secretary may adopt the standard and operating rules on an interim final basis. We acknowledge that this final rule comes more than 10 years after the Affordable Care Act-specified adoption date, but interpret that provision to mean that for the attachment standards adopted under section 1104(c)(3) of the Affordable Care Act there should be a 2-year compliance date for all covered entities.

That same Affordable Care Act provision requires that the adopted standard be ''consistent with the X12 Version 5010 transaction standards,'' and we explain in the HIPAA Standards for Health Care Attachments proposed rule and in section II.D.3. and elsewhere in this final rule, our rationale for adopting Version 6020 with respect to the standards we are adopting as final. We also observe that HIPAA was enacted nearly 30 years ago, and, in that time, we believe that covered entities have gained experience moving from one version of a standard to the next.

2. Modification to Referral Certification and Authorization Transaction Standard

In the HIPAA Standards for Health Care Attachments proposed rule, we included a robust discussion of our proposal to adopt Version 6020 of the X12N 278 standard for a referral certification and authorization transaction for non-claims-related attachment requests and responses (87 FR 78451). We stated that although the NCVHS did not recommend a specific version of the standard, we proposed to adopt Version 6020 of the X12N 278 standard because Version 6020 better harmonizes with the X12N 275—Additional Information to Support a Health Care Services Review (006020X316) standard that we proposed to adopt for health care providers transmitting attachment information. For the full discussion, we refer readers to the proposed rule (87 FR 78451).

The referral certification and authorization transaction under § 162.1301 includes two transmission types from health care providers to health plans: prior authorization requests and referral certification requests. The X12N 278 standard is currently required for both types of transmission. Although it would have been technically feasible for us to have proposed to adopt Version 6020 only for prior authorization transmissions specified in § 162.1301(a) and retain Version 5010 for referral certification transmissions specified in § 162.1301(b), we instead proposed Version 6020 for both transmission types because it includes improvements over Version 5010 that better support both transmission types, and we believed it would have been more burdensome for covered entities to have to maintain both X12N 278 versions.

Comment: Multiple commenters expressed support for the proposed

adoption of Version 6020 of the X12N 278 transaction standard. A commenter noted that Version 6020 accommodates dental procedures, which reduces administrative burden. Conversely, multiple commenters disagreed with the proposed adoption of Version 6020 of the X12N 278 standard, noting that there have been significant advancements and version updates, and some commenters recommended that HHS consider alternative versions of the X12N 278 standard, like Version 8020. Multiple commenters expressed concern that implementing Version 6020 may increase cost and burden, and a commenter stated that there are issues with managing multiple standards and versions and gave the example that the X12N 837 claims standard could be in Version 8020, while the changes proposed could be at Version 6020 or Version 5010.

Response: As we explain in section III.A. of this final rule, we are not finalizing our proposal to adopt the prior authorization transaction standard, so we are not adopting the X12N 278—Health Care Services Request for Review and Response (006020X315), September 2014. We thank the commenters who supported our proposal and appreciate the commenters' suggestions to consider alternative versions of the X12N 278 standard, like Version 8020, and will continue to monitor and assess whether alternative versions of the current standard may better address the needs of the industry for enhanced administrative simplification.

Final Action: After consideration of the public comments we received, and for reasons previously discussed herein, we are not adopting a modification to the X12N 278 standard for prior authorization transactions.

I. Compliance Dates

We proposed to adopt new standards and a modification to a standard in the HIPAA Standards for Health Care Attachments proposed rule. Section 1175(b) of the Act provides for a compliance date not later than 24 months after the date on which an initial standard or implementation specification is adopted for all covered entities except small health plans. However, section 1104(c)(3) of the Affordable Care Act requires the adoption of standards for health care attachments and operating rules with a 2-year compliance timeframe for all covered entities and offers no extended timeframe for small health plans. In the HIPAA Standards for Health Care Attachments proposed rule, we proposed that the same health care attachments standards would apply to both claims and prior authorization attachments transmissions. As the transmission standard for each type of attachments transaction would be the same, we stated that we believed the compliance date for both types should also be the same. In addition, because we proposed to treat the two attachments processes together as one transaction in new Subpart T, we stated that adopting the same compliance timeframe for all covered entities would avoid the complications that a bifurcated compliance timeframe (that is, one for claims processes and another for prior authorization processes) may raise.

The effective date is the date the rule amends the Code of Federal Regulations (CFR), which is typically 60 days after the date of publication in the **Federal Register**.

We proposed to adopt the following eight standards for health care claims attachments transactions and electronic signatures:

- *HL7 IG for CDA Release 2:* C–CDA Templates for Clinical Notes—Introductory Material, Release 2.1 (HL7 C–CDA IG Volume One).
- *HL7 IG for CDA Release 2:* C–CDA Templates for Clinical Notes—Templates and Supporting Material, Release 2.1 (HL7 C–CDA IG Volume Two).
- *HL7 CDA Release 2 Attachment IG:* Exchange of C–CDA Based Documents, Release 1 (HL7 Attachments IG).
- X12N 275—Additional Information to Support a Health Care Services Review (06020X316).
- X12N 275—Additional Information to Support a Health Care Claim or Encounter (06020X314).
- X12N 277—Health Care Claim Request for Additional Information (006020X313).
- X12N 278—Health Care Services Request for Review and Response (006020X315), September 2014.
- *HL7 IG for CDA Release 2:* Digital Signatures and Delegation of Rights, Release 1 (Digital Signatures Guide).

In accordance with section 1104(c)(3) of the Affordable Care Act, which requires the Secretary to adopt a transaction standard for health claims attachments and prescribes a uniform 2-year compliance date for all covered entities (with no special provision for small health plans, unlike the original HIPAA statute), we proposed that the compliance dates for the policies adopted in this final rule would be 24 months from the effective date of this rule. We stated that we would specify these compliance dates in § 162.2002.

Section 1175(b)(2) of the Act requires the Secretary to determine an appropriate compliance date for the implementation of modified standards, such as the modification of the X12N 275 standard from Version 5010 to Version 6020, by taking into account the time needed to comply due to the nature and extent of the modification. The Act also requires that the compliance date be no earlier than the last day of the 180-day period, beginning on the date the modification is adopted (that is, the effective date of the final rule in which the modification is adopted). As discussed in the HIPAA Standards for Health Care Attachments proposed rule, we proposed to adopt Version 6020 of these standards because they better harmonize with the X12N 275—Additional Information to Support a Health Care Claim or Encounter (006020X314) and the X12N 275—Additional Information to Support a Health Care Services Review (006020X316) standards we proposed to adopt for the routing/envelope of attachment information by the provider. We stated that X12 recommended to the NCVHS that all parties to those transactions use Version 6020 of the standards as they are most compatible with each other. In the proposed rule, we discussed that Version 6020 of the X12N 278, as the standard for referral certification and authorization transactions, would be used by a health plan in conjunction with Version 6020 of the X12N 275 standard, which a health care provider would use to electronically transmit attachment information to a health plan in support of a prior authorization request. As the X12N 278 standard would feature in the new health care attachments transaction, we stated that it would be important to align the compliance dates for the proposed modification to the X12N 278 standard and the health care attachments standards. Accordingly, we proposed that covered entities would need to comply with Version 6020 of the standard 24 months after the effective date of the final rule. We reflected this compliance date in § 162.1302 by: (1) revising paragraph (c) to specify only the standard identified in paragraph (b)(2)(i); and (2) adding new paragraph (d) to require covered entities to use, in paragraph (d)(1), Version 5010 X12N 278 for 24 months after the effective date of the final rule, and in paragraph (d)(2), Version 6020 X12N 278 on and after 24 months after the effective date of the final rule. We solicited comments on this proposed approach.

Comment: Multiple commenters expressed support for the proposed compliance date of 24 months for health

care attachments standards and electronic signatures standard, and the updated standard for referral certification and authorization transactions. A commenter stated that the proposed compliance date would provide sufficient time for providers, health plans, and clearinghouses to adopt new standards and IGs. A commenter noted the current voluntary use of standards and stated that limiting the scope to just claims attachments should allow for easy implementation within the 24-month timeframe for the industry.

Response: We appreciate the commenters' feedback and support. We are finalizing the 24-month compliance date for the health care claims attachment standards and the electronic signature standard that we adopt in this final rule. As we have noted, we will closely monitor the rule's implementation and, should we learn of concerns, will work with the industry to address them. Some commenters supported a 24-month compliance date for the modified standard for referral certification and authorization transactions (X12N 278 Version 6020), but we are not adopting that modification, as discussed in section III.A. and elsewhere in this final rule.

Comment: Multiple commenters recommended that HHS finalize a shorter compliance date, ranging from as soon as practical to 18 months, instead of the proposed compliance date of 24 months after the effective date of the final rule. Another commenter requested urgent adoption of the attachment standards, with a requirement for full implementation within 12 months of adoption, not 24 months as HHS proposed. That commenter stated that health plans have adequate notice from HHS to start planning and building the platform and stated that if a health plan expects that health care providers adapt to a health plan's demand to provide attachments with 2–3 months' notice, it is more than reasonable to expect health plans to implement electronic health care attachments standards within 12 months or less. The commenter believed that such requirement would comply with the statutory compliance timeframe of no later than 24 months following adoption, and stated that if any health plan has difficulty implementing the requirements, it could suspend its attachments for claims and prior authorization requirements until it was able to comply with electronic health care attachments standards, which the commenter believed would be the only fair solution for health plans, patients, and providers. Conversely, a commenter expressed appreciation for HHS's efforts to establish a timeline for the adoption of the final rule but encouraged HHS to be flexible as needed with the 24-month compliance date to give providers and health systems more time to be compliant with new requirements.

Response: We acknowledge the commenters' view that a shorter compliance period could allow the industry to benefit from the standards sooner and recognize the view that a shorter timeline could be permissible under the statute's ''no later than 24 months'' language. However, with respect to the health care claims attachment standards and the electronic signature standard that we are adopting in this rule, we are adopting a 24-month timeframe to ensure uniform industry implementation and prevent the fragmentation that variable compliance periods might engender. We appreciate the commenter's concern that health plans often require health care providers to meet aggressive timelines and that a shorter compliance date could encourage quicker benefits realization. Nevertheless, preparing for the adoption of new standards will require HIPAA covered entities, potentially along with their health IT vendors or service partners, to engage in a series of coordinated steps requiring careful planning that may include updating systems, training staff, and testing with trading partners. As such, we believe the 24-month timeframe is necessary to support successful implementation.

Regarding the suggestion that health plans suspend their attachment requirements should they be unable to comply on time, we clarify that once the compliance date is reached, all covered entities are legally required to use the adopted standards when conducting health care claims attachment transactions electronically. However, we encourage early preparation, coordination, and testing among trading partners to ensure readiness and minimize implementation burdens. We note that nothing in this rulemaking would prohibit a health plan from electing to limit or suspend its health care claims attachment requirements.

Comment: Multiple commenters expressed concern with the compliance date, citing the need for real-world testing of the proposed standards. A commenter stated that attachments transaction standards must be tested with all end-users, including physicians, in a variety of settings, including small, independent, and rural physician practices to ensure the standards are effective and efficient and suitable for adoption. Another commenter recommended HHS exercise enforcement discretion following the 24-month implementation period to allow industry-wide testing as it will likely require the full 24 months for implementation and testing.

Response: In accordance with section 1104(c)(3) of the Affordable Care Act, which requires the Secretary to adopt a transaction standard for health claims attachments and prescribes a uniform 2-year compliance date for all covered entities (with no special provision for small health plans, unlike the original HIPAA statute), the compliance dates for the policies adopted in this final rule are 24 months from the effective date of this rule.

We acknowledge the commenters' concerns about the need for real-world testing, especially among small, independent, and rural physician practices, and note that falls within the coordinated steps that we speak about in a previous response. We agree that end-user validation in a variety of clinical and operational settings is essential to the successful adoption of the standards and encourage interested parties to begin implementation and testing efforts as early as possible to ensure that all participants have sufficient time to validate workflows and system performance.

We also acknowledge the concern that some payers and vendors may need to undertake new development work for the adopted standards. A commenter, for example, noted that while certain EHR and revenue cycle systems previously implemented the X12N 276/277 claims status transactions, some payers did not do so at the time of the Version 4010 standards (we clarify that these statements reflect a commenter's perspective, not an HHS finding that payers failed to comply with adopted standards). We encourage such payers to work closely with vendors, clearinghouses, and providers to identify and address gaps early, and to comply with all adopted HIPAA standards.

Regarding a commenter's recommendation that we utilize enforcement discretion following the 24-month period, we emphasize that we will monitor implementation progress and, to the extent necessary, consider appropriate action, consistent with our general approach to HIPAA Administrative Simplification efforts.

Finally, we emphasize that early testing, collaboration with trading partners, and use of implementation resources will be essential for all covered entities to meet the compliance deadline.

Comment: Multiple commenters recommended that HHS provide support similar to what was provided in the transition from ICD–9 to ICD–10. A commenter agreed with the 2-year timeframe only if HHS requires milestones, testing, and implementation support to ensure performance to the standards by the compliance date.

Response: We agree that consistent communication and implementation support are important to successful adoption of the standards. We strongly encourage covered entities to develop internal implementation timelines and testing schedules in collaboration with their trading partners to ensure readiness by the compliance date. As resources permit, we intend to support industry readiness through targeted outreach and the dissemination of educational materials, consistent with our role in past administrative simplification efforts. For example, during the ICD–10 transition, HHS collaborated closely with industry groups to develop technical resources, frequently asked questions (FAQs), and webinars. For this effort, we expect that industry organizations, such as WEDI and SSOs, including X12 and HL7, may again play a central role in developing and sharing technical guidance as they have with previous efforts, though we are not able to commit them to, or require, that. HHS's support activities, including education and technical assistance, are subject to resource availability and agency discretion, though we certainly hope to offer such support. Covered entities are responsible for ensuring timely compliance and should not rely solely on HHS-led efforts.

Comment: Multiple commenters suggested a 36-month timeframe from the date the final rule is published to implement Version 6020 of the X12N 278 standard, while a commenter emphasized it is likely that an updated version of that standard will be available prior to the compliance date proposed in the rule and recommended that HHS adopt the most updated version of the standard in the final rule.

Another commenter stated that organizations have likely begun some level of electronic implementation to streamline their own operations, and early pilots could be leveraged to accelerate conformance with the proposed standards. A commenter recommended that HHS consider extending the implementation period beyond 2 years to prevent overburden. Another commenter stated that while they support standardization, they would like additional time to develop workflows and properly implement standards. Other commenters recommended a subsequent 2-year voluntary transition period following the compliance period during which both current and new X12N standards would be allowed to support health IT developers and users. A commenter recommended that HHS engage health IT end users to conduct real-world testing on the proposed standards, including end-to-end transaction testing prior to requiring implementation. The commenter also recommended that health IT end users be involved in the implementation roadmap.

Multiple commenters requested that HHS consider the impact of competing regulatory requirements when establishing the compliance dates. Multiple commenters expressed concern with the demands that the implementation of simultaneous regulatory actions places on adopters, health IT developers, and industry. The commenters referenced several regulatory requirements, including the CMS Interoperability and Prior Authorization proposed rule, the Advanced Explanation of Benefits (AEOB) requirements called for in the No Surprises Act,[31] and the HHS Administrative Simplification: Modification to the NCPDP Retail Pharmacy Standards and Adoption of a New Pharmacy Subrogation Standard proposed rule (87 FR 67634). A commenter recommended implementing a 24-month transition date for adopting Version 6020 of the X12N 278 standard and accompanying health care attachment standard transactions should a compliance date be set in late 2025 or early 2026 as this approach would ease the weight of simultaneous implementation requirements of other rulemaking.

These commenters asserted that those other regulatory requirements, along with those of this rule, would demand significant planning and resources which may compete with other priorities and operations at their institution. A commenter recommended that HHS partner with the private sector to develop a cohesive roadmap across initiatives based on consumer needs, maturity of standards, and required resources to stagger implementation and enforcement. Other commenters suggested staggering the requirements for this rule and those of the CMS Interoperability and Prior Authorization proposed rule.

Response: We thank the commenters for their feedback and agree with the commenter's point that many organizations have begun some level of electronic implementation to streamline their own operations and likely can leverage those efforts to accelerate conformance with the proposed standards. Regarding the X12N 278 standard, as we discuss in section III.A. of this final rule and reiterate elsewhere, we are not finalizing the adoption of Version 6020 of the X12N 278 standard, mooting suggestions that we alter its compliance date or establish a transition period. Should we proceed with future X12N 278-related rulemaking, we would take into account the commenter's recommendations regarding a move to the newer version of the standard.

With respect to those standards we are adopting, and consistent with section 1104(c)(3) of the Affordable Care Act, we are finalizing a compliance date by which covered entities must comply with the standard not later than 24 months after the date on which an initial standard or implementation specification is adopted. Some commenters suggested a longer compliance period, with some also recommending we include a voluntary transition period, but the statute provides for a 24-month time period.

We recognize that meeting the required timeframe will require significant planning and the coordinated steps to which we refer in a previous response. We also acknowledge commenters' concerns regarding cumulative regulatory burdens, including requirements from the now-finalized CMS Interoperability and Prior Authorization final rule. While this rule does not provide for staggered compliance with other regulations, HHS will continue to engage with parties in the health care industry and federal partners to support coordinated policy development wherever feasible.

In response to recommendations for real-world testing and roadmap development, we agree that broad participation from implementers and end users—including small health care providers, health IT developers, and clearinghouses—is critical to successful adoption. We encourage private-sector leadership and public-private collaboration (for example, through WEDI, HL7, and X12) to develop implementation playbooks, testing frameworks, and milestone tracking tools. We also anticipate offering stakeholder education and support.

We also note that many covered entities have successfully implemented new or modified HIPAA transaction standards within a 24-month timeframe. We will monitor implementation

[31] H.R. 133—116th Congress (2019–2020): Consolidated Appropriations Act, 2021. (2020, December 27).

challenges and remain prepared to engage with interested parties as needed, but statutory requirements limit the compliance timeframe. Prompt planning and engagement by covered entities is essential to meeting the final compliance deadlines.

Comment: A few commenters recommended alternative compliance start dates from what was proposed in the HIPAA Standards for Health Care Attachments proposed rule. One of these commenters recommended that implementation be scheduled on a date other than the end of a calendar year and emphasized that financial planning be performed and approved in advance of actual expenditure. The commenter stated that it is unrealistic to expect that resources can be obtained and committed to compliance with the proposed regulation within the current budget year, given that the regulation requirements would not be finalized until a final rule is issued. Another commenter requested a compliance timeframe of at least 18 months for any new regulation on this matter and requested that consideration be given to timeframes for state entities to come into compliance due to significant changes to program and processes. A commenter stated the compliance date should not be aligned with the January 1 medical enrollment period of any year to allow payer and provider systems sufficient time for modifications without impacting medical enrollments during the initial weeks of the new year.

Response: We appreciate the concerns that commenters raised regarding the proposed compliance date. As we have repeatedly noted, section 1104(c)(3) of the Affordable Care Act requires a 2-year compliance timeframe. We recognize that implementing a new standard may involve significant planning and coordinated steps to which we refer to in a previous response, and, upon publication of this final rule, encourage covered entities to expeditiously begin planning to ensure their readiness to attain compliance in a timely manner.

Regarding timing in relation to the calendar year and enrollment periods, the 24-month compliance date does not fall on January 1 of any year, which should help mitigate disruptions to systems and operations during the annual medical enrollment cycle and allow payers and providers to focus on system changes during less operationally sensitive periods.

We are finalizing a compliance date that is 24 months after the effective date of this final rule, in accordance with section 1104(c)(3) of the Affordable Care Act.

Comment: A commenter stated that vendors will need at least 2 years to implement the process of updating the proposed standards and provided the explanation that, because XML is the standard format, time would be needed for training related to implementing the HL7 transactions.

Response: We understand this commenter to be concerned that additional time may be needed to comply because it will require the use of an HL7 implementation specification within an X12 transaction standard. However, we are aware that some in the industry, including at least one Medicare Administrative Contractor, have already successfully used the HL7 implementation specification within the X12 transaction standard, and have done so for over 15 years. This implementation includes publicly available companion guides and procedures, demonstrating that HL7 content can be effectively integrated and exchanged within the X12 transaction envelope, and providing a proven model for how HL7 documents can be used within X12 transactions. It also offers an early example of how vendors and clearinghouses can structure systems, interfaces, and workflows to support this type of transaction. Therefore, we believe the 24-month compliance period provides sufficient time for vendors and covered entities to prepare, test, and implement the standards adopted in this final rule.

Final Action: After considering the public comments we received, we are finalizing a 24-month compliance date after the effective date of this final rule for the adoption of the X12N 275—Additional Information to Support a Health Care Claim or Encounter (06020X314) and X12N 277—Health Care Claim Request for Additional Information (006020X313), and the HL7 IG for CDA Release 2: Digital Signatures and Delegation of Rights, Release 1 and other HL7 IGs adopted in this final rule.

J. Incorporation by Reference

This final rule incorporates by reference in § 162.920 the following standards: (1) X12N 275—Additional Information to Support a Health Care Claim or Encounter (006020X314); and (2) X12N 277—Health Care Claim Request for Additional Information (006020X313).

The X12N 275—Additional Information to Support a Health Care Claim or Encounter standard provides instructions to assist those who send additional supporting information or who receive additional supporting information to a health care claim or encounter.

The X12N 277—Health Care Claim Request for Additional Information standard contains the format and establishes the data contents of the Health Care Information Status Notification Transaction Set for use within the context of an EDI environment. This transaction set can be used by a health care payer or authorized agent to notify a health care provider, recipient, or authorized agent regarding the status of a health care claim or encounter or to request additional information from the health care provider regarding a health care claim or encounter, health care services review, or transactions related to the provisions of health care.

This rule incorporates by reference in § 162.920 the following IGs:

- HL7 CDA R2—US Realm, Version: 2.1.0.1, September 2023 [32]—The standard specifies the structure and data content for the electronic exchange of clinical documents used as attachments in support of healthcare administrative transactions. The implementation guide defines how clinical documentation structured using the HL7 Clinical Document Architecture Release 2 and the HL7 C–CDA Release 2.1 may be packaged and transmitted to support requests for additional information associated with health care claims, prior authorization determinations, and other administrative processes. This standard also supports the electronic exchange of structured clinical documentation between health care providers, health plans, and their authorized agents.
- HL7 IG for CDA Release 2: Consolidated CDA Templates for Clinical Notes (US Realm) Draft Standard for Trial Use Release 2.1, Volume One—Introductory Material, August 2015 with 2019 June Errata..—The standard provides introductory guidance and implementation context for the Consolidated Clinical Document Architecture (C–CDA) templates used to exchange structured clinical documents. This volume describes the overall architecture, scope, design principles, and conformance framework for implementing clinical document templates based on the HL7 Clinical Document Architecture Release 2. This standard also supports the interoperable exchange of clinical documents across health information technology systems used by health care providers, health information exchanges, and other authorized entities.

[32] This September 2023 document was issued as technical errata to the March 2022 document that has been referenced in an earlier section of this final rule, and does not contain substantive changes to the March 2022 specifications.

• *HL7 IG for CDA Release 2:* Consolidated CDA Templates for Clinical Notes (US Realm) Draft Standard for Trial Use Release 2.1, Volume Two—Templates and Supporting Material, June 2019—The standard specifies the detailed template definitions and supporting technical specifications for implementing Consolidated Clinical Document Architecture (C–CDA) clinical documents. This volume defines the structure, constraints, and required data elements for specific clinical document templates, sections, and entries used to represent patient clinical information using the HL7 Clinical Document Architecture Release 2 framework. The standard also enables health care providers, health information exchanges, and other authorized entities to create and exchange standardized clinical documents that support the interoperable communication of patient care information.

• *HL7 IG for CDA Release 2:* Digital Signatures and Delegation of Rights, Release 1, Draft Standard for Trial Use, October 2014—The standard establishes specifications for representing digital signatures and delegation of signing authority within clinical documents structured using the HL7 Clinical Document Architecture Release 2 framework. The implementation guide defines mechanisms for applying digital signatures to ensure the integrity, authenticity, and non-repudiation of electronic clinical documents and for documenting circumstances in which an individual signs a document on behalf of another authorized party. These capabilities support the secure exchange and verification of electronically signed clinical documentation across health information technology systems.

The materials we incorporate by reference are available to interested parties and can be inspected at the CMS Information Resource Center, 7500 Security Boulevard, Baltimore, MD 21244–1850. The X12 IGs are available at *www.X12.org.* The HL7 IGs are also available through the internet at *www.HL7.org.* A fee is charged for the X12 standards. Charging for such publications is consistent with the policies of other publishers of standards.

Comment: A commenter requested that HHS clarify in the final rule that, contrary to what was stated in the proposed rule (87 FR 78453), HL7 does not charge a fee for the HL7 IGs.

Response: We appreciate the commenter's request for clarification. In the HIPAA Standards for Health Care Attachments proposed rule, we incorrectly stated that a fee is charged for all IGs. HL7 primary standards and other selected products are licensed at no cost. It is important to note that the no-cost license for HL7 standards includes some restrictions on how the standards may be used and distributed. A license that allows broader use is available to people and organizations with an HL7 membership. For additional information, access their Copyright policy. The HL7 IGs are available at no fee via the internet at *https://www.hl7.org/legal/ippolicy.cfm.* By contrast, there is a fee for the X12 standards, which are available via the internet of X12 at *www.X12.org.*

Final Action: After consideration of the public comments we received, and after consultation with the SSOs, we are finalizing the incorporation by reference of the standards we are adopting in this final rule in § 162.2002 (c) through (e) and 162.920(a). We are also finalizing the incorporation by reference of the IGs we are adopting in this final rule in § 162.2002(a), (b)(1), and 162.920(e).

K. Severability

This final rule implements requirements of HIPAA and the Affordable Care Act for the adoption of standards for health care claims attachments transactions, which will support health care claims transactions, and a standard for electronic signatures to be used in conjunction with health care claims attachments transactions.

To the extent a court may enjoin one provision of this final rule, HHS intends that the other provisions should remain in effect, ensuring the continuity of the regulations. We intend that any provision of the requirements of this rule that is held to be invalid or unenforceable by its terms or as applied to any person or circumstance would be construed so as to continue to give maximum effect to the provision permitted by law unless such holding is one of utter invalidity or unenforceability, in which event we intend that the provision would be severable from the other finalized provisions described in this section and in other sections and would not affect the remainder thereof or the application of the provision to persons not similarly situated or to dissimilar circumstances.

If any section, subsection, sentence, clause, phrase, word, provision or application of this final rule shall be found to be invalid, illegal, unconstitutional, or unenforceable, that finding shall not affect or undermine the validity of any other section, subsection, sentence, clause, phrase, word, provision, or application which can be enforced without the use of the offending portion of this final rule.

IV. Out of Scope Comments

We received several comments on subjects that were outside the scope of the proposed rule. We do not directly respond to those types of comments because they are outside the scope of this rulemaking.

V. Collection of Information Requirements

Under the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501 through 3520, we are required to provide notice in the **Federal Register** and solicit public comment before a collection of information requirement is submitted to the Office of Management and Budget (OMB) for review and approval. To fairly evaluate whether an information collection should be approved by OMB, 44 U.S.C. 3506(c)(2)(A) requires that we solicit comment on the following issues:

• The need for information collection and its usefulness in carrying out the proper functions of our agency.

• The accuracy of our estimate of the information collection burden.

• The quality, utility, and clarity of the information to be collected.

• Recommendations to minimize the information collection burden on the affected public, including automated collection techniques.

The burden associated with the information collection requirements contained in § 162.2002 of this document are subject to the PRA. The PRA package previously approved for the HIPAA health care transaction standards under OMB control number 098–0866 and titled: ''CMS–R–218: HIPAA Standards for Coding Electronic Transactions'' will be updated to include the requirements finalized in this rule. We solicited but did not receive any comments on this collection of information.

VI. Regulatory Impact Analysis (RIA)

A. Statement of Need

This rule finalizes the adoption of standards, in accordance with the HIPAA Administrative Simplification statutory provisions, for the electronic transmission of health care claims attachments. The health care industry has made it clear via testimony to the NCVHS, WEDI presentations, CAQH reports, public comment, National Standards Group (NSG) listening sessions, and direct inquiry that there is a clear need for the Secretary to adopt electronic transaction standards for claims attachments to bring consistent and reliable communication among the HIPAA covered entities. Because no claims attachment standard has been adopted, health plans, health care

providers, clearinghouses, and health IT vendors lack the direction needed to support broad use of automation in the attachment workflow or for the industry to coalesce around the use of even a small number of electronic solutions. In addition, the lack of attachment standards has deterred parties in the health care industry from investing in system implementations to automate the attachments workflow, requiring a large manual administrative burden for the exchange of medical documentation. Industry SSOs and stakeholder alliances report that automating this process will yield substantial labor cost savings.

Comment: A commenter expressed concern regarding the assumptions in the 2019 CAQH study cited in the proposed rule, stating that the data in this study is questionable and based on unreasonable assumptions given industry experience with previous standards, and that HHS cannot justify that the net benefits of adopting health care attachment standards will outweigh the costs to health care providers. The commenter also stated that the cost savings to the industry cited in the proposed rule do not account for the added cost of implementing both FHIR (pursuant to CMS rulemaking) and X12 updates during the same 24-month period, the ability to convert each to the other, clearinghouse costs, and ongoing maintenance of each. A commenter stated that health care claims cannot be separated from corresponding appeal transactions, and that the savings cited are unlikely to be realized unless appeal attachment standards are adopted.

Response: The commenters did not provide alternative data sources or analyses for our further consideration, and we note that our RIA in the HIPAA Standards for Health Care Attachments proposed rule involved a thorough analysis utilizing multiple sources. As reiterated at the beginning of this section, this analysis was informed by our assessment that considered the current environment, industry testimony to the NCVHS, WEDI whitepapers, CAQH studies, survey results produced by industry consensus-based organizations, and updated web-based research on specific topics.

For purposes of this final rule, we have updated data and calculations based on the 2024 CAQH Index report, focusing on health care claims attachments.[33] The RIAs included in the HIPAA Standards for Health Care Attachments proposed rule and the Modifications final rule, in addition to the CAQH Index Reports cited throughout this RIA, only provide an estimate of the direct costs of implementation and automation; appeals were not estimated, presumably because appeals data are difficult to obtain. We note that this final rule applies only to what is being adopted, which are health care claims attachments transaction standards. We may address other transactions, including the use of a prior authorization transaction standard in health care attachments, in other rulemaking.

The claims attachment transaction standards adopted in this final rule cover the transmission of solicited and unsolicited attachments related to various stages of the claims payment process, including post-payment review activities, but do not extend to attachments used in claims appeal processes. Costs to implement a FHIR standard fall outside of the scope of this final rule.

B. Overall Impact

We have examined the impacts of this rule as required by Executive Order (E.O.) 12866, ''Regulatory Planning and Review''; E.O. 13132, ''Federalism''; E.O. 13563, ''Improving Regulation and Regulatory Review''; E.O. 14192, ''Unleashing Prosperity Through Deregulation''; the Regulatory Flexibility Act (RFA) (Pub. L. 96–354); section 1102(b) of the Social Security Act; section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4); and Subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996 (the Congressional Review Act) (5 U.S.C. 804(2)).

E.O.s 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select those regulatory approaches that maximize net benefits, including: (1) potential economic, environmental, public health and safety, and other advantages; (2) distributive impacts; and (3) equity. Section 3(f) of E.O. 12866 defines a ''significant regulatory action'' as any regulatory action that is likely to result in a rule that may: (1) have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal mandates, or the President's priorities.

An RIA must be prepared for a regulatory action that is significant under section 3(f)(1) of E.O. 12866. Based on our estimates, the Office of Information and Regulatory Affairs (OIRA) has determined this rulemaking is significant under section 3(f)(1). In accordance with Subtitle E of the Congressional Review Act, OIRA has also determined that is a ''major rule'' as defined by 5 U.S.C. 804(2).

We believe that covered entities have already largely invested in the hardware, software, and connectivity standards being adopted in this final rule. We anticipate that the adoption of these changes will result in costs, but that those costs will be outweighed by the benefits that these changes will yield. Accordingly, we have prepared an RIA that, to the best of our ability, presents the costs and benefits of this final rule.

C. Detailed Economic Analysis

1. Anticipated Effects

The objective of this RIA is to summarize the costs and benefits of adopting new and modified standards for the exchange of health care claims attachment information consisting of the following provisions:

- A code set to be used for health care claims attachments transactions.
- X12 standards for requesting and transmitting attachment information and HL7 standards for clinical information content.
- Electronic signatures standards.

This portion of the analysis is informed by an earlier environmental scan produced for us in 2016 by the MITRE Corporation, a Federally funded research and development center. Data from that environmental scan was used since it was conducted to help develop the HIPAA Standards for Health Care Attachments proposed rule. However, we did not solely rely on the MITRE report. Additional data was obtained through industry testimony to the NCVHS, whitepapers, WEDI survey results, and updated web-based research on specific topics.[34] Since we did not receive any comments on the assumptions we made based on the 2016 MITRE Corporation environmental

[33] The Council for Affordable Quality Healthcare, Inc. (n.d.). 2024 CAQH Index Report. Retrieved from *https://www.caqh.org/hubfs/Index/2024%20Index%20Report/CAQH_IndexReport_2024_FINAL.pdf.*

[34] Guidance on Implementation of Standard Electronic Attachments for Healthcare Transactions November 2017 Workgroup for Electronic Data Interchange. Retrieved from *https://www.wedi.org/2017/11/17/guidance-on-implementation-of-standard-electronic-attachments-for-healthcare-transactions/.*

scan, we continue to reference it in this final rule.

Consistent with statutory and regulatory requirements, any recommendations for the adoption of HIPAA standard updates are the outcome of an extensive, consensus-driven process that is open to all interested parties. The standards development process involves direct, participatory input from representatives of parties in the health care industry that are required to utilize the transactions. Both the standards adoption process and standards development processes are described in detail in section II. of this final rule.

For purposes of this analysis, we use the segmentation of parties in the health care industry laid out in the Modifications final rule, with some additional details on vendors supporting the integration of the administrative and clinical data. As discussed in the HIPAA Standards for Health Care Attachments proposed rule, and again in this final rule, health care providers and payers continue to use manual processing for health care attachments, therefore, these interested parties are relevant for purposes of this RIA because there is no adopted health care claims attachments standard. As noted in the most recent WEDI white paper, most payers send hard copy letters to request additional information to support a claim or prior authorization submitted by the health care provider.[35] These segments consist of the following:

- Health Care Providers
++ Hospitals
++ Physicians
++ Dentists
++ Pharmacies
- Health Plans
++ Private Health Plans and Issuers
++ Government Health Plans: Medicare, Medicaid, and Veterans Administration
- Clearinghouses
- Vendors
++ Practice Management System (PMS) Vendors
++ EHR Vendors

In analyzing the effects of the proposed rule, we referenced the 2019 and 2020 CAQH Index Reports issued on January 21, 2020 and February 3, 2021, respectively.[36] [37] However, for this final rule, we are making reference to the 2024 CAQH Index Report.[38] The 2024 CAQH Index tracks adoption of HIPAA-mandated- and other electronic administrative transactions and measures progress related to reducing the costs and burden associated with administrative transactions exchanged across the medical and dental industries. The CAQH Index includes estimates of the number of annual transactions by submission mode (that is, phone, fax, mail, or email), electronic (that is, HIPAA standard) or partially electronic (that is, web portals or interactive voice response), as well as estimates of the associated labor cost and staff time. The reported costs and savings account for the labor time required to conduct transactions, not the time and cost associated with gathering information or the costs associated with the use of clearinghouses or third-party vendors.

With respect to the category of health care providers, the report does not provide a breakdown of the types of providers that contributed to the survey results, but it does distinguish between medical and dental providers and acknowledges partnering with both physician and hospital member organizations. Thus, we believe the medical providers' savings reported include hospital-related responses.

In contrast to the data on labor cost savings, we continue to be unaware of any reports or other industry estimates on the level of additional investments needed to fully implement these electronic processes for requesting and submitting attachment information, or the proportion of such costs that might be passed on to health care providers or health plan firms. By reviewing testimony submitted to the NCVHS and conducting web searches, such as for plan, clearinghouse, and vendor EDI instructions and services, we understand some interested parties' segments have already largely built or acquired the capacity to implement these proposals (albeit possibly in inconsistent and proprietary ways in the absence of federal standards). Similarly, based on the NCVHS testimony, others (particularly health care providers and their vendors) have partially implemented the standards.[39] Thus, we conclude that implementation and readiness to fully implement the standards being adopted in this final rule will vary among and within covered entity industry segments.

We also believe it is likely that firms directly involved in deploying additional capacity, particularly in upgrading PMS or EHR functionality, will not voluntarily share proprietary and competitive market-sensitive data on the level of additional investment needed, or on the effects on customer fees. Therefore, as further explained in the discussion of cost calculations, we estimate the incremental costs involved not through projected cost build-up, but rather as a function of the level of impact of implementing the previous HIPAA-standard modifications. We solicited comments on this approach and on the appropriateness of the aggregate level estimates, preferably seeking data reflecting estimated changes to firm-specific costs and customer-specific fees in a manner that facilitated aggregation, but we received no response or comments.

We expect that the regulatory requirements, combined with the administrative cost savings opportunities identified by CAQH, will result in broad adoption of these attachment standards. The remainder of this section provides details supporting the cost-benefit analysis for the provisions being finalized.

2. Affected Entities

As with previous HIPAA standards updates, all HIPAA covered entities will be affected by this final rule. Covered entities include all health plans, all health care clearinghouses, and health care providers that transmit health information in electronic form in connection with a transaction for which the Secretary has adopted a standard. Therefore, these covered entities will be required to use these standards for transactions that they conduct electronically. See the Transactions and Code Sets final rule for a discussion of affected entities (65 FR 50361).

In general, covered entities (or their vendors) will incur a number of one-time costs to implement the new transactions in this final rule. These costs likely will include analysis of business flow changes, software procurement or customized software development, integration of new software into existing provider/vendor systems, staff training, and collection of

[35] Guidance on Implementation of Standard Electronic Attachments for Healthcare Transactions November 2017 Workgroup for Electronic Data Interchange. Retrieved from *https://www.wedi.org/2017/11/17/guidance-on-implementation-of-standard-electronic-attachments-for-healthcare-transactions/.*

[36] The Council for Affordable Quality Healthcare, Inc. (n.d.). 2019 CAQH Index Report. Retrieved from *https://www.caqh.org/sites/default/files/explorations/index/report/2019-caqh-index.pdf.*

[37] The Council for Affordable Quality Healthcare, Inc. (n.d.). 2020 CAQH Index Report. Retrieved from *https://www.caqh.org/hubfs/43908627/drupal/explorations/index/2020-caqh-index.pdf.*

[38] The Council for Affordable Quality Healthcare, Inc. (n.d.). 2024 CAQH Index Report. Retrieved from *https://www.caqh.org/hubfs/Index/2024%20Index%20Report/CAQH_IndexReport_2024_FINAL.pdf.*

[39] NCVHS Letter to the Secretary of HHS on Recommendations for the Electronic Health Care Attachment Standard, July 5, 2016. Retrieved from *https://ncvhs.hhs.gov/wp-content/uploads/2018/03/2016-Ltr-Attachments-July-1-Final-Chair-CLEAN-for-Submission-Publication.pdf.*

new data, testing, and transition processes. For some entities, new vendors may be needed to create and validate the clinical documentation to be embedded in the attachment transactions. System implementation costs will account for most of the costs, with system testing alone likely accounting for a majority of costs for all covered entities. Ongoing operational costs will be expected to initially grow, as the implementation of electronic processes run in parallel with ongoing manual and partially automated processes, but will then be expected to decline as higher proportions of transactions are automated. These health IT-related costs will be offset by significant reductions in labor costs for what are, today, largely manual processes to locate, collect, package, and mail clinical records needed to support requests for additional documentation to support claims. Other offsetting cost savings are expected from lower postage and other mailing costs, reductions in reprocessing volume due to higher clean claim acceptance rates, and delay in receiving payment.[40] [41]

It is likely that there are significant differences in readiness among payer and provider claims health IT systems, and we do not know the extent of incremental costs associated with health IT development, enablement (that is, upgrade or licensing fees paid by users), or workflow adjustment and training to facilitate compliance with the standards adopted in this final rule. So, though we are aware that the net benefits will likely vary among interested parties, we continue to lack the data to estimate these differential effects. An important consideration reflected in various industry testimonies submitted to the NCVHS is that some interested parties, particularly smaller health care providers, will continue to have the option to leverage existing clearinghouses to provide these information exchange services based on negotiated rates. This is a standard practice today, where clearinghouses already manage 85 percent of the conversion of paper-to-electronic formats, as well as reformatting of non-compliant to compliant electronic claim transactions for the industry. Given the high costs of manual and partially electronic means for exchanging required information, we believe this rule's implementation will yield significant net industry savings. However, the level and timing of uptake (as opposed to the retention of manual processes and clearinghouse intermediation) by provider entities is uncertain. We reflect this uncertainty with both the phasing in and estimation of minimums and maximums for costs and benefits. We solicited comments in the proposed rule on our RIA approach and assumptions.

Comment: Multiple commenters provided descriptions of additional burdens that covered entities would experience by implementing the policies as proposed. A commenter noted that California's Medicaid Management Information Systems Operations will have to include new training for call center agents and providers, new call scripts, and possible changes to the provider manuals. Another commenter stated that additional storage will present states with increased and expanding costs, as Medicaid programs are not allowed to charge fees for administering programs. Another commenter noted that there are other impacts that must be considered when assessing the proposals outlined in the proposed rule. The commenter provided several examples of operational processes, workflow changes, education and training, and additional work their institution would need to complete in order to comply with the proposed rule.

Response: We thank commenters for their feedback. Our estimates took into consideration business flow changes, software procurement or customized software development, integration of new software into existing provider/vendor systems, staff training, and collection of new data, testing, and transition processes, and we noted previously that some covered entities may require new vendors to create and validate the clinical documentation to be embedded in the attachments transactions. Our systems implementation costs account for most of the costs, with system testing alone likely to account for many costs estimated for all covered entities. Finally, regarding the concern raised about the potential for states to incur additional costs, such as administrative costs to operate the program, we encourage states to work, as appropriate, with CMS's Center for Medicaid and CHIP Services (CMCS) to determine if Federal Financial Participation (FFP) is available for state administrative costs.

Comment: A commenter stated that HHS underestimated the economic impact of this rule on all entities and expressed concern regarding the cost of using HIPAA transaction standards without widespread adoption. The commenter called out HHS's acknowledgement of those health plans that do not use automation in working with medical record documentation as part of their prior authorization request and claim adjudication processes, with the major concern being that these plans will not invest in the attachment standards systems and will continue to use manual processes. The commenter therefore recommended that HHS require that health plans invest in automation to mitigate manual processes. Based on their prior experience with the transaction modifications required by Version 5010 standard implementation and ICD–10 implementation, another commenter similarly stated that HHS significantly underestimated the costs to conform to the proposed requirements. The commenter also expressed that HHS's assumptions were erroneous and that the X12N 275 claims standard and Version 6020 of other transaction standards would create new implementation, revision, and support costs for states. Another commenter stated that savings would not be realized if payers do not also invest in systems to eliminate manual processes to interpret documentation submitted via the transactions.

Response: The commenters who stated that we underestimated the rules' costs offered no substantive data or additional information to counter our analysis. We further explain here our analysis, including some insignificant changes—such as updating the current year labor statistics and the use of the most recent CAQH index—that we made with respect to costs and benefits detailed in this final rule. Also, as discussed in section III.A. of this final rule and elsewhere, since we are not finalizing the proposal to adopt a modification to the prior authorization transaction standard, we do not reflect those calculations in this RIA. In sum, we made significant efforts to ensure the accuracy of the costs and benefits presented in this final rule.

The analysis included in the HIPAA Standards for Health Care Attachments proposed rule was based on the analysis performed in the Modifications final rule (74 FR 3296). The analysis was also updated for inflation through the use of various CAQH reports. Based on the estimates in the HIPAA Standards for Health Care Attachments proposed rule, the inflation data were adjusted using the 2000 to 2025 Consumer Price Index

[40] NCVHS Letter to the Secretary of HHS on Recommendations for the Electronic Health Care Attachment Standard, July 5, 2016. Retrieved from *https://ncvhs.hhs.gov/wp-content/uploads/2018/03/2016-Ltr-Attachments-July-1-Final-Chair-CLEAN-for-Submission-Publication.pdf.*

[41] In an RIA that, in accordance with OMB Circular A–4, takes a society-wide perspective, changes in timing of payments represent a transfer, rather than a net societal cost savings.

(CPI).[42] When preparing the proposed rule, although later CAQH Index reports were available, we chose to use the 2019 report because we believed, at that time, the estimates based on the period during the COVID–19 public health emergency (PHE) years would have resulted in overestimates and not be relevant to future years. We now have the CAQH 2024 report, which indeed confirms several downward trends, confirming that the impact from the COVID–19 PHE has stabilized. Therefore, for the purposes of this final rule, we further updated the estimates by a factor of 23 percent, which represents a percentage increase consistent with both inflation and the CAQH report. More specifically, using the most recent CPI data and updating to the CAQH 2024 report (the latest full year), we find that an additional 23 percent must be added to account for inflation.

In the proposed rule, we stated that we utilized the CAQH national annual savings estimates as the basis for our cost estimates. The CAQH national annual savings estimates were calculated based on the potential savings achieved by the industry when transitioning from a reported state of 22 percent electronic processing for attachments to fully electronic processing. The potential cost savings by the industry are based on the premise of cost decreases as industry adoption increases. Although there have been previous apparent increases in electronic processing of health care attachments, we do not trend the benefits estimates forward because previously reported estimates of electronic processing adoption have tended to remain stable over a longer period. Because we believe that some portion of providers and their vendors may take longer to move from manual to fully automated transactions, we also assume a phased-in realization of the level of annual benefits projected by CAQH. For the purposes of this analysis, we generally estimate that most interested parties will realize the benefits in labor savings over a 3-year period at the rate of 50 percent in the first operational year, 75 percent in the second operational year, and 100 percent in and after the third year after the compliance date. We did not elect to require that health plans invest in automation because, with respect to the level and timing of the uptake of these standards, we assume that some portion of providers and their vendors may take longer to move from manual to fully automated transactions and that could potentially cause additional financial burden for some. Our analysis is summarized in Tables 6 and 7, which included multiple sources for estimation of minimum and maximums for costs and benefits and thereby accounted for the uncertainty around certain providers choosing to retain manual processes.

We are finalizing the RIA with the revisions described in the previous response. As this final rule will apply only to health care claims attachments transactions, the RIA does not include the prior authorization transaction as initially proposed.

3. Explanation of Cost Calculations

Based on consultation with industry workgroups, such as WEDI, we determined that the health care claims attachments standards adopted in this final rule are already in common use by entities engaged in other lines of business that exchange medical records (for example, the workers' compensation and liability insurance fields). Thus, there is clear evidence that the standards are fit for their intended purpose and have been successfully implemented in closely related business processes.

Although the claims attachments standards we are finalizing adoption of are initial standards, as described in section 1175 of the Act, health plans surveyed by CAQH in 2024 reported electronic transaction submission levels of 32 percent for attachments. Therefore, although we had not adopted the specification for attachments requests by the health plan (X12N 277 standard for claims transactions) and the response from the provider (X12N 275 standard for claims transactions) as HIPAA standards, some payer and provider systems already exchange electronic attachments using the standards we are finalizing adoption of in this rule. Moreover, HL7 C–CDA standards have been widely adopted by health IT developers participating in the ONC Health IT Certification Program; these standards are incorporated into certification criteria that are part of the definition of a Base EHR in 45 CFR 170.102. According to the latest available posted data, as of 2021, nearly 4 in 5 (80 percent) office-based physicians had adopted a certified EHR.[43]

Similarly, while the standards we are adopting for electronic signatures are also initial standards, they incorporate practices already implemented in health-care related reporting and monitoring systems. We anticipate that leveraging existing industry experience will limit incremental implementation costs for providers. At the same time, HHS continues to evaluate other electronic signature models for potential applicability to other HIPAA transactions or broader alignment across federal programs.

Given that some parts of the health care industry have experience implementing requirements similar to the standards that we are adopting in this final rule, we believe implementing these standards will be more similar to implementing standard modifications than to implementing transaction standards for the first time. Therefore, we anchor our cost estimates on the final cost estimates included in the Modifications final rule (74 FR 3322), updated for inflation, and then make certain adjustments to address unique aspects of certain industry segments.[44] While the systems required for implementing the specifications being adopted in this final rule have been continuously updated since the publication of the Modifications final rule, the technologies within the implementation specifications in this final rule are of the same type as those considered there and will be integrated into systems that continue to utilize similar business models.

The cost estimates in the Modifications final rule were based on an estimate of the total costs to implement the initial HIPAA transaction standards (Version 4010/4010A) and informed by industry interviews.[45] To determine the costs for each provider sub-segment (that is, hospitals, clinicians, and dentists), we established an estimate for what the total approximate Version 4010/4010A costs were for an individual entity within that sub-segment (based on the interviews and other data available through research) and then applied an estimated range of 20 to 40 percent of those costs to come up with estimated minimum and maximum costs for

[42] U.S. Inflation Calculator. (n.d.). Current U.S. Inflation Rates: 2000–2026. Retrieved from *https://www.usinflationcalculator.com/inflation/current-inflation-rates/#:~:text=To%20find%20annual%20inflation%20rates,rate%20in%202023%20was%203.4%25.*

[43] ASTP/ONC *HealthIT.gov.* (n.d.). Office-based Physician Electronic Health Record Adoption. Retrieved from *https://www.healthit.gov/data/quickstats/national-trends-hospital-and-physician-adoption-electronic-health-records.*

[44] Cost estimate ranges from the January 2009 Modifications final rule were adjusted for inflation using the Bureau of Labor Statistics Consumer Price Index Inflation Calculator, to reflect amounts for January 2020 and round up to the nearest whole number to match benefits estimates from the CAQH 2020 Index. Retrieved from *https://www.bls.gov/data/inflation_calculator.htm.*

[45] Version 5010 Regulatory Impact Analysis–Supplement. September 2008. Retrieved from *https://www.cms.gov/files/document/5010regulatoryimpactanalysissupplementpdf.*

Version 5010. As discussed in the Modifications final rule, the baseline range of 20 to 40 percent was accepted as a realistic proxy by the providers and plans that participated in the earlier interviews conducted to develop the regulatory cost benefit analysis (74 FR 3315). The purpose of those interviews was to identify more granular cost categories. It is important to note that through subsequent regulatory actions, we have solicited comments on our baseline ranges to aid in analyzing and validating overall cost estimates ranges by entity. Since we did not receive any comments on our estimated ranges, we continue to use the estimated range of 20 to 40 percent. For the purposes of this final rule, the estimated cost for each individual entity within a segment was then multiplied by the number of entities to establish the estimated costs for the entire segment.

With respect to the level and timing of the uptake of these standards, we assume that some portion of providers and their vendors may take longer to move from manual to fully automated transactions. For purposes of this analysis, we generally estimate that most interested parties will incur costs over a 4-year period at the rate of 50 percent in the first implementation year, 30 percent in the second implementation year, and 10 percent each in the third and fourth years. We developed this 4-year model based on feedback from industry interviews and historical data from prior standard transitions (for example, Version 4010 to 5010). Providers and vendors consistently shared that the largest investments are made in the first 2 years, with a gradual tapering off in the final 2 years. It also provides a structured approach to ensure that providers and vendors can manage costs and resources effectively, while gradually scaling up their automation efforts. We maintain these estimates for full implementation in this final rule.

We note that although many commenters on the Modifications final rule suggested that we underestimated the costs, commenters then provided no substantive data or additional information to counter our analysis. We are not aware of more recent public research relating to the costs of implementing modifications to HIPAA transaction standards. We invited public comments on our understanding and requested any available additional data to help us determine the costs of implementing modifications to HIPAA transaction standards more accurately.

Comment: A commenter stated that significant resources will be necessary to implement the rule's requirements and believed that those costs are missing from the RIA estimates. The commenter listed the following: (1) familiarization with the final rule; (2) requirements definition; (3) specification documentation; (4) system and procedures modification; (5) unit-string-system-UAT-Partner-E2E and B2B testing; (6) software deployment; (7) companion guide, instruction manual, and testing instruction updates; (8) website deployment; (9) outreach; (10) trading partner coordination; and (11) preparation of educational and notification materials.

Response: We thank the commenter for their feedback, but note the commenter offered no substantive data for our consideration, so we retain our analysis as is. We also reiterate, as we stated previously, that: (1) we included in our estimates consideration of business flow changes, software procurement or customized software development, integration of new software into existing provider/vendor systems, staff training, and collection of new data, testing, and transition processes; (2) for some covered entities, new vendors may be needed for the creation and validation of the clinical documentation to be embedded in the attachment transactions; and (3) our systems implementation costs considerations account for most of the costs, with system testing alone likely accounting for a majority of costs estimated for all covered entities.

Comment: A commenter noted HHS's assertion that entities have already largely invested in resources to conduct the proposed new and modified standards is untrue with respect to long-term and post-acute care (LT–PAC) providers that were excluded from the Health Information Technology for Economic and Clinical Health (HITECH) Act. The commenter also noted that the full benefits of these proposed regulations will likely not be realized by a significant number of resource-constrained LT–PAC providers.

Response: Although LT–PAC providers were not included in the HITECH Act, the X12 EDI transactions for health care claims attachments adopted in this final rule are not part of CMS's Meaningful Use or Promoting Interoperability programs, nor are those incentive programs relevant to the transactions addressed in this analysis. However, we believe that LT–PAC providers, like HIPAA covered entities, are likely to have the technical infrastructure or vendors in place to support development for the exchange of HIPAA mandated transactions and should be able to update those systems to accommodate attachments for claims. Should we learn that LT–PAC providers are lagging with full compliance with the requirements of this final rule, as resources permit, HHS will work with that industry segment.

4. Explanation of Benefits Calculations

To determine the benefits for each segment of the industry, we primarily relied upon the 2024 CAQH Index report. Based on survey responses, CAQH estimates that spending on labor time conducting attachment transactions accounts for about $590 million of spending on administrative transactions across the medical industry, with health care providers incurring about 88 percent of this, spending at an average cost of $6.30 for each manually processed attachment. CAQH estimates that moving from manual to electronic attachments transactions could save the health care industry $1.65 on average per transaction. These estimated savings would be split between health care providers and health plans and would be generated by the avoidance of 8 minutes in administrative labor time per attachment on average, as medical providers reported taking an average of 11 minutes to submit an attachment manually versus 3 minutes electronically. Comparable data on spending and savings opportunities on attachment transactions for dental providers were not available, although the survey reports that only 37 percent of dental attachment transactions in 2024 were fully electronic.

We utilized the 2024 CAQH national annual savings estimates as the basis for our benefits estimates. The CAQH national annual savings estimates are calculated based on potential savings moving from the reported state of 32 percent electronic processing for attachments to fully electronic processing. The total potential industry cost savings opportunity is an amount that decreases as industry adoption increases. Although there was an apparent increase in electronic processing of health care attachments transactions from 2020 to 2024, we do not trend the benefits estimates forward because previously reported estimates of electronic processing adoption have tended to remain stable over a longer period of time. The CAQH estimation methodology only includes labor time savings, which it assesses to be, by far, the most significant component of savings. We do not include estimates of other sources of savings, such as through the elimination of mailing costs, so our benefit estimates may have a tendency toward understating actual

industry savings.[46] Because we believe that some portion of health care providers and their vendors may take longer to move from manual to fully automated transactions, we also assume a phased-in realization of the level of annual benefits projected by CAQH. For purposes of this analysis, we generally estimate that most interested parties will realize the benefits in labor savings over a 3-year period at the rate of 50 percent in the first operational year, 75 percent in the second operational year, and 100 percent in and after the third year after the compliance date. The 3-year implementation timeline was chosen based on a combination of industry experience, realistic adoption timelines, and the desire to maintain consistency between implementation costs and savings. Past health care regulations often assumed multi-year implementation timelines to allow for adequate industry readiness. This 3-year timeline likely reflects lessons learned from prior transitions, where full compliance was phased in over a similar period. This approach also ensures that both costs and benefits are realized in a way that reflects typical patterns of adoption, while allowing for a gradual transition and adjustment period for interested parties in the health care industry.

Comment: A commenter underscored the benefits in using electronic authorizations such as time savings, financial savings, and a decrease in denials due to fewer administrative denials. Another commenter agreed with the time estimations regarding the submission of paper records versus electronic records. The commenter noted that some analyses of savings, such as those conducted by WEDI, do not explore the impact on private practice physical therapists. The commenter further noted that savings realized through implementation of the proposals would be split between health care providers and health plans but stated it is imperative that savings are split among those who actually provide care and not the insurance companies which can often stand in the way of paying for the provision of care.

Response: We thank the commenters for their feedback. The analysis included in this final rule addresses three types of providers: (1) clinicians; (2) hospitals; and (3) dentists. While further differentiation among each group is possible, the assumption is that the overall averages for each group capture the relevant utilization patterns for each of its subgroups, and we believe that further granularity, if the data existed, would not provide significantly different numbers. Private practice physical therapists are included in the group of clinicians. The commenters requesting a separate analysis for this group did not indicate its uniqueness, nor why the overall average for doctors does not suffice.

5. Costs and Benefits Determination for Each Industry

a. Hospitals

As previously discussed in the HIPAA Standards for Health Care Attachments proposed rule, to determine the costs for each health care provider sub-segment, we started with the minimum and maximum cost estimates included in the Modifications final rule for each type of entity. For hospitals, those estimates were within a range of $1,423 million to $2,848 million, adjusted for inflation (74 FR 3316). We further assume that hospital health IT developers will incur these costs, absorbing some portion of the costs as a cost of doing business incorporated in the current level of health IT service and maintenance agreements and passing some portion of the costs on to the hospital in the form of higher fees for enabling new functionality. This seems reasonable given our understanding that health IT vendors generally plan on, and finance, a certain level of ongoing system development through ongoing maintenance agreements, typically with annual increases, but also must keep these at a level that remains competitive in their niche market.[47] In other words, not all possible systems upgrades will be factored into current fees. We continue to have no information on how this allocation will be made and expect there will be many variations in practice, but, for purposes of this analysis, we again assume a 60/40 estimated cost split, with the vendor bearing 60 percent of the implementation costs and passing the remaining 40 percent on to the customer. In the HIPAA Standards for Health Care Attachments proposed rule, the cost estimates for hospitals were based on a range of costs from the Modifications final rule, adjusted for inflation, and costs were split between vendors and hospitals using that 60/40 estimated cost split, which is in line with industry practices. The 2024 CAQH report offers no information to alter this hospital/vendor cost distribution, and we continue to believe that a 60/40 split ensures that implementation costs and savings realizations are accounted for in a way that reflects the cost structure of health care.

As summarized in Table 1, this assumption results in the hospital share of costs to be in the range of $569 million to $1,139 million, with the remainder, in the range of $854 million to $1,709 million, to be borne by hospital health IT vendors.

TABLE 1. ATTACHMENTS COSTS BORNE BY PROVIDERS VERSUS VENDORS ($ in Millions)

Entity Type	Proposed Rule Cost Range	Provider Share (40%)	Vendor Share (60%)
Clinicians	$665 - $1,329	$266 - $532	$399 - $797
Dentists	$456 - $913	$182 - $365	$274 - $548
Hospitals	$1,423 - $2,848	$569 - $1,139	$854 - $1,709
Subtotals	$2,544 - $5,090	$1,017 - $2,036	$1,527 - $3,054

[46] On the other hand, CAQH developed estimates from the experience of entities that voluntarily automated, and extrapolation from such voluntary experience to the regulatory context may generate a tendency toward overestimation of savings, on a per-unit basis and/or in the aggregate. We welcomed comments that would have facilitated refinement of estimates.

[47] Pratt, M. (2018, May 30). The true cost of switching EHRs. Medical Economics Journal, 96(10). Retrieved from *https://www.medicaleconomics.com/view/true-cost-switching-ehrs.*

To determine the benefits for hospitals, as discussed in the HIPAA Standards for Health Care Attachments proposed rule, we refer to the estimates of savings for medical providers reported by CAQH and assume that hospitals will achieve 20 percent of these savings (87 FR 78462). We continue to assume a rough 80/20 split between clinicians and hospitals because we believe the majority of health care claims attachments transactions will come from clinician practices, since plans and hospitals generally have other payment requirements for more expensive inpatient admissions and outpatient procedures, such that claims attachments would be required less frequently. So, we estimate the hospital share to be 20 percent of $650 million, or $130 million. To reflect the uncertainty around the ultimate level of uptake of these standards, we estimate a range of 25 percent below this point estimate between $98 million to $130 million in annual savings, as summarized in Table 2.

TABLE 2. ATTACHMENTS BENEFITS BY ENTITY
($ in Millions)

Entity Type	Estimated Annual Savings Range (25%)
Pharmacies	$0 - 0
Vendors	$0 - 0
Clearinghouses	$0 - 0
Private Health Plans	$108 - 144
Government Health Plans	$179 - 238
Clinicians	$390 - 520
Dentists	$86 - 115
Hospitals	$98 - 130
Total	$860 - 1,147

With respect to timing of costs and benefits, we assume hospitals will have both the capital and business interest to move promptly to achieve the return on investment and will incur all costs during the 2-year implementation period, which is the timing for HIPAA covered entities to use the adopted standard. Hospitals will realize the full level of annual savings in and after the first operational year following the proposed compliance date, as summarized in Tables 5 and 6.

b. Clinicians

As discussed in the HIPAA Standards for Health Care Attachments proposed rule (87 FR 784622), we continue to follow the same methodology for estimating clinician costs and benefits as used in the Modifications final rule (74 FR 3316). For clinicians, in both rules, these cost estimates were within a range of $665 million to $1,329 million, adjusted for inflation (74 FR 3317). We assume a comparable level of effort to implement the health care claims attachments standards being adopted in this final rule. We further assume that clinician practice PMS and EHR vendors will incur these costs, absorbing some portion of the costs as a cost of doing business incorporated in the current level of health IT service and maintenance agreements and passing some portion of the costs on to the practices in the form of higher fees for enabling new functionality. We again assume a 60/40 estimated cost split, with the vendor bearing 60 percent of the implementation costs and passing the remaining 40 percent on to the customer. As summarized in Table 1, this results in a clinician share of costs in the range of $266 million to $532 million, with the remainder in the range of $399 million to $797 million to be borne by physician PMS and EHR vendors. We further assume that some clinician practices and their vendors may take more time to implement the standards while continuing to use manual processes in the meantime. Therefore, we estimate clinicians will incur these costs over a 4-year period at a rate of 50 percent in the first implementation year, 30 percent in the second implementation year, and 10 percent each in the third and fourth years, as summarized in Table 5.

To determine the benefits for clinicians, we again referred to the estimates of savings for medical providers reported in the CAQH Index reports and calculated the remaining 80 percent of these savings. CAQH estimated the total annual savings opportunity for medical providers for fully automating attachments transactions to be $328 million. So, we estimate the clinician share to be 80 percent of $650 million, or $520 million. To reflect the uncertainty around the ultimate level of uptake of these standards, we estimate a range of 25 percent below this point estimate, or between $390 million to $520 million in annual savings, as summarized in Table 2. We further estimate that these benefits in labor savings will phase in over a 3-year period at the rate of 50 percent in the first operational year, 75 percent in the second operational year, and 100 percent in and after the third year after the compliance date, as summarized in Table 6.

c. Dentists

As discussed in the HIPAA Standards for Health Care Attachments proposed rule, for dentists, we follow the same methodology for costs as we do for clinicians (87 FR 78462). The Modifications final rule cost estimates for dentists were within a range of $456 million to $913 million, adjusted for inflation (74 FR 3317). We assume a comparable level of effort to implement the adopted health care claims attachments standards. We further assume that dental practice PMS and EHR vendors will incur these costs, absorbing some portion of the costs as a cost of doing business incorporated in the current level of health IT service and maintenance agreements and passing some portion of the costs on to the dental practices in the form of higher

fees for enabling new functionality. We again assume a 60/40 estimated cost split, in which the vendor will bear 60 percent of the implementation costs and the remaining 40 percent will be passed on to the customer. As summarized in Table 1, this results in a share of costs for dentists in the range of $182 million to $365 million, with the remainder in the range of $274 million to $548 million borne by dental practice PMS and EHR vendors. As with clinicians, we further assume that some dental practices and their vendors may take more time to implement the standards, while continuing to use manual processes in the meantime. Therefore, we estimate dentists will incur these costs over a 4-year period at the rate of 50 percent in the first implementation year, 30 percent in the second implementation year, and 10 percent each in the third and fourth years, as summarized in Table 5.

Given that the 2024 CAQH Index did not report on the potential savings opportunity for dental providers for full automation of attachments transactions, we take a different approach to benefits estimation. Comments included in testimony submitted to the NCVHS regarding the attachment standard during the 2016 NCVHS Hearing indicated that dentists supported the proposal to make the X12N 275 transaction the standard vehicle for transporting attachment content to dental claims.[48] These comments also indicated that many dental PMS vendor technologies may lack the capability to generate HL7 documents, requiring dentists to either upgrade existing systems or find alternative methods, such as using a clearinghouse or payer portals. Thus, we conclude that some dentists and their PMS vendors will incur costs associated with submitting attachment information to support claims, and others may maintain current manual or clearinghouse-mediated processes. Therefore, we assume that the savings opportunity for full automation of claims attachments for dentists will be a portion of the savings opportunity for medical providers. Since the total number of dental entities (118,045) is about 70 percent of the number of other provider entities (7,465 hospital establishments and 149,572 clinician firms), we estimate their savings opportunity will be no greater than 70 percent of the annual $328 million medical provider savings opportunity for attachments estimated by the CAQH 2024 Index. In addition, we assume that, given the relatively smaller size of dental practices, a greater proportion of dentists than clinicians may choose to retain manual processes. So, as summarized in Table 2, we estimate that the annual dentist savings opportunity is 50 percent of 70 percent of the medical provider opportunity, or $115 million ($328 \times 0.70 \times 0.50$). To reflect the uncertainty around the ultimate level of uptake of these standards, we estimate a range of 25 percent below this point estimate, or between $86 million to $115 million in annual savings. As with the clinician estimates, we further estimate that these benefits in labor savings will phase in over a 3-year period at the rate of 50 percent in the first operational year, 75 percent in the second operational year, and 100 percent in and after the third year after the compliance date, as summarized in Table 6.

d. PMS and EHR Vendors

In testimony given in the 2016 NCVHS Hearing, WEDI noted that a new functionality for providers implementing the attachment standards will be automating EHR systems to exchange data with the PMS and digital signatures.[49] Consistent with this assessment, the 2016 MITRE environmental scan, as discussed at the beginning of this section, found that many EHR vendors had the capability to send X12N 275 EDI transactions, but that substantial work remained to routinely and reliably extract structured clinical data for C–CDA attachments. Since that time, there has been both growth and consolidation in these industry segments. A health care provider entity's PMS and EHR systems may be bundled in one product offering, semi-integrated affiliated systems, or entirely independent systems offered by separate vendors.[50] So, readiness will vary widely for provider entities based on their health IT contractors.

Because developers of certified health IT are already familiar with CDA for meeting requirements under the ONC Health IT Certification Program, we believe all EHR vendors have some ability to extract data for C–CDA templates, although all may not have fully implemented or provided this functionality as part of core product offerings. A review of some of the largest EHR vendor websites in May 2021 provided informal evidence regarding C–CDA functionality. The results of this analysis suggested that about 80 percent of vendors had this functionality in place, 17 percent had at least partial functionality, and only 3 percent seemed to have none. The many other, smaller EHR vendors are likely in varying stages of readiness as well. Thus, we assume that additional implementation costs may be needed to reliably extract C–CDA documentation and to either integrate this content into internal EDI processes or exchange the documentation with another PMS.

Similarly, we assume PMS vendors contracted with clients that have a certified EHR have already largely developed the X12N 275 and X12N 277 standards for claims transactions, even if this functionality has not been enabled for all customers, and that the majority of the additional cost will be associated with receiving and managing the C–CDA payload. Because of this pre-existing functionality, we are again persuaded that implementing these final requirements is more akin to a standards upgrade than implementing a new standard for the first time. Based on the 2024 CAQH Index results that 32 percent of medical and 37 percent of dental attachment exchanges are occurring electronically, we are aware that some provider vendors have already successfully implemented the transmission of electronic attachments. Without data on the extent of the gaps, or on the difference in readiness between EHR and PMS vendors, we continue to assume similar costs across both types of vendors and treat them together. We also assume that other significant components of implementation costs will consist of trading partner testing and user training.

[48] At the time this final rule was being drafted, the NCVHS website was undergoing maintenance. NCVHS Subcommittee on Standards. Agenda of the February 16, 2016 NCVHS Subcommittee on Standards Hearing. Retrieved from *https://ncvhs.hhs.gov/meetings/agenda-of-the-february-16-2016-ncvhs-subcommittee-on-standards-hearing/*.

[49] At the time this final rule was being drafted, the NCVHS website was undergoing maintenance. Transcript of the February 16, 2016 NCVHS Subcommittee on Standards. Retrieved from *https://ncvhs.hhs.gov/transcripts-minutes/transcript-of-the-february-16-2016-ncvhs-subcommittee-on-standards/*.

[50] Pratt, M. (2018, May 30). The true cost of switching EHRs. Medical Economics Journal, 96(10). Retrieved from *https://www.medicaleconomics.com/view/true-cost-switching-ehrs.*

The results of the estimates are described for hospitals, clinicians, and dentists, as well as the split with their health IT vendors, in Table 1. We estimate that PMS and EHR vendor costs will add up across all customer segments to a range of $1,527 to 3,054 million. We assume some vendors or their customers or both may take more time to implement the standards. Therefore, we estimate vendors' costs will be incurred over a 4-year period at the rate of 50 percent in the first implementation year, 30 percent in the second implementation year, and 10 percent each in the third and fourth years, as summarized in Table 5.

We have not identified any evidence that suggests there will be savings for this segment as a result of the changes in this final rule and we do not include any estimates of benefits for this segment.

e. Clearinghouses

From remarks recorded at the 2016 NCVHS Hearing, we understand that, by 2016, many entities in the clearinghouse industry had already fully implemented the standards being adopted in this final rule and were exchanging the transactions and clinical payloads with government and commercial health care entities, as well as with entities in other lines of business.[51] Fundamental to the clearinghouse business role is the ability to normalize disparate data formats, including both structured and unstructured clinical data, and unwrap and convert the data into standard or proprietary formats based on the varying capabilities and needs of payer and provider clients. We assume that this ability has generally become the business norm throughout the clearinghouse industry. As a result, we assume that clearinghouses will not have significant new technology development costs as a result of these provisions but will have significant new trading partner testing costs.

To estimate clearinghouse implementation costs, we considered information provided by a commenter, described in the Modifications final rule, that identified as a large clearinghouse (74 FR 3318). This commenter reported that projected costs would be at least $3.5 million ($4.3 adjusted for inflation) and would be affected by the amount of testing that would be required with trading partners—both providers and health plans. Based on this data point, as summarized in Table 3, we estimate that 23 large clearinghouse entities will each incur $4.3 million in implementation costs, and that the remaining 139 smaller clearinghouses will each incur $1.8 million in implementation costs, for a segment total of $349 million. To reflect the uncertainty around these projections, we estimate a range of 25 percent below and above this point estimate of between $262 million to $436 million in total costs. And since we assume some customers may take more time to implement the standards, we estimate clearinghouse will incur costs over a 4-year period at the rate of 50 percent in the first implementation year, 30 percent in the second implementation year, and 10 percent each in the third and fourth years, as summarized in Table 5.

We have not identified any evidence that suggests there will be savings for clearinghouses as a result of the changes in this final rule and have not estimated any benefits for this segment.

TABLE 3. CLEARINGHOUSE COSTS

Firm Size	Large	Small	Total
Firms (#)	23	139	162
Cost per Firm ($ in millions)	$4.3	$1.8	----
Total Segment Cost ($ in millions)	$99	$250	$349
Cost Range ± 25% ($ in millions)			$262 - 436

f. Private Health Plans and Issuers

Based on our informal web searches conducted in May 2021 for plan websites that include EDI instructions for providers on submitting X12N 275 transactions, and the general absence of comments describing significant implementation burden in testimony submitted to the 2016 NCVHS Hearing, we believe health plans (or their clearinghouses) have generally already implemented the necessary technology to meet these final requirements. That includes: (1) currently implemented X12N transactions; and (2) at a minimum, having processes for collecting unstructured medical record data. Such data are currently used for auditing, risk coding validation, and other quality and utilization management processes. The 2024 CAQH Index reports that 32 percent of medical and 37 percent of dental attachment exchanges were occurring electronically in 2024. In addition, we understand that all health plans routinely collect medical record documentation from providers in a variety of ways, including through web portals and direct access to EHRs.[52] These facts suggest to us that health plans have either already automated these processes or have workarounds to manage the receipt of this information. Thus, we believe the additional effort associated with implementing our proposals may be limited to mapping existing backend processes to the new transaction processing front-end systems. Alternatively, the smaller the health plan, the more likely that entity may rely upon a clearinghouse for administrative and clinical data exchange and the more likely the status quo will continue.

In testimony during the 2016 NCVHS Hearing, WEDI noted that the functionality that will be new to payers in implementing the attachments standards will be the use of HL7 CDA LOINC codes, and other transport models that require different skill sets than EDI. Although payers routinely collect medical record documentation today, this does not necessarily mean that the ingestion, interpretation, and integration of clinical data is fully automated. However, we do not see evidence in testimony or public

[51] At the time this final rule was being drafted, the NCVHS website was undergoing maintenance. Transcript of the February 16, 2016 NCVHS Subcommittee on Standards. Retrieved from *https://ncvhs.hhs.gov/transcripts-minutes/transcript-of-the-february-16-2016-ncvhs-subcommittee-on-standards/.*

[52] For example, see: Payer Access to EHRs: What Providers Need to Know. Journal of AHIMA. October 9, 2019. Retrieved from *https://journal.ahima.org/page/payer-access-to-ehrs-what-providers-need-to-know.*

comments that health plans anticipate a significant implementation effort related to additional technology development to handle the HL7 CDA and LOINC codes required by federal adoption of attachments standards. It is possible, given payer involvement with the rapid evolution of clinical data exchange standards, that health plans may not be incentivized to significantly enhance their current state of C–CDA handling, and may instead continue to rely on current processes, including the use of clearinghouses for intermediation where necessary.[53] For these reasons, we do not believe health plans will bear as significant a level of investment for system development for these final requirements as they did for the requirements of the Modifications final rule. However, they will likely incur implementation costs for trading partner testing if they exchange these transactions directly with providers rather than via clearinghouses.

In light of these considerations, we assume that the costs of implementation for health plans may be somewhat analogous to those for clearinghouses, but generally with fewer connections to test, since many transactions will be expected to continue to be exchanged through existing clearinghouse connections. Therefore, as summarized in Table 4, we estimate that private health plans will incur 50 percent of clearinghouse costs, and we increase that estimated range of $262 million to $436 million to reflect 4.8 times as many health plan entities (772/162 = 4.8). Thus, we estimate private health plans will incur implementation costs, driven mostly by trading partner testing, of $838 million ($349 \times 0.50 \times 4.8$). To reflect the uncertainty around these projections, we estimate a range of 25 percent below and above this point estimate of between $629 million to $1,048 million.

TABLE 4. PRIVATE HEALTH PLAN COSTS

Entity Type	Clearinghouses	Private Plans
Firms (#)	162	772
Difference in # of Firms		4.8
Total cost from Table 6 ($ in millions)	$349	
Plan cost (50% of above × multiple of firms) ($ in millions)		$838
Cost Range ± 25% ($ in millions)		$629 - 1,048

Given that we assume some portion of providers and their vendors may take longer to move from manual to fully automated transactions, we assume health plan testing costs will extend beyond the 2-year implementation period. So, for purposes of this analysis, we estimate that private health plans will incur costs over a 4-year period at the rate of 50 percent in the first implementation year, 30 percent in the second implementation year, and 10 percent each in the third and fourth years.

In estimating the benefits of the final rule for private health plans, we again referred to the estimates of savings reported by the 2024 CAQH Index report, but this time to those reported for plans. CAQH estimated the 2024 national annual plan savings opportunities for attachments. To reflect the uncertainty around the ultimate level of uptake of these standards, we estimate a range of 25 percent below this point estimate between $108 million to $144 million in annual savings. We further assume that plans will realize the benefits in labor savings over a 3-year period at the rate of 50 percent in the first operational year, 75 percent in the second operational year, and 100 percent in and after the third year after the compliance date, as summarized in Table 6.

g. Government Health Plans

Similar to private health plans, we believe Medicare, Medicaid (and state CHIP agencies in states where CHIP is administered separately), and the Veteran's Administration systems have largely implemented the ability to receive and manage health care claims attachment transactions through their health IT processing vendors and contracted managed care plans and will incur costs similar to the impacts estimated in the Modifications final rule for testing and training. We assume these costs will again largely be borne by the contracted vendors under existing contractual terms and agreements. Accordingly, to calculate government health plan costs, we used the same range of costs estimated in the Modifications final rule of $384 million to $734 million, adjusted for inflation. As discussed in the Modifications final rule, government systems costs are expected to occur across a number of federal and state agencies and include transition costs (73 FR 49770). For Medicare, since its cost structure is different from private plans, total Medicare costs include those that would be expended by the Medicare Administrative Contractors (MACs), durable medical equipment (DME) MACs, and other contractors. The costs are high, but the net benefit to Medicare relative to the private plans is slightly more positive. As we do with health care providers and private health plans, we further assume that costs will be incurred over a 4-year period. As summarized in Table 5, we estimate costs will be incurred at the rate of 50 percent in the first implementation year, 30 percent in the second implementation year, and 10 percent each in the third and fourth years.

To calculate government health plan benefits, we started with the point estimate of $238 million savings due to the standards adopted in the Modifications final rule (74 FR 3318). To reflect the uncertainty around the ultimate level of uptake of these standards, we estimate a range of 25 percent below this point estimate or between $179 million to $238 million in annual savings. As with other industry segments, and as summarized in Table 6, we further assume government health plans will realize the benefits in these savings over a 3-year period at the rate of 50 percent in the first operational year, 75 percent in the second

[53] Final Report Of The Health Information Technology Advisory Committee's Intersection of Clinical And Administrative Data Task Force To The National Coordinator For Health Information Technology. (2020, November 17) A Path Toward Further Clinical and Administrative Data Integration. Retrieved from *https://www.healthit.gov/sites/default/files/page/2020-11/2020-11-17_ICAD_TF_FINAL_Report_HITAC.pdf.*

operational year, and 100 percent in and after the third year after the compliance date.

h. Pharmacies

We believe pharmacies will generally not be impacted by the changes in this final rule. Comments from NCPDP submitted to the 2016 NCVHS Hearing indicated that: (1) pharmacies use the X12N 837 to bill medications and supplies covered under the Medicare Part B program and for professional pharmacy services covered under a medical plan; and (2) the type of claims submitted by pharmacy providers using the X12N 837 rarely require an attachment. As a result, we assume pharmacies will be affected by these provisions only in rare cases to support the billing of retail pharmacy supplies and professional services claims. Based on an NCPDP whitepaper, we further understand that a pharmacy needing to send attachment information to support an X12N 837 claim will generally be expected to employ existing batch processes to send attachment information to the same clearinghouse that converts their NCPDP billing transactions to X12N 837 Professional Claims for formatting and transmittal in the X12N 275.[54] Therefore, we assume that final changes to information exchanges between clearinghouses and health plans will continue to be managed by clearinghouses that serve this particular market. As a result, we conclude that pharmacies will generally not be affected by this final rule, and we estimate no costs and benefits for this segment.

[54] NCPDP White Paper on Pharmacy Professional Service Billing. Retrieved from *https://www.ncpdp.org/NCPDP/media/pdf/WhitePaper/Billing-Guidance-for-Pharmacists-Professional-and-Patient-Care-Services-White-Paper.pdf?ext=.pdf.*

6. Summary of Costs and Benefits for This Final Rule

Tables 5 and 6 are the compilation of the estimated costs and benefits for all the standards adopted in this final rule. Bear in mind, except for pharmacies, all of the other industries mentioned will incur costs over a four-year period, starting with the implementation of the requirements finalized in this rule. On the other hand, except for pharmacies, clearinghouses, and venders, all the other industries will incur benefits over a 3-year period at the rate of 50 percent in the first operational year, 75 percent in the second operational year, and 100 percent in and after the third year after the compliance date. These benefits, henceforth, will continue into perpetuity.

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TABLE 5. ESTIMATED MINIMUM AND MAXIMUM COSTS FOR IMPLEMENTATION OF ATTACHMENT STANDARDS-- 2025 THROUGH 2044
($ in Millions)

Industry	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036	2037	2038	2039	2040	2041	2042	2043	2044	Total
Hospitals minimum	284.5	284.5	00.0	00.0	00.0	00.0	00.0	00.0	00.0	00.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	569.0
Hospital maximum	569.5	569.5	00.0	00.0	00.0	00.0	00.0	00.0	00.0	00.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	1,139.0
Clinicians minimum	133.0	79.8	26.6	26.6	00.0	00.0	00.0	00.0	00.0	00.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	266.0
Clinicians maximum	266.0	159.6	53.2	53.2	00.0	00.0	00.0	00.0	00.0	00.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	532.0
Dentists minimum	91.0	54.6	18.2	18.2	00.0	00.0	00.0	00.0	00.0	00.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	182.0
Dentists maximum	182.5	109.5	36.5	36.5	00.0	00.0	00.0	00.0	00.0	00.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	365.0
Pharmacies minimum	0.0	0.0	0.0	0.0	00.0	00.0	00.0	00.0	00.0	00.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Pharmacies maximum	0.0	0.0	0.0	0.0	00.0	00.0	00.0	00.0	00.0	00.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Private Health Plans minimum	314.5	188.7	62.9	62.9	00.0	00.0	00.0	00.0	00.0	00.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	629.0
Private Health Plans maximum	524.0	314.4	104.8	104.8	00.0	00.0	00.0	00.0	00.0	00.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	1,048.0
Government Health Plans minimum	192.0	115.2	38.4	38.4	00.0	00.0	00.0	00.0	00.0	00.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	384.0
Government Health Plans maximum	367.0	220.2	73.4	73.4	00.0	00.0	00.0	00.0	00.0	00.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	734.0
Clearinghouse minimum	131.0	78.6	26.2	26.2	00.0	00.0	00.0	00.0	00.0	00.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	262.0
Clearinghouse maximum	218.0	130.8	43.6	43.6	00.0	00.0	00.0	00.0	00.0	00.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	436.0
Vendors minimum	763.5	458.1	152.7	152.7	00.0	00.0	00.0	00.0	00.0	00.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	1,527.0
Vendors maximum	1,527.0	916.2	305.4	305.4	00.0	00.0	00.0	00.0	00.0	00.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	3,054.0
Total Minimums	1,910.0	1,260	325	235	00.0	00.0	00.0	00.0	00.0	00.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	3,730.0
Total Maximums	3,654.0	2,420.2	616.9	616.9	00.0	00.0	00.0	00.0	00.0	00.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	7,308.0

TABLE 6. ESTIMATED MINIMUM AND MAXIMUM BENEFITS FOR IMPLEMENTATION OF ATTACHMENT STANDARDS-- 2025 THROUGH 2044
($ in Millions)

Industry	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036	2037	2038	2039	2040	2041	2042	2043	2044	Total
Hospitals minimum	0.0	0.0	97.5	97.5	97.5	97.5	97.5	97.5	97.5	97.5	97.5	97.5	97.5	97.5	97.5	97.5	97.5	97.5	97.5	97.5	$1,755.00
Hospital maximum	0.0	0.0	130.0	130.0	130.0	130.0	130.0	130.0	130.0	130.0	130.0	130.0	130.0	130.0	130.0	130.0	130.0	130.0	130.0	130.0	$2,340.00
Clinicians minimum	0.0	0.0	195.0	292.5	390.0	390.0	390.0	390.0	390.0	390.0	390.0	390.0	390.0	390.0	390.0	390.0	390.0	390.0	390.0	390.0	$6,727.50
Clinicians maximum	0.0	0.0	260.0	390.0	520.0	520.0	520.0	520.0	520.0	520.0	520.0	520.0	520.0	520.0	520.0	520.0	520.0	520.0	520.0	520.0	$8,970.00
Dentists minimum	0.0	0.0	43.0	64.6	86.1	86.1	86.1	86.1	86.1	86.1	86.1	86.1	86.1	86.1	86.1	86.1	86.1	86.1	86.1	86.1	$1,485.20
Dentists maximum	0.0	0.0	57.5	86.3	115.0	115.0	115.0	115.0	115.0	115.0	115.0	115.0	115.0	115.0	115.0	115.0	115.0	115.0	115.0	115.0	$1,983.80
Pharmacies minimum	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	$ -
Pharmacies maximum	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	$ -
Private Health Plans minimum	0.0	0.0	54.0	81.0	108.0	108.0	108.0	108.0	108.0	108.0	108.0	108.0	108.0	108.0	108.0	108.0	108.0	108.0	108.0	108.0	$1,863.00
Private Health Plans maximum	0.0	0.0	72.0	108.0	144.0	144.0	144.0	144.0	144.0	144.0	144.0	144.0	144.0	144.0	144.0	144.0	144.0	144.0	144.0	144.0	$2,484.00
Government Health Plans minimum	0.0	0.0	89.3	133.9	178.5	178.5	178.5	178.5	178.5	178.5	178.5	178.5	178.5	178.5	178.5	178.5	178.5	178.5	178.5	178.5	$3,079.20
Government Health Plans maximum	0.0	0.0	119.0	178.5	238.0	238.0	238.0	238.0	238.0	238.0	238.0	238.0	238.0	238.0	238.0	238.0	238.0	238.0	238.0	238.0	$4,105.50
Clearinghouse minimum	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	$ -
Clearinghouse maximum	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	$ -
Vendors minimum	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	$ -
Vendors maximum	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	$ -
Total Minimums	0.0	0.0	478.8	669.5	860.1	860.1	860.1	860.1	860.1	860.1	860.1	860.1	860.1	860.1	860.1	860.1	860.1	860.1	860.1	860.1	$14,909.90
Total Maximums	0.0	0.0	638.5	892.8	1,147.0	1,147.0	1,147.0	1,147.0	1,147.0	1,147.0	1,147.0	1,147.0	1,147.0	1,147.0	1,147.0	1,147.0	1,147.0	1,147.0	1,147.0	1,147.0	$19,883.30

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7. Regulatory Review Costs Estimate

One of the costs of compliance with a final rule is the necessity for affected entities to review the rule in order to understand what it requires and what changes the entity will have to make to come into compliance. We assume that 451,908 affected entities (listed in Table 2) will incur some of these costs, as they are the entities that will have to implement the final changes. The particular staff involved in such a review will vary from entity to entity but will generally consist of lawyers responsible for compliance activities (at all 451,908 entities) and individuals familiar with the technical X12N and HL7 standards at the level of a computer and information systems manager at private and government health plans, clearinghouses, and PMS and EHR vendors (a total of 1,937 entities). Using the Occupational Employment and Wages for May 2024 from the Bureau of Labor Statistics for lawyers (Code 23–1011) and computer and information system managers (Code 11–3021), we estimate that the national mean labor costs of reviewing this rule are $175.72 and $180.76 per hour, respectively, including overhead and fringe benefits.[55] We estimate that it will take approximately 2 hours for each staff person involved to review this final rule and its relevant sections and that, on average, one lawyer and two computer and information manager-level staff persons will engage in this review. For each entity that reviews the rule, the estimated costs are therefore $351.44 for lawyers, or $158.82 million (2 hours each × 1 staff × $175.72 × 451,908) for all affected entities. For each plan, clearinghouse, and PMS or EHR vendor, the estimated costs are therefore $180.76 for information system managers, or $1.40 million (2 hours each × 2 staff × $180.76 × 1,937) for all affected entities. Therefore, we estimate that the total cost of reviewing this rule is $160.22 million ($158.82 + $1.40).

D. Alternatives Considered

This rule finalizes the adoption of standards for health care claims attachments transactions, which support health care claims, as required by section 1173(a) of the Act. Our understanding is that the standards we are adopting in this rule are ready for full implementation across industry. We considered the following regulatory alternatives: (1) not adopt standards for health care claims attachments, allowing for the industry's continued use of multiple processes; (2) wait to adopt standards for health care claims attachments until alternate standards, such as FHIR standards, are ready for full implementation and recommended to the Secretary by the NCVHS and industry through all the HIPAA-required processes; and (3) adopt a different version of the X12 implementation specifications than Version 6020, the version proposed for adoption in the HIPAA Standards for Health Care Attachments proposed rule. We chose to proceed with the provisions in this rule after identifying significant shortcomings with each of these alternatives.

We chose to finalize adopting health care claims attachments standards rather than allowing for continued use of multiple processes because of the well-documented costs and administrative burdens associated with the many manual or partially electronic processes currently in use. These burdens were recently detailed in the 2024 CAQH Index. In response to multiple CAQH surveys, parties in the health care industry reported that the lack of federal standards and mandates has been a principal barrier to adoption of fully electronic standardized health care transactions.[56] Based on these survey responses, should we not adopt standards for health care claims attachments, most attachments transactions would use different (non-standard) software or electronic means, and some entities might continue to use fully manual processes. Not adopting standards for health care claims attachments transactions would also mean forgoing the opportunity to reduce the unnecessary back-and-forth between health care providers and health plans, accelerate claims adjudication and patient service approval timeframes, and reduce provider resources spent on manual follow-up activities.

Similarly, we chose not to hold off on finalizing the adoption of health care claims attachments standards until alternate standards, such as FHIR standards, are available and recommended by the industry, because we believe that adoption and implementation of the specifications in this final rule can immediately reduce the costs and burdens associated with the lack of national standards. While we are aware of HL7's efforts to create alternative implementation specifications to support health care claims attachments transactions, we note that, at the time of writing this final rule, these FHIR implementation specifications have not been finalized or tested. We also note that the HL7 CDA standard we are adopting in this final rule is the only currently available SSO-created, NCVHS-recommended standard with published implementation specifications designed to support claims attachments transactions. We believe that the industry's readiness for improvements to the manual or partially electronic process currently in place, as outlined in the multiple CAQH stakeholder surveys and supported by the NCVHS's recommendation to adopt the specifications in this rule, support finalizing the adoption of attachments standards at this time. We invited comments on our understanding of the readiness of possible implementation specifications for health care attachments that support both claim and prior authorization transactions and whether the industry supports postponement of an adopted standard as it had previously. Commenters overwhelmingly agreed that it was time for industry to adopt a health care claims attachment standard, however they raised concerns on requiring it with the prior authorization transaction standard.

Finally, we chose to finalize the adoption of Version 6020 of the X12N implementation specifications, rather than an alternate version such as Version 5010, because Version 5010 does not fully support health care claims attachments transactions. Version 6020 resolves technical issues and limitations in Version 5010 to enable attachments transactions that support health care claims. We also invited comments on any alternative implementation specifications that were not considered but met the criteria outlined in the HIPAA Standards for Health Care Attachments proposed rule. As stated previously, commenters agreed that moving to Version 6020 of the X12N implementation specifications was most appropriate for the actions being finalized in this rule.

E. Accounting Statement

As required by OMB Circular A–4, we have prepared an accounting statement in Table 7 showing the classification of the impact associated with the provisions of this rule.[57] Monetary annualized benefits and non-budgetary

[55] U.S. Bureau of Labor Statistics. (2024, May 3). May 2024 National Occupational Employment and Wage Estimates. Retrieved from *https://data.bls.gov/oesprofile/*.

[56] The Council for Affordable Quality Healthcare, Inc. (n.d.). 2024 CAQH Index Report. Retrieved from *https://www.caqh.org/hubfs/Index/2024%20Index%20Report/CAQH_IndexReport_2024_FINAL.pdf*.

[57] Management and Budget Office. (2003, October 9). Circular A–4, Regulatory Analysis. Retrieved from *https://www.whitehouse.gov/wp-content/uploads/2025/08/CircularA-4.pdf*.

costs are presented using 3 percent and 7 percent discount rates, over a 20-year time period.

TABLE 7. ACCOUNTING STATEMENT: CLASSIFICATION OF ESTIMATED EXPENDITURES, FROM FY 2025 TO FY 2044 ($ in Millions)

Category	Primary Estimate	Minimum Estimate	Maximum Estimate	Source
	Savings	**Savings**		
Annualized monetized benefits:				
7% Discount	781.98	670.21	893.76	RIA
3% Discount	833.83	714.64	953.02	RIA
Qualitative (un-quantified benefits)				
	Costs			
Annualized monetized costs:				
7% Discount	478.23	328.48	627.98	RIA
3% Discount	362.99	248.95	477.03	RIA
Qualitative (un-quantified costs)				
	Health care providers, health plans, and government plans will pay for IT staff and other contractors, as well as clearinghouses and vendors for changes in the forms of new and ongoing fees.			

Note: Primary Estimates were determined from the average of the minimum and maximum estimates. Costs include regulatory review estimate

F. Regulatory Flexibility Analysis

E.O. 13272 requires that HHS thoroughly review rules to assess and take appropriate account of their potential impact on small businesses, small governmental jurisdictions, and small organizations (as mandated by the RFA). The RFA requires agencies to analyze options for regulatory relief of small entities, if a rule has a significant impact on a substantial number of small entities. If a final rule has a significant economic impact on a substantial number of small entities, then the final rule must discuss steps taken, including alternatives considered, to minimize the burden on small entities. The Small Business Administration (SBA) advises that this absence of statutory specificity allows what is significant or substantial to vary, depending on the problem that is to be addressed in rulemaking, the rule's requirements, and the preliminary assessment of the rule's impact. Nevertheless, HHS typically considers a significant impact to be 3 to 5 percent or more of the affected entities' revenues.

The RFA requires agencies to analyze options for regulatory relief of small entities, if a rule has a significant impact on a substantial number of small entities. For purposes of the RFA, we estimate that ''*almost all,*'' of the affected entities are small entities as that term is used in the RFA (that is, small businesses, nonprofit organizations, and small governmental jurisdictions). The great majority of hospitals and most other health care providers and suppliers are small entities, either by being nonprofit organizations or by meeting the SBA's definition of a small business by having revenues of less than $9.0 million to $47.0 million in any 1 year.

Accordingly, it is our normal practice to treat all health care providers as small entities. For health care providers, the changes made final by this rule may involve software upgrades for practice management and EHR systems. Thus, we expect that the vast majority of clinicians and other health care provider practices will need to make relatively small changes in their systems and processes but may incur additional service fees from their system vendors for additional functionality. Some of the smallest provider entities may elect to continue their current manual processes. We include pharmacies in this analysis and consider most of them to be small businesses. While we believe that few health plans meet the small business size standard, many health plans are non-profit organizations and will be considered small businesses; but we are unable to identify data to help us distinguish the number of these entities and thus solicited industry feedback for this final rule. We address clearinghouses, but we do not believe that there are a significant number of clearinghouses that will be considered small entities because of the level of consolidation in the marketplace. Because this final rule adopts initial standards for the exchange of both administrative and clinical documentation, we also address provider PMS and EHR vendors in our discussion but continue to be unable to identify data that will help identify the proportion of firms in these markets that meet the small business size standards. State Medicaid agencies (and state CHIP agencies in states where CHIP is administered separately) are excluded from this analysis because states are not considered small entities in any RFA.

Table 5 presents the estimated implementation costs that will affect all

of the entities mentioned. The data in that table are used in this analysis to provide cost information.

We have determined that the covered entities and their vendors affected by this final rule will likely fall primarily in the categories listed in Table 8.

TABLE 8. SBA SIZE STANDARDS FOR APPLICABLE NORTH AMERICAN INDUSTRY CLASSIFICATION SYSTEM (NAICS) INDUSTRY CODES

NAICS Code	Entity Type	Description	SBA Size Standard/Entity Threshold	Total Small Business
	Providers			
622		Hospitals	$47	1,494
6211		Clinicians	$16	141,446
6212		Dentists	$9	119,497
6213		Other Health Practitioners	$9 - $47	164,784
466110		Pharmacies and Drug Retailers	$37.5	18,912
	Health Plan			
524114*		Direct Health and Medical Insurance Carriers and Government Health Plans	$47	803
	Clearinghouses			
522320		Financial Transactions Processing, Reserve, and Clearinghouse Activities	$47	3,357
	Vendors			
541611		PMS Vendors	$21.5	92,202
561990		All Other Support Services (EHR Vendors)	$16.5	10,484

Source: U.S. Census 2022 SUSB

*Note, the NAICS code for this industry changed in 2022, and now include NAICS 454110, Electronic Shopping and Mail Order Retail and 454390, Other Direct Selling Establishments; however, 2022 revenue data are not available. For this reason, 2017 revenue data will be used in this analysis.

Table 9 shows the distribution of small firms and revenues. According to this table, we can see and understand the disproportionate impacts among small firms and between small and large firms. According to the U.S. Census 2022 Statistics of U.S. Businesses (SUSB), the average revenue amounts to approximately $1,007,051 for all 552,979 small businesses that earn between $9 and $47 million (see Table 8 for the distribution). That is, the total revenue amounts to approximately $597 billion.

TABLE 9. IMPACTS AMONG SMALL FIRMS AND BETWEEN SMALL AND LARGE FIRMS

Firm Size (by Receipts)	Firm Count	Percent of Small Firms	Total Revenue	Average Revenue
SMALL FIRMS	**552,979**	**100.00%**	**596,586,550,548.00**	**1,078,859.32**
<100,000	80,979	14.64%	4,302,662,266.00	53,133.06
100,000-499,999	214,890	38.86%	56,415,493,283.00	262,531.96
500,000-999,999	111,066	20.09%	75,531,934,256.00	680,063.51
1,000,000-2,499,999	84,460	15.27%	141,864,726,668.00	1,679,667.61
2,500,000-4,999,999	26,578	4.81%	108,033,503,774.00	4,064,771.76
5,000,000-7,499,999	8,157	1.48%	56,935,192,019.00	6,979,918.11
7,500,000-9,999,999	3,832	0.69%	37,257,804,012.00	9,722,808.98
10,000,000-14,999,999	3,520	0.64%	45,718,296,533.00	12,988,152.42
15,000,000-19,999,999	1,829	0.33%	31,701,318,542.00	17,332,596.25
20,000,000-24,999,999	556	0.10%	11,461,577,367.00	20,614,347.78
25,000,000-29,999,999	277	0.05%	6,451,624,428.00	23,291,062.92
30,000,000-34,999,999	244	0.04%	6,321,855,426.00	25,909,243.55
35,000,000-39,999,999	191	0.03%	5,235,884,579.00	27,413,008.27
40,000,000-49,999,999	215	0.04%	9,354,677,395.00	43,510,127.42
LARGE FIRMS				
Receipts > 49,999,999 million	NA	NA	NA	NA

Source: U.S. Census 2022 SUSB

Table 10 combines the small firm's size and revenue data with the cost estimates determined in this final rule to understand the economic impact on small entities.

TABLE 10. ECONOMIC IMPACTS ON SMALL ENTITIES*

Firm Size (by Receipts)	Average Revenue	Annualized Cost per Firm	Percent of Small Firms	Revenue Test (Percentage)
SMALL FIRM	**1,078,859.32**	**62.32**	**100.00%**	0.6%
<100,000	53,133.06	62.32	14.64%	11.7%
100,000-499,999	262,531.96	62.32	38.86%	2.4%
500,000-999,999	680,063.51	62.32	20.09%	0.9%
1,000,000-2,499,999	1,679,667.61	62.32	15.27%	0.4%
2,500,000-4,999,999	4,064,771.76	62.32	4.81%	0.2%
5,000,000-7,499,999	6,979,918.11	62.32	1.48%	0.1%
7,500,000-9,999,999	9,722,808.98	62.32	0.69%	0.1%
10,000,000-14,999,999	12,988,152.42	62.32	0.64%	0.0%
15,000,000-19,999,999	17,332,596.25	62.32	0.33%	0.0%
20,000,000-24,999,999	20,614,347.78	62.32	0.10%	0.0%
25,000,000-29,999,999	23,291,062.92	62.32	0.05%	0.0%
30,000,000-34,999,999	25,909,243.55	62.32	0.04%	0.0%
35,000,000-39,999,999	27,413,008.27	62.32	0.03%	0.0%
40,000,000-49,999,999	43,510,127.42	62.32	0.04%	0.0%
LARGE FIRMS				
Receipts > $49,999,999 million	NA	NA	NA	NA

Source: U.S. Census 2022 SUSB

*As a result of the net annualized primary costs of $34.46 million (discounted at 7 percent) including regulatory review costs, we were able to calculate the revenue impact on small businesses for the nine industries discussed.

1. Number of Small Entities

We used the most recent revenue data available from the U.S. Census 2022 SUSB to determine the number of small entities and their revenue.

TABLE 11. NUMBER OF AFFECTED ENTITIES AND THEIR PERCENTAGE OF THE OVERALL INDUSTRIES

Industry	Number of Small Entities	Percentage of Overall Industries
Hospitals	1,494	0.27%
Clinicians	141,446	25.58%
Dentists	119,497	21.61%
Other Health	164,784	29.80%
Pharmacies	18,912	3.42%
Direct health	803	0.15%
Clearinghouse	3,357	0.61%
Admin Management	92,202	16.67%
Other Support	10,484	1.90%

Source: U.S. Census 2022 SUSB

Based on the latest available U.S. Census 2022 SUSB data records, we estimate that 552,979 health care provider entities may be considered small entities either because of their nonprofit status or because of their revenues, as detailed in Table 11. Approximately 0.27 percent (1,494) of these are hospitals, 25.58 percent (141,446) are clinician practices, and 21.61 percent (119,497) are dental practices. We believe that health IT systems are still more likely to differ at the firm level rather than at the establishment level. We continue to believe that this way of counting may overstate the number of affected entities in these segments, given the recent trends toward consolidation among and between provider types and toward increasing integration of health IT systems across collaborating organizations. However, this overestimation may compensate for other types of affected health care providers potentially not reflected in these particular industries. We note that ''hospitals'' include general medical and surgical, psychiatric and substance abuse, and specialty hospitals (NAICS 622). We further note that the number of 7,020 hospital establishments reflected in the U.S. Census 2022 SUSB business data roughly compares with more recent 2024 data from the American Hospital Association (AHA) indicating a total of 6,120 US hospitals, of which approximately 25 percent are for-profit. However, we do not have more detail, including data on the size of the hospitals included in this 25 percent, in order to determine whether any should be excluded from the count of small entities.

For consistency purposes, we used SUSB 2017 business data records to obtain the number of small pharmacy firms since the code for that provider was no longer available in the 2022 data, where such entities were reported under multiple different codes. The 2017 data reported a total of 18,912 small pharmacy firms.[58] For 2022, the SUSB designates code 803 entities as Direct Health and Medical Insurance Carriers. Comparable data on the eight smaller Health Maintenance Organization Medical Centers are not available due to small cell size suppression. Although health plan firms may not qualify as small entities under the SBA receipts size standard, they may under a non-profit status. However, we are not aware of data that will help us understand the relationship between health plan firms and ownership tax status to quantify the number of such firms. Therefore, we are not including an analysis of the impact on small health plans.

Clearinghouses provide transaction processing and data translation services to both health care providers and health plans that will be critical to implementing this final rule. The applicable NAICS category includes many types of financial transaction processing firms other than those affected by this rule, so the Census business data cannot be used to identify small entities of interest. In previous rulemaking, we have identified a largely consolidated market (74 FR 3312). More recently, in 2024, the National Clearinghouse Association, Cooperative Exchange, indicated its 18 member companies represent over 85 percent of the clearinghouse industry and provide services to over 750,000 provider organizations, through more than 8,000 payer connections and 1,000 health IT vendors.[59]

Other vendors affected by this rule include provider PMS and EHR technology system vendors. Counting the affected entities in these two segments is complicated, in part because they are increasingly integrated. A health care provider entity's PMS and EHR systems may be bundled in one product offering, semi-integrated affiliated systems, or entirely independent systems offered by separate vendors.[60] We have not identified publicly available data on the number, size, or market share of these specific parties in the health care industry. NAICS industry categories 541611, PMS Vendors, or 561990, All Other Support Services (EHR Vendors) seem to be the

[58] Note, the NAICS code for this industry changed in 2022, and now include NAICS 454110, Electronic Shopping and Mail Order Retail and 454390, Other Direct Selling Establishments; however, 2022 revenue data are not available. For this reason, 2017 revenue data will be used in this analysis.

[59] From testimony submitted for the 7/23/2024 US Senate Finance Committee. Retrieved from *https://s3.amazonaws.com/amo_hub_content/Association618/files/Cooperative%20Exchange%20-%20Senate%20Finance%20Committee%20-%20final.pdf.*

[60] Pratt, M. (2018, May 30). The true cost of switching EHRs. Medical Economics Journal, 96(10). Retrieved from *https://www.medicaleconomics.com/view/true-cost-switching-ehrs.*

closest categories. According to the 2022 SUSB, these categories included over 102,686 small firms. However, this total seems out of proportion to other potential indicators of market size, leading us to believe it significantly overstates the affected entities of interest to this final rule. For instance: (1) the aforementioned Cooperative Exchange description of member firms scope cited connections with 1,000 health IT vendors; (2) in 2019, market research estimates indicated there were over 500 vendors offering some type of EHR product; (3) the 21st Century Cures Act: Interoperability, Information Blocking, and the ONC Health IT Certification Program final rule (85 FR 25642) estimated the number of certified health IT developers with health IT products capable of recording electronic health information certified in the 2015 Edition of Health IT certification criteria to be 458; and (4) the EHR Association, a trade association of EHR companies addressing national efforts to create interoperable EHRs in hospital and ambulatory care settings, lists 29 companies as members.[61] [62] A web search for NAICS codes associated with a sampling of these EHR Association member companies yielded many different NAICS codes (including some with 561990), possibly reflecting widely varying scopes of other products and services offered by firms in this market segment. Without more definitive data on the firms specific to the health care provider PMS and EHR business markets, we continue to estimate that the number of affected firms is around 1,000, with the bulk of market share served by a relatively small number of large entities and the remainder of market share served by many smaller entities. However, we are still unable to determine how many of these smaller entities may meet small business standards and are not subsidiaries of larger firms, so we do not include them in this small entity analysis.

2. Costs to Small Entities

To determine the economic impact on the health care providers considered to be small entities for this analysis (identified in the previous section), we used the U.S. Census 2022 SUSB business data to collect revenue estimates and compared these to the net annualized primary cost estimates including the regulatory review costs ($14.13 million) as summarized in Table 10. When the net annualized primary cost estimates were determined, there were $34.46 million for the industries overall. We calculated the percentage of revenue represented by the primary estimates, and small businesses earning less than $100,000 exceeded the 3 to 5 percent of the revenue threshold, as summarized in Table 10 (11.7 percent). However, overall, all of the small businesses that earn between $100,000 or less and $499 million, did not exceed the 3 to 5 percent of the revenue threshold. That threshold is only 0.6 percent. If the net annualized costs are $34.46 million, then each of the 552,979 small businesses incurs a net annualized cost of $62.32, regardless of their size by receipts. That is, each firm would incur a cost of only $62.32. Thus, for the purposes of this RFA, there were no disproportionate impacts among small firms, and between small and large firms.

Therefore, for the purposes of the RFA analysis, we can conclude there is no impact on all the small entities. As a measure of significant economic impact on a substantial number of small entities, HHS uses a change in revenue of more than 3 to 5 percent. None of the small entities came close to meeting the 3 to 5 percent threshold. Even if the regulatory review costs were included in the cost estimates, the 3 to 5 percent change in revenue would still not be reached.

As such, we do not believe that this threshold will be reached by the requirements in this final rule. Therefore, the Secretary has certified that this rule will not have a significant economic impact on all the small entities identified.

Comment: A commenter expressed concern regarding HHS's assertion that the adoption of these changes will result in benefits that will outweigh the costs. The commenter recommended HHS consider mitigation strategies for Special Needs Plans (SNP), such as locally committed and smaller plans undertaking efforts to overcome challenges to comply with the final requirements in this rule, as these entities were not included in the analyses presented in the RIA section of the proposed rule.

Response: While we appreciate the commenter's concern, HHS was not provided with any alternative data to consider deriving with the estimated costs for SNPs. Therefore, for the purposes of this response and this final rule, we believe that SNPs fall into the category of health plans. We included an analysis of the impact specifically on small health plans in the proposed rule, and continue to do so in this final rule, and we received no comments on our small health plan cost assumptions. Moreover, as stated in section VI.C.1. of this final rule, an important consideration reflected in various industry testimonies submitted to the NCVHS is that some interested parties, particularly smaller health care providers, will continue to have the option to leverage existing clearinghouses to provide these information exchange services based on negotiated rates. This is a standard practice today, where clearinghouses already manage 90 percent of the conversion of paper-to-electronic formats, as well as reformatting of non-compliant to compliant electronic claim transactions for the industry.

However, because of the relative uncertainty in the data, the lack of consistent industry data, and our general assumptions, we invited public comments on the analysis, requesting any additional data that would help us determine more accurately the economic impact on all the industries affected by this final rule, and did not receive any. We note that we did, where appropriate, update our calculations using current data.

In addition, section 1102(b) of the Act requires us to prepare an RIA if a rule will have a significant impact on the operations of a substantial number of small rural hospitals. This analysis must conform to the provisions of section 604 of the RFA. For the purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of a metropolitan statistical area and has fewer than 100 beds. This final rule will not have a significant effect on the operations of a substantial number of small rural hospitals because these entities will rely on contracted health IT vendors for the majority of implementation investment and efforts such hospitals elect to implement. We note that health care providers may choose not to conduct transactions electronically. Therefore, they will be required to use these standards only for transactions that they conduct electronically and will be expected to do so only when the benefits clearly outweigh the costs involved. As such, the Secretary has certified that this final rule will not have a significant impact on the operations of a substantial number of small rural hospitals.

G. Unfunded Mandates Reform Act (UMRA)

Section 202 of UMRA also requires that agencies assess anticipated costs and benefits before issuing any rule

[61] Green, J. (2019, October 18). Who are the largest EHR vendors. EHR in Practice. Retrieved from *https://www.ehrinpractice.com/largest-ehr-vendors.html.*

[62] HIMSS Electronic Health Record Association. (n.d.). EHR Association Members. Retrieved from *https://www.ehra.org/membership/ehra-members.*

whose mandates will require spending more in any one year than threshold amounts in 1995 dollars, updated annually for inflation. In 2025, this threshold is approximately $187 million. This final rule may impose mandates that will result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of more than $187 million in any one year. In general, each state Medicaid agency, and each state CHIP agency in states where CHIP is administered separately, and any other government entity that is considered a covered entity, will be required to ensure that its contracted claim processors update software and conduct testing and training to implement the adoption of the new standards and modified versions of a previously adopted standard. However, we have no reason to believe that ongoing contractual payment arrangements for these services will necessarily increase as a result of the proposed changes. UMRA does not address the total cost of a rule. Rather, it focuses on certain categories of cost, mainly federal mandate costs resulting from imposing enforceable duties on state, local, or tribal governments, or on the private sector; or increasing the stringency of conditions in, or decreasing the funding of, state, local, or tribal governments under entitlement programs.

H. Federalism

E.O. 13132 establishes certain requirements that an agency must meet when it promulgates a final rule that imposes substantial direct requirement costs on state and local governments, preempts state law, or otherwise has federalism implications. This final rule will have a substantial direct effect on state or local governments, could preempt state law, or otherwise have a federalism implication because state Medicaid agencies, and state CHIP agencies when administered separately from Medicaid, or their contractors will be implementing new standards and a modified version of an existing standard for which there will be expenses for implementation and wide-scale testing.

I. Executive Order (E.O.) 14192, ''Unleashing Prosperity Through Deregulation''

E.O. 14192, titled: ''Unleashing Prosperity Through Deregulation'' was issued on January 31, 2025, and requires that ''any new incremental costs associated with new regulations shall, to the extent permitted by law, be offset by the elimination of existing costs associated with at least 10 prior regulations.'' This final rule is considered an E.O. 14192 regulatory action. We estimate that this final rule will generate $333 million in annualized costs at a 7 percent discount rate, over a perpetual time horizon.

This final rule is subject to the Congressional Review Act (5 U.S.C. 801 *et seq.*) and has been transmitted to the Congress and the Comptroller General for review.

List of Subjects

45 CFR Part 160

Administrative practice and procedure, computer technology, health care, health facilities, health insurance, health records, hospitals, Medicaid, Medicare, and CHIP Penalties, and Reporting and recordkeeping requirements.

45 CFR Part 162

Administrative practice and procedures, electronic transactions, health facilities, health insurance, hospitals, incorporation by reference, Medicaid, Medicare, and CHIP reporting and recordkeeping requirements.

For the reasons set forth in this preamble, the Department of Health and Human Services amends 45 CFR parts 160 and 162 to read as follows:

PART 160—GENERAL ADMINISTRATIVE REQUIREMENTS

■ 1. The authority citation for part 160 continues to read as follows:

Authority: 42 U.S.C. 1302(a), 42 U.S.C. 1320d–1320d–8, sec. 264 of Pub. L. 104 191, 110 Stat. 2033–2034 (42 U.S.C. 1320d–2 (note)), 5 U.S.C. 552; secs. 13400 and 13424, Pub. L. 111–5, 123 Stat. 258–279, and sec. 1104 of Pub. L. 111–148, 124 Stat. 146–154.

■ 2. In § 160.103, revise paragraph (10) of the definition of ''Transaction'' to read as follows:

§ 160.103 Definitions.

* * * * *

Transaction * * *

(10) Health care claims attachments.

* * * * *

PART 162—ADMINISTRATIVE REQUIREMENTS

■ 3. The authority citation for part 162 continues to read as follows:

Authority: 42 U.S.C. 1320d—1320d–9 and secs. 1104 and 10109 of Pub. L. 111–148, 124 Stat. 146–154 and 915–917.

■ 4. Section 162.103 is amended by adding the definitions of ''Attachment information'' and ''Electronic signature'' to read as follows:

§ 162.103 Definitions.

* * * * *

Attachment information means documentation that enables the health plan to make a decision about health care that is not included in a health care claims or equivalent encounter information transaction, as described in § 162.1101.

* * * * *

Electronic signature means an electronic sound, symbol, or process, attached to, or logically associated with attachment information and executed by a person with the intent to sign the attachment information.

* * * * *

■ 5. Section 162.920 is amended by:
■ a. Revising the introductory text and paragraph (a) introductory text; and
■ b. Adding paragraphs (a)(19) and (20) and (e).

The revisions and additions read as follows:

§ 162.920 Availability of implementation specifications and operating rules.

Certain material is incorporated by reference into this part with the approval of the Director of the Federal Register under 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in this section, the Department of Health and Human Services must publish a document in the **Federal Register** and the material must be available to the public. All approved incorporation by reference (IBR) material is available for inspection at the Centers for Medicaid & Medicare Services (CMS) and the National Archives and Records Administration (NARA). Contact CMS at: 7500 Security Boulevard, Baltimore, Maryland 21244; *administrativesimplification@cms.hhs.gov;* (410) 786–6597. For information on the availability of this material at NARA, *www.archives.gov/federal-register/cfr/ibr-locations* or email *fr.inspection@nara.gov.* The material may be obtained from the following source(s):

(a) ASC X12, 7600 Leesburg Pike, Suite 430, Falls Church, VA 22043; Telephone (703) 970–4480; *www.X12.org.* ASC X12N specifications and the ASC X12 Standard for Electronic Data Interchange Technical Report Type 3:

* * * * *

(19) The ASC X12N/006020X314, Additional Information to Support a Health Care Claim or Encounter (275), September 2014; as referenced in § 162.2002(c).

(20) The ASC X12N/006020X313, Health Care Claim Request for Additional Information (277),

September 2014; IBR approved for § 162.2002(d).

* * * * *

(e) Health Level Seven International (HL7), 3300 Washtenaw Avenue, Suite 227, Ann Arbor, MI 48104; Telephone (734) 677–7777; F *www.hl7.org.*

(1) HL7 CDA R2 Attachment Implementation Guide: Exchange of C–CDA Based Documents, Release 2—US Realm, Version 2.1.0.1; September 2023; IBR approved for § 162.2002(a).

(2) HL7 Implementation Guide for CDA Release 2: Consolidated CDA Templates for Clinical Notes (US Realm) Draft Standard for Trial Use Release 2.1, Volume One—Introductory Material, August 2015 with 2019 June Errata; IBR approved for § 162.2002(b).

(3) HL7 Implementation Guide for CDA Release 2: Consolidated CDA Templates for Clinical Notes (US Realm) Draft Standard for Trial Use Release 2.1, Volume Two—Templates and Supporting Material, June 2019; IBR approved for § 162.2002(b).

(4) HL7 Implementation Guide for CDA Release 2: Digital Signatures and Delegation of Rights, Release 1, Draft Standard for Trial Use, October 2014; IBR approved for § 162.2002(e).

■ 6. Add subpart T, consisting of §§ 162.2001 and 162.2002 to read as follows:

Subpart T—Health Care Claims Attachments

Sec.

162.2001 Health care claims attachments transaction.
162.2002 Standards for health care claims attachments transaction.

§ 162.2001 Health care claims attachments transaction.

A health care claims attachments transaction is the transmission of either of the following:

(a) Attachment information from a health care provider to a health plan in support of a health care claims or equivalent encounter transaction, as described in § 162.1101.

(b) A request from a health plan to a health care provider for attachment information.

§ 162.2002 Standards for health care claims attachments transaction.

The Secretary adopts the following standards for the period on and after May 26, 2028:

(a) For transmissions described in § 162.2001, HL7 CDA Release 2: Attachment Implementation Guide: Exchange of C–CDA Based Documents, Release 2—US Realm, Version 2.1.0.1 September 2023 (incorporated by reference, see § 162.920).

(b) For transmissions described in § 162.2001(a)—

(1) HL7 Implementation Guide for CDA Release 2: Consolidated CDA Templates for Clinical Notes (US Realm) Draft Standard for Trial Use Release 2.1, Volume One—Introductory Material, August 2015 with 2019 June Errata (incorporated by reference, see § 162.920)

(2) HL7 Implementation Guide for CDA Release 2: Consolidated CDA Templates for Clinical Notes (US Realm) Draft Standard for Trial Use Release 2.1, Volume Two—Templates and Supporting Material, June 2019 (incorporated by reference, see § 162.920).

(c) For transmissions described in § 162.2001(a), the ASC X12N/06020X314—Additional Information to Support a Health Care Claim or Encounter (275) (incorporated by reference, see § 162.920).

(d) For transmissions described in section 162.2001(b) that pertain to § 162.2001(a) transmissions, the ASC X12N/006020X313—Health Care Claim Request for Additional Information (277) (incorporated by reference, see § 162.920).

(e) For transmissions described in § 162.2001(a), where a health care provider uses an electronic signature, the HL7 Implementation Guide for CDA Release 2: Digital Signatures and Delegation of Rights, Release 1, Draft Standard for Trial Use, October 2014 (incorporated by reference, see § 162.920).

Robert F. Kennedy, Jr.,

Secretary, Department of Health and Human Services.

[FR Doc. 2026–05676 Filed 3–20–26; 4:15 pm]

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Part V

Federal Communications Commission

47 CFR Parts 43, 51, 54, et al.
Reforming Legacy Rules for an All-IP Future; Accelerating Network Modernization; Proposed Rule

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 43, 51, 54, 61, 64, and 69

[WC Docket Nos. 25–311, 25–208; FCC 26–11; FR ID 335397]

Reforming Legacy Rules for an All-IP Future; Accelerating Network Modernization

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Federal Communications Commission (Commission) adopted a Notice of Proposed Rulemaking seeking to accelerate network modernization by proposing to reform regulations that have hindered the transition to all-internet Protocol (IP) networks. Building upon the Commission's longstanding efforts to reform the legacy intercarrier compensation (ICC) framework, the Commission proposes to move remaining ICC charges to a bill-and-keep framework and detariff them, and invites comment on this proposal. To enable carriers to recover costs from their end users, the Commission proposes to eliminate ex ante pricing regulation and tariffing of end-user charges, also referred to as Telephone Access Charges (TACs). Following the transition of ICC charges to bill-and-keep, the Commission seeks comment on phasing out Connect America Fund Intercarrier Compensation (CAF ICC) support. The NPRM also seeks comment on removing remaining regulatory obligations—including tariffing and outdated account information exchange requirements—for interstate and international long-distance services, given the longstanding competitiveness of these markets. In addition, the Commission seeks comment on the elimination of regulations that will no longer be necessary in a post-Time-Division Multiplexing (TDM) environment and invites input on a transitional framework to ensure regulatory and market stability during the shift to an all-IP marketplace. Finally, the Commission encourages commenters to identify ways to promote technological modernization while enhancing long-term efficiency, competition, and service quality for consumers. In all these reforms, the Commission intends to proceed thoughtfully, mindful of the complex issues, transition timelines, and paramount connectivity goals.

DATES: Comments are due on or before May 26, 2026; reply comments are due on or before June 22, 2026. Written comments on the Paperwork Reduction Act proposed information collection requirements must be submitted by the public, Office of Management and Budget (OMB), and other interested parties on or before May 26, 2026.

ADDRESSES: Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). You may submit comments, identified by WC Docket Nos. 25–311 and 25–208 by the following methods:

- *Electronic Filers:* Comments may be filed electronically using the internet by accessing the ECFS: *https://www.fcc.gov/ecfs/search/search-filings.*
- *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing.
- Filings can be sent by hand or messenger delivery, by commercial courier, or by the U.S. Postal Service. All filings must be addressed to the Secretary, Federal Communications Commission.
- Hand-delivered or messenger-delivered paper filings for the Commission's Secretary are accepted between 8:00 a.m. and 4:00 p.m. by the FCC's mailing contractor at 9050 Junction Drive, Annapolis Junction, MD 20701. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.
- Commercial courier deliveries (any deliveries not by the U.S. Postal Service) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.
- Filings sent by U.S. Postal Service First-Class Mail, Priority Mail, and Priority Mail Express must be sent to 45 L Street NE, Washington, DC 20554.
- *People with Disabilities.* To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530.

In addition to filing comments with the Secretary, a copy of any comments on the Paperwork Reduction Act proposed information collection requirements contained herein should be submitted to the Federal Communications Commission via email to *PRA@fcc.gov* and to Nicole Ongele, FCC, via email to *Nicole.Ongele@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For further information about this proceeding, please contact Erik Raven-Hansen, Pricing Policy Division, Wireline Competition Bureau, at (202) 418–1532, *erik.raven-hansen@fcc.gov,* or Irina Asoskov, Pricing Policy Division, Wireline Competition Bureau, at (202) 418–2196, *irina.asoskov@fcc.gov.* For additional information concerning the Paperwork Reduction Act proposed information collection requirements contained in this document, send an email to *PRA@fcc.gov* or contact Nicole Ongele at (202) 418–2991.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rulemaking (NPRM) in WC Docket Nos. 25–311, 25–208; FCC 26–11, adopted on February 18, 2026, and released on February 19, 2026. The full text of this document is available for public inspection at the following internet address: *https://docs.fcc.gov/public/attachments/FCC-26-11A1.pdf.*

Ex Parte Rules: The proceeding this document initiates 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 rule 1.1206(b). In proceedings governed by rule 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.

Paperwork Reduction Act Analysis: This document may contain proposed new or revised information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collection requirements contained in this document, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4), we seek specific comment on how we might further reduce the information collection burden for small business concerns with fewer than 25 employees.

Providing Accountability Through Transparency Act: Consistent with the Providing Accountability Through Transparency Act, Public Law 118–9, a summary of this Notice of Proposed Rulemaking is available at *https://www.fcc.gov/proposed-rulemakings.*

To request materials in accessible formats for people with disabilities (*e.g.* Braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at (202) 418–0530.

Regulatory Flexibility Act: The Regulatory Flexibility Act of 1980, as amended (RFA), requires that an agency prepare a regulatory flexibility analysis for notice-and-comment rulemaking proceedings, unless the agency certifies that ''the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.'' Accordingly, the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) concerning potential rule and policy changes contained in this NPRM. The IRFA is set forth below. The Commission invites the general public, in particular small businesses, to comment on the IRFA. Comments must be filed by the deadlines for comments on the Notice of Proposed Rulemaking indicated on the first page of this document and must have a separate and distinct heading designating them as responses to the IRFA.

Procedural Matters: Comments and reply comments must include a short and concise summary of the substantive arguments raised in the pleading. Comments and reply comments must also comply with § 1.49 and all other applicable sections of the Commission's rules. We direct all interested parties to include the name of the filing party and the date of the filing on each page of their comments and reply comments. All parties are encouraged to use a table of contents, regardless of the length of their submission. We also strongly encourage parties to track the organization set forth in the NPRM to facilitate our internal review process.

Synopsis

Introduction

Today, we take the next step to accelerate network deployment and modernization by proposing comprehensive reform of the regulatory framework for voice telecommunications rates. The reforms proposed in the NPRM are part of a broader initiative to encourage carriers to transition to all-IP networks. In October 2025, the Commission adopted a Notice of Proposed Rulemaking aimed at revising incumbent local exchange carriers' (LECs) interconnection obligations to better align with modern technologies (90 FR 54266). In a future proceeding, the Commission will also consider proposed reforms to modernize its legacy high-cost support mechanisms. These proceedings, though separate, are underway and are being closely coordinated.

The voice services market has evolved dramatically over the past several decades—shifting from switched access to IP technologies. As a result, consumers have gained access to a wide range of competitive alternatives to traditional analog telephone services, including fixed Voice over internet Protocol (VoIP), mobile, and satellite options. Completing the transition to IP will promote technological modernization and public safety and consumer protection benefits; enhance long-term efficiency, competition, and service quality for consumers; and lead to decreased maintenance expenses for service providers. Although IP-based technologies are widely available, some providers continue to use legacy TDM equipment, potentially due in part to regulatory incentives embedded in the intercarrier compensation (ICC) regime, as well as the costs associated with transitioning to IP technologies. We recognize that shifting from the current regulatory framework for intercarrier compensation, interexchange services (*i.e.,* long-distance services), and end user charges—which is rooted in decades-old assumptions and outdated technology—to a full bill-and-keep framework is complex and will take time to ensure that the changes do not create regulatory uncertainty or hinder network modernization.

Background

Recognizing the rise of competition, particularly intermodal competition, from wireless, cable, VoIP, and satellite services, we propose reforms to facilitate the transition from circuit-switched networks to packet-based IP networks. The circuit-switched network (also known as the public switched telephone network or PSTN) is the traditional telephone system that sets up a dedicated path for each call. TDM is a method used in this system to send multiple calls over the same line by assigning each one a time slot. We use these terms interchangeably in this item because TDM is the primary method by which circuit-switched networks operate.

The Commission has adopted reforms to the original regulatory framework—which assumed that each end user would be served by one incumbent local exchange carrier (LEC)—over time, including in the 2011 *USF/ICC Transformation Order,* and we propose to complete those efforts in this proceeding. While, as a matter of convenience, we sometimes refer in this document to the proposed elimination of ex ante pricing regulation as the ''deregulation'' of intercarrier and end-user access charges, we do not propose to fully deregulate these charges. For example, local exchange carriers remain subject to the Commission's regulatory authority under sections 201, 202, and 208 of the Act. These statutory provisions authorize the Commission to determine whether rates, terms, and conditions are just, reasonable, and not unjustly or unreasonably discriminatory in the context of a section 208 complaint proceeding. The Commission retains the authority to initiate proceedings ''on its own motion'' (*sua sponte*).

Access Charge History. Until the 1970s, most telephone subscribers obtained both local and long-distance services from the Bell System, owned and operated by AT&T. Some telephone subscribers received local service from independent incumbent local telephone companies; however, they could only obtain long-distance service from AT&T Long Lines. Compensation for traffic exchanged between the Bell Operating Companies (BOCs) and the hundreds of unaffiliated independent (*i.e.,* non-Bell) LECs was handled through individual agreements rather than uniform tariffs. The emergence of competitive interexchange carriers (IXCs) in the 1970s introduced competition in long-distance service, but these carriers still

relied on the BOCs and the independent LECs—that held local monopolies—for access to end users. Following the 1982 court-ordered breakup of the Bell System, AT&T's local exchange operations were divested. All IXCs, including AT&T, then paid the BOCs and independent LECs for providing the necessary access to end users (*i.e.,* exchange access service). In 1983, the Commission replaced the earlier agreement-based system with an intercarrier compensation system built around uniform interstate access charge rules.

Commission Reforms Responding to Competition. In response to growing long-distance competition and to strengthen incentives for regulated carriers to operate efficiently, over the past several decades, the Commission has undertaken a series of reforms to modernize its regulatory framework. In 1991, it adopted mandatory price cap regulation for the largest LECs ''to avoid the perverse incentives of [cost-based] rate-of-return regulation,'' which continued to apply to most rural and small LECs, and to ''act as a transitional regulatory scheme until the advent of actual competition makes price cap regulation unnecessary.'' The 1996 Telecommunications Act (the 1996 Act) further advanced a pro-competitive, deregulatory policy framework and required the Commission to forbear from applying any provision of the Communications Act of 1934, as amended (the Act) when competitive conditions are met. Acting on this authority, in 1996, the Commission promptly eliminated tariffing obligations for nondominant IXCs providing interstate, domestic, interexchange telecommunications services. The Commission has consistently recognized that tariffing obligations were originally imposed to protect consumers from unjust, unreasonable, and discriminatory rates in a concentrated market, but that end-user tariffs have become unnecessary in a marketplace where the provider faces significant competitive pressure for subscribers.

The Commission undertook major intercarrier compensation reforms following the 1996 Act to bring the American public benefits of competition and choice by rationalizing the access rate structure. In these proceedings, the Commission reduced certain interstate access charges for price cap and rate-of-return carriers, respectively, and permitted local carriers to offset the interstate access rate reductions through an increase in end-user charges and additional subsidies from the Universal Service Fund (USF). Although the high-cost program increased in size as a result of the creation of these programs, consumers also typically saw reductions in their long-distance phone bills during this time period.

Adoption of Bill-and-Keep. In the 2011 *USF/ICC Transformation Order,* the Commission significantly modernized the intercarrier compensation system to ensure affordable voice and broadband service ''as consumers increasingly shift from traditional telephone service to substitutes including VoIP, wireless, texting, and email.'' By transitioning terminating switched access charges to bill-and-keep, the Commission created ''a more incentive-based, market-driven approach [to] reduce arbitrage and competitive distortions by phasing down byzantine per-minute and geography-based charges . . . provid[ing] more certainty and predictability regarding revenues to enable carriers to invest in modern, IP networks.'' ''Bill-and-keep'' refers to an arrangement under which carriers look first to their subscribers to cover the costs of the network, then to explicit universal service support where necessary. As the Commission observed, ''Bill-and-keep brings market discipline to intercarrier compensation because it ensures that the customer who chooses a network pays the network for the services the subscriber receives. Specifically, a bill-and-keep methodology requires carriers to recover the cost of their network through end-user charges which are potentially subject to competition. The Commission further advanced this approach in 2020 by moving 8YY originating end-office access charges to bill-and-keep.

Broader Deregulatory Efforts. This year, President Trump issued a series of Executive Orders calling on administrative agencies to alleviate unnecessary regulatory burdens. Consistent with this direction, in March, the Commission's Office of General Counsel issued a Public Notice seeking public comment on ''deregulatory initiatives that would facilitate and encourage American firms' investment in modernizing their networks, developing infrastructure, and offering innovative and advanced capabilities.'' Commenters identified part 61 tariff requirements and part 69 access charge rules as ripe for further deregulation and streamlining. We agree that the Commission should look at these regulatory areas and initiate this proceeding to seek comment on proposals to reform the regulatory framework for the voice services market given the technological and marketplace developments in recent years.

Marketplace Dynamics in Voice Services

The telecommunications industry is undergoing significant transformations, driven by technological advancements and evolving consumer preferences. As the industry transitions from traditional TDM-based networks to IP-based and mobile voice services, regulatory frameworks must adapt to support innovation and competition.

End-User Trends in Voice Communications Services

Technological and competitive advancements have significantly outpaced the existing regulatory framework, including prior deregulatory efforts. Today, incumbent LECs face competition in the voice calling marketplace from diverse sources, including competitive providers offering both facilities-based VoIP and mobile service, satellite broadband providers, and, most recently, over-the-top (OTT) applications for voice calling, such as Ooma, Zoom, Microsoft Teams, Google Meet, and WhatsApp. These OTT applications, layered over broadband connections, offer integrated communication features, including voice, video, and text messaging, at little to no additional cost to the consumer, and as a result, competitive alternatives have been widely adopted by consumers.

In 1996, incumbent LECs controlled over 99% of the local voice market due to their ''virtually ubiquitous'' networks and the resulting low incremental costs of serving each additional customer. By the end of 2023, the number of mobile telephone subscriptions in the U.S. exceeded the total population, and more than 75% of adults lived in households that relied exclusively on mobile voice service. Even among fixed voice connections, their share had declined to just 25% by June 2024, with the majority of remaining subscriptions held by non-incumbent LECs offering interconnected VoIP services.

Our analysis of the voice services marketplace confirms that competitive alternatives to incumbent LEC voice calling services abound. To make an initial determination of the available competitive alternatives to incumbent LEC voice service, we examine data from the Broadband Data Collection (BDC), which shed light on the incumbent LECs and competitors offering fixed and mobile voice service based on reported voice service subscriptions across the United States. As of December 31, 2024, the BDC data indicate that only 0.8% of census tracts do not have a competing non-incumbent

LEC with at least one facilities-based residential fixed voice subscriber in the tract. If a non-incumbent LEC provider has reported at least one subscription in a census tract (switched access, interconnected VoIP, over-the-top, etc.), that tract is considered served by the non-incumbent LEC. We find it more informative, however, to examine broadband coverage and the number of competing broadband providers available at residential locations, since all broadband providers either also offer voice services as part of a bundled service package or support over-the-top voice services. First, BDC data, as of December 31, 2024, indicate that 87.7% of households had two or more providers offering 10/1 Mbps, 85.3% of households had two or more providers offering 25/3 Mbps, and 74.4% of households had two or more providers offering 100/20 Mbps. We further note that, even where a household only has the choice of the incumbent LEC for fixed broadband service, it will have the ability to take stand-alone broadband internet access service and then subscribe to over-the-top voice services instead of the incumbent LEC's public switched telephone network (PSTN) service as long as the incumbent LEC offers broadband.

Moreover, the vast majority of U.S. households have access to one or more mobile wireless providers offering 4G LTE or 5G–NR service. As of June 30, 2025, 99.4% of residential locations had access to 4G LTE or 5G–NR service. And it is clear that an increasing percentage of U.S. households have dropped fixed voice service in favor of mobile voice service. The National Center for Health Statistics estimated that 78.7% of adults lived in households with at least one mobile voice subscription and no fixed voice subscription as of December 2024. This reflects a nearly 10 percentage point increase over three years when 69% of adults were estimated to live in mobile-only households in December 2021.

Recent advancements in satellite broadband—particularly the widespread deployment and availability of low Earth orbit (LEO) systems—have introduced a new platform capable of supporting voice services. While providers such as Starlink, Amazon's LEO constellation (formerly Kuiper), and Eutelsat OneWeb do not currently offer bundled VoIP services, their broadband speeds are sufficient to support third-party, over-the-top interconnected voice applications that compete with traditional voice services. In the past six years, the number of active satellites in the U.S. has grown from 2,000 to 9,641, an increase of approximately 382%. About 5,700 of those satellites are LEOs—a number that is projected to rapidly grow within the next two years.

How can we improve this analysis to develop a more granular picture of the competitive alternatives to voice service? How can we account for the fact that the BDC data on switched access voice services are subscription data for voice services and, therefore, understate availability? How can broadband availability data inform our analysis given the intermodal competition for voice services over broadband? What other types of services (*e.g.,* mobile, satellite) should be reasonably included in analyzing competitive alternatives to incumbent LECs' voice services? We do not, however, conflate analysis of the voice services market with that of data services, which presents additional considerations. Nor do we reach any conclusions regarding competitive conditions in the data services market or in markets for bundled voice and data services. Our review here is limited to switched access services. If an incumbent LEC offers voice services to a particular region and has an affiliate offering broadband in the same area, should we count the incumbent LEC's broadband affiliate as a competitive alternative where the two services overlap? Similarly, should we count an incumbent LEC's mobile affiliate as a competitive alternative in the same situation? Would the answers to the last two questions change if both an incumbent LEC's broadband and mobile affiliates offer such services in the same service area as the incumbent LEC?

The growing reliance on alternatives to traditional switched access voice services such as mobile voice service and VoIP appears to indicate that consumers increasingly view voice services as interchangeable, regardless of the underlying technology. For example, the 2024 American Community Survey, conducted by the Unites States Census Bureau, found that approximately 93.2% of U.S. households had one or more non-dial-up internet subscriptions. We note, however, that any comparison we make here between these technologies is one-directional and is necessarily limited to the interchangeability of voice services. Traditional switched access voice service has a significantly narrower functional scope than broadband, mobile, or satellite services, and lacks the capability to replicate the broader data transmission offerings those services provide. For example, while one may place a mobile wireless call from the same location as a fixed landline, one cannot place a call on a landline while roaming. Accordingly, from the consumers' perspective, mobile voice service may be considered as a potential substitute for switched access service; however, switched access—offering inferior performance over outdated technology—cannot reasonably to be regarded as an effective substitute for mobile voice service.

The prevalence of mobile-only households further underscores this shift. These trends suggest that the voice services marketplace has evolved into a technology-neutral environment, where consumers prioritize functionality and accessibility over the specific platform used. In essence, anyone with a broadband connection—regardless of the technology used to deliver it—can access voice services. Given this evolution, we seek comment on how best to define the scope of voice services for regulatory purposes in today's converged communications landscape. Should we adopt a technology-neutral approach when defining the voice services marketplace for purposes of determining the number of competitive alternatives in a particular area? If so, what criteria should be used to determine whether different types of voice services (*e.g.,* TDM-based, interconnected VoIP, mobile, OTT VoIP) provide the same functionality? To what extent do consumers view mobile, VoIP, and other IP-based voice services as substitutes for TDM-based service? Are there any remaining distinctions between voice service types that are meaningful from a consumer perspective? Should we rely on existing definitions of voice service previously adopted by the Commission, such as those used in the BDC or Communications Marketplace Report?

If the Commission determines that various types of voice services are substitutable, should it rely on BDC data—which provides location-specific availability information—to assess service coverage and competitive alternatives? If not, what alternative data sources should the Commission consider? Commenters are encouraged to submit any data that could assist the Commission in evaluating the current state of the voice services marketplace.

Has the widespread broadband deployment made it easier to enter the voice services market? What challenges do providers typically face when attempting to expand into new geographic areas? Are there regulatory, technical, or economic barriers that make expansion difficult? What specific advantages do incumbent LECs have over new entrants, particularly as end users rapidly move away from switched

access services? To what extent do Commission regulations hinder new entrants from competing effectively with incumbents who benefit from ICC and USF support? Do consumers face significant costs when changing voice service providers? Commenters are encouraged to provide detailed insights into the ease or difficulty of expanding into new service areas.

Regulatory Incentives Affect IP-Network Adoption

The current regulatory framework permits LECs to receive access charge payments for TDM-based switched voice services, but not for entirely IP-based or mobile voice services. Although carriers are allowed to tariff and assess access charges for VoIP–PSTN traffic, they are not allowed to do so for IP-to-IP traffic. Thus, by enabling LECs to recover a portion of their network costs from other carriers, the ICC system could be viewed as insulating TDM network technology from the effects of market forces. We seek comment on whether this disparity reduces LECs' incentives to invest in IP networks and services. Is this an accurate assessment of the dynamics in the voice services marketplace? Does the existing ICC framework discourage some carriers from transitioning to IP-based technologies due to the potential loss of ICC revenues and, in some cases, associated USF support? Would a transition to a bill-and-keep framework and associated deregulation facilitate the industry-wide migration to IP?

In contrast, all-IP voice providers and commercial mobile radio service (CMRS) carriers have generally operated under a bill-and-keep regime and do not receive access charges, except where negotiated through specific agreements, and the Commission has observed that ''this framework has proven to be successful for that industry.'' Indeed, IP-based and mobile voice services have experienced significant growth in recent years. Does this suggest that these services are more efficient than traditional TDM-based offerings? Or is this growth due more to consumer preference for modern technologies? Or is it combination of both factors? To what extent does the ICC regulatory structure distort competition and delay technological transition?

The ICC regime was designed to make universal voice service available in a voice-centric world. However, today's consumers require far more than basic voice service—they rely on high-speed, reliable broadband for work, education, healthcare, and civic engagement. The Commission recently sought comment on how section 251(c)'s interconnection mandates burden carriers and ''stymies IP network investments,'' and now, we seek comment on the impact of maintaining the ICC regime on carriers' incentives to upgrade their networks to the IP-networks of the next generation. We also seek comment on the ways the legacy rules are aligned or misaligned with current consumer needs.

Carriers have informed the Commission that TDM network components are becoming increasingly ''outdated, inefficient, harder to acquire and maintain, and increasingly expensive.'' Are there safety, security, or service continuity risks associated with reliance on second-hand or obsolete equipment? We note that some legacy and transitional 911 networks continue to rely on TDM-based facilities, such as selective routers and DS1/DS3 circuits, to route and deliver 911 calls to public safety answering points until they can fully upgrade to NG911. Would our proposals change the incentives for incumbent LECs to continue to support these network elements during the NG911 transition? Would 911 Authorities or consumers incur additional costs if incumbent LECs no longer receive ICC in connection with legacy facilities used to provide 911 service? Could these changes lead, directly or indirectly, to interruptions in 911 service, and if so, are protections needed to ensure the continuity of 911 service? Why or why not? What form should any protections take? We seek comment on the incentives and disincentives carriers, and particularly rate-of-return LECs, may face to upgrade their networks to all-IP. What role does ICC and CAF ICC play for incumbent LECs? What incentives do incumbent LECs, especially rate-of-return carriers, have to upgrade infrastructure, improve service quality, or respond to consumer complaints, particularly where they may earn revenues from ICC and CAF ICC? What are the consequences for consumers, especially in rural or high-cost areas, when providers have not yet upgraded networks or improved service? How can the Commission ensure that pricing policies support access to affordable, high-quality communications networks while avoiding unintended consequences such as underinvestment in future-proof networks?

Pricing Reform for an All-IP Future in Voice Services

To accelerate the transition to all-IP networks, we propose to complete the intercarrier compensation reforms initiated by the Commission in 2011 by transitioning the remaining intercarrier charges to a bill-and-keep framework. To support cost recovery, we also propose to eliminate ex ante pricing regulation and to mandate the nationwide detariffing of Telephone Access Charges and seek comment on phasing out CAF ICC once the transition to bill-and-keep is complete. Additionally, recognizing the longstanding competitiveness of the interstate and international long-distance markets, we propose to eliminate rate regulation, tariffing requirements, and account record exchange obligations for these services. We seek comment on transition issues, costs, and how to ensure continued connectivity.

We recognize that alternative approaches to cost recovery such as intercarrier compensation, end-user charges, and universal service funding can intersect in different ways with the universal service principles of section 254 of the Act. When addressing the cost recovery issues discussed in this Notice of Proposed Rulemaking we invite general comment on how the principles of section 254 should inform the Commission's approach or how those principles might implicate related issues that should be considered in a separate proceeding focused on universal service.

Proposed Intercarrier Compensation Reform

To further the transition to all-IP networks and promote more efficient, modernized networks, the Commission must complete the reform of intercarrier compensation by transitioning the remaining access charges to a bill-and-keep framework. The ICC framework is based on per-minute charges, which ''are inconsistent with peering and transport arrangements for IP networks, where traffic is not measured in minutes.'' At the time the Commission adopted bill-and-keep as the end state for all intercarrier compensation traffic, it sought comment on whether ''any final transition of originating access [should] be made to coincide with the final transition for terminating access.'' The Commission has already transitioned terminating end office access charges to bill-and-keep for price cap and rate-of-return carriers. Other terminating access charges, such as terminating tandem switching and common transport for rate-of-return carriers, and originating access charges for all carriers, other than for 8YY calling, remain subject to the intercarrier compensation regime. We now seek comment on how to complete the transition to bill-and-keep for the remaining ICC charges in a thoughtful

way, both originating and terminating, for all carriers.

Remaining Access Charges That Are Not at Bill-and-Keep

The Commission's adoption of bill-and-keep as the end state of its legacy intercarrier compensation framework shifted the ways carriers may recover their network costs, marking a departure from a complex system of intercarrier charges, end-user charges, and universal service support mechanisms to a more direct framework where carriers are to recover their network costs directly from their customers. The Commission found these changes were necessary as ''consumers increasingly shift[ed] from traditional telephone service to substitutes.'' While the Commission opted for a multi-year transition plan for the charges then moved to bill-and-keep, it did not specify or begin a transition of all of the existing ICC charges at that time. We now return to complete the task and seek comment on how to best implement bill-and-keep to support carriers as they transition to all-IP calling. As we explain in greater detail below, the access charges still in use include: (1) non-8YY originating switched access charges, such as end office switching, tandem switching and common transport, and dedicated transport rates; (2) some terminating switched access charges, including certain tandem switching and common transport and dedicated transport rates; and (3) originating 8YY access charges, including joint tandem switched transport and database query rates.

The bill-and-keep framework recognizes that both the calling and called parties benefit from a call, and therefore that both should bear their own costs to complete the call. Under bill-and-keep principles, because customers bear the costs of their carrier of choice, customers receive clearer pricing signals, and consequently, carriers are incentivized to operate more efficiently, to invest in their networks, and engage ''in substantial innovation to attract and retain customers.'' In turn, consumers then benefit from lower ''effective price[s] of calling, through reduced charges and/or improved service quality.'' In further support of the decision to move most terminating access charges to bill-and-keep, the Commission in 2011 also concluded that the incremental cost of call termination is ''very nearly zero,'' rendering any potential benefit from rate-setting ''more than offset by the considerable costs of doing so,'' and that even if bill-and-keep does not allow for overall cost recovery, ''it is more efficient to ensure cost recovery via direct subsidies.''

We now seek comment on whether these conclusions support the movement of all remaining access charges to bill-and-keep for all carriers. Will carriers realize benefits through regulatory simplicity upon completing the transition to bill-and-keep? We believe the move to bill-and-keep would also ease the administrative burdens that carriers face to ensure their compliance with regulatory and legal frameworks and seek comment on this belief. Under the bill-and-keep framework we propose today, the reciprocal compensation aspect will be satisfied when each carrier collects the cost for a call from its own customers, which moots the need for separate accounting and administrative tasks for charges and payments to other carriers. We seek comment on this view and any other types of administrative burdens that are eased or otherwise mooted as a result of bill-and-keep. We also seek comment on how the easing of these administrative burdens supports the transition to all-IP networks, and how consumers may also realize these benefits.

Interested parties have long known that bill-and-keep is the ''default methodology that will apply to all telecommunications traffic,'' and we believe further delaying the transition to bill-and-keep may continue to result in market distortion and hinder the transition to all-IP networks. As the Commission has observed, ''[i]ntercarrier compensation rates above incremental cost have enabled'' arbitrage opportunities, many of which the Commission has tried to remedy in recent years. Put differently, arbitrage opportunities will remain a persistent threat to market efficiency where the compensation framework imposes duties to bear costs that are detached from each party's incremental costs of the services used to complete the call. Given that the ICC framework acts as ''an implicit subsidy'' for the entire network of a call, we believe that the incentives to engage in these types of market distorting behaviors will continue to exist until the transition to bill-and-keep is completed. We seek comment on whether the Commission's partial implementation of bill-and-keep to date may have created or contributed to marketplace inefficiencies. Have the longevity of the ICC regime and the partial continuation of the original access charge regime for non-IP voice calls resulted in carriers reinvesting in existing equipment, as opposed to investing in the development of IP networks? Will such dynamics be effectively muted by the completion of the move to bill-and-keep? We seek comment on the extent to which carriers that are transitioning to IP networks or that have been delayed in deploying IP networks are experiencing increased costs from the legacy ICC framework, such as costs incurred from retaining tandem switches. Additionally, we believe that completing the gradual, multi-year transition of remaining access charges to bill-and-keep will permit incumbent LECs to adapt to lower rates in a manner that will provide them time and funding to evolve their networks and, as necessary, business models, and we seek comment on that proposed transition below to prevent revenue shocks. How will a multi-year transition period minimize any such effects? In 2011, the Commission stated that bill-and-keep ''will ultimately eliminate the competitive distortions and consumer inequities'' that stem from competing carriers employing different technologies used to complete a call which ''are subject to different regulatory classifications and requirements.'' Has that prediction proven to be true? Why or why not? Do the charges we propose moving to bill-and-keep today present any different considerations or potential market effects than those taken to bill-and-keep previously? We ask commenters to be as thorough as possible in any explanations.

While we discuss various access charges below, we seek to obtain the clearest possible picture of the current access charge landscape. To that end, we seek broad comment on what tariffed switched access charges are being charged today and the revenues associated with those charges. This includes any intercarrier compensation charges still collected by competitive LECs. Commenters should be as specific as possible in identifying and describing these access charges, including by reference to the Commission's rules, and in providing revenue figures.

Originating Switched Access Charges. Originating switched access refers to the set of services provided by a LEC to transmit long-distance calls over its local network using end office and tandem switches to route these calls from a calling party to an IXC's point of presence (POP). In the *USF/ICC Transformation Order,* the Commission only initiated the transition to bill-and-keep for certain terminating access charges, due largely to the Commission's view that reforming originating access charges was less pressing at the time. In light of those observations and the Commission's

stated goal of implementing bill-and-keep as the default framework for all-IP networks, the Commission capped price cap incumbent LECs' intrastate and interstate originating and terminating switched access rates, and rate-of-return incumbent LECs' interstate originating and terminating and intrastate terminating access charges. Rate-of-return incumbent LECs' intrastate originating access charges were not capped. However, outside of capping the aforementioned originating access charges, the Commission took no further action on originating access charges. Since then, in the *8YY Access Charge Reform Order,* the Commission curbed arbitrage abuse by bringing 8YY originating end office switching rates to bill-and-keep, creating a new 8YY joint tandem switched transport rate element and capping the rate for this element, and capping the 8YY database query rate, for both intrastate and interstate traffic, but has otherwise left the ICC regime of originating switched access charges undisturbed.

Building on the *USF/ICC Transformation Further Notice,* we seek comment on capping all intrastate originating access rates that have not yet been capped and transitioning all remaining intrastate and interstate originating access charges to bill-and-keep, consistent with the Commission's stated goals in the *USF/ICC Transformation Order.* This includes but is not limited to any end office charges, dedicated transport charges, tandem switching charges, or other separately identifiable originating access rate elements. We believe these steps, which replicate those taken to move most terminating access charges to bill-and-keep, are necessary to avoid cost-shifting during the transition, and seek comment on that view. We also seek comment on how carriers avoided or resolved any issues stemming from the ongoing operation of originating access charges, and how those solutions may aid or assist the Commission's implementation of bill-and-keep for the same charges.

The Commission's current ICC framework applies different rules and restrictions to price cap carriers and rate-of-return carriers. In particular, this distinction between carriers reflects underlying differences in how each is compensated for the provision of switched access services under our rules, owing in part to rate-of-return carriers' greater reliance on access revenues to support their networks. Given that greater efficiency can be achieved by a transition to bill-and-keep as the end-state for all switched access traffic, are there any specific concerns or considerations, either by carrier regulatory status or size, that the Commission should account for when transitioning originating access charges to bill-and-keep? If so, what are they, and how should they be handled? We believe a universal approach to moving all originating access charges to bill-and-keep is more efficient and predictable, and we seek comment on whether that perspective is supported by the experiences of both network operators and consumers under the previous transition.

We also seek comment on whether all originating access charges should be moved to bill-and-keep in the same manner or on the same schedule. How much revenue is still associated with originating access charges? What impacts might carriers experience during or after the transition of all originating access charges to bill-and-keep? Please explain as completely and specifically as possible how moving originating access charges to bill-and-keep may disparately impact carriers, including any details on service availability and performance. Are there obstacles that prevented carriers from preparing for these changes since they were first proposed in 2011? In particular, we seek comment on how these actions may affect intermediate access providers, such as tandem providers or centralized equal access providers, that arguably stand in distinctive postures in the call flow and may not have end users of their own. Under a bill-and-keep framework, we anticipate that the originating LEC would be responsible for arranging transport from its tandem to the network edge, typically by contracting with intermediate carriers. Similarly, the terminating LEC would need to arrange transport from the network edge to its tandem, which may also involve contracting with intermediate carriers. Under bill-and-keep, an independent third party tandem would not be prohibited from charging contractually negotiated prices to its LEC-customers in exchange for service. To recover these costs, LECs would likely need to set end-user rates at levels sufficient to allow them to compensate intermediate carriers for their services in turn. Is this an accurate assumption of how the market will operate under a bill-and-keep framework? Are there any actions the Commission may need to take to preserve competition in markets that depend on such carriers as all remaining access charges move to bill-and-keep, and if so, what are they, and why?

In the *USF/ICC Transformation Further Notice,* the Commission noted that commenters suggested that it should not prioritize originating access charges because for many ''originating access is simply 'an imputation, not a real payment,'' but also recognized other commenters' claims that these charges ''remain[ ] problematic for independent long distance carriers and competitive LECs.'' We seek comment on these perspectives. Since 2011, have these views changed? If so, what lessons can the Commission apply to the effort to move originating access charges to bill-and-keep? Does the diminishment of the standalone long-distance market discussed elsewhere in this Notice of Proposed Rulemaking affect commenters' positions?

Terminating Switched Access Charges. In contrast, the Commission moved certain ''terminating end office switching and certain transport rate elements'' to bill-and-keep in the *USF/ICC Transformation Order.* Terminating switched access refers to the set of services provided by a LEC to transmit long-distance calls over its network using end office switches to route these calls from an IXC's POP to a called party. Importantly, in 2011, the Commission distinguished the terminating access charges for price cap carriers and competitive LECs that benchmark their access rates to price cap carriers from those of rate-of-return carriers and competitive LECs that benchmark their access rates to rate-of-return carriers. Specifically, all carriers' terminating end office access charges were brought to bill-and keep. For terminating tandem switching and common transport access services provided by price cap carriers, rates were taken to bill-and-keep where the carrier owns the tandem and the terminating end office switch; otherwise, price cap carriers' rates for these services are capped. Thus, for price cap carriers where the terminating carrier does *not* own the tandem serving switch, transport and termination within the tandem serving area has not yet been transitioned to bill-and-keep. In contrast, terminating tandem switching and common transport access services provided by rate-of-return carriers were capped under both of these scenarios. As for dedicated transport, the Commission capped the rates for these services in the *USF/ICC Transformation Order,* with no transition plan announced.

In service of the goal of encouraging all providers to move to modern, all-IP networks, we now seek comment on completing the move to bill-and-keep for all remaining terminating access charges consistent with the transition of other access charges. We prefer to transition all remaining terminating

switched access charges to bill-and-keep in lockstep but given that the Commission previously only moved certain terminating access charges to bill-and-keep, we seek comment on whether the Commission alternatively should treat any remaining terminating access charges going forward differently and, if so, why. How much revenue is still associated with terminating access charges? Will moving the remaining terminating access charges to bill-and-keep in lockstep with originating access charges benefit providers and consumers, or would an alternative approach be less administratively burdensome? If so, why?

Switched Access Tandem Switching and Tandem Switched Transport Access Charges. We seek to refresh the record on moving all remaining tandem switching and tandem switched transport access charges to bill-and-keep. Tandem switching refers to the use of a tandem switch to route long-distance calls between an end office switch and a wire center serving an IXC's POP. Tandem switched transport refers to the common transport of individual long-distance calls of multiple IXCs using shared circuits between a tandem switch and an end office switch and dedicated transport between a tandem switch and a serving wire center. As noted above, the Commission has transitioned these charges to bill-and-keep only in specific circumstances, and the remaining tandem switching and tandem switched transport access charges, like other remaining access charges, continue to be capped. We seek comment on whether the transition of other terminating access charges to bill-and-keep has affected these two types of access charges. How much revenue is still associated with switched access tandem switching and tandem switched transport?

In the *USF/ICC Transformation Order,* the Commission noted concerns from carriers that the treatment of transport and tandem services under the adopted transition plan would create incentives for cost shifting and that rate caps would create disincentives for interconnection or exacerbate arbitrage in the market for transport services. Have any carriers experienced cost shifting as some carriers predicted? Separately, but similarly, have any carriers encountered arbitrage or other kinds of exploitative behavior related to non-transitioned tandem switching and tandem switched transport access charges? We seek comment on any alternate approaches that would resolve such concerns, including with respect to transport access charges. Should these charges be transitioned to bill-and-keep concurrently with the other access charges in this item? If not, what is an appropriate transition timeframe for transport access charges, and why?

Switched Access Dedicated Transport. We seek comment on the transition to bill-and-keep of switched access dedicated transport services. Dedicated transport access service refers to the provision of service that moves traffic over separately committed transport facilities between the serving wire center and: (1) the tandem switching office (*e.g.,* as part of a tandem-switched transport service); (2) an end office (*i.e.,* Direct-Trunked Transport); or (3) an IXC's point of presence (*i.e.,* Entrance Facility). To date, the Commission has only capped the rates for these charges. We seek comment on whether and, if so, how dedicated transport should be moved to bill-and-keep. How much revenue is still associated with switched access dedicated transport? Is there a need to treat switched access dedicated transport services differently from other switched access services (*e.g.,* end office switching, tandem switching and common transport between an end office switch and a tandem switch)? Under our existing rules, IXCs decide whether to buy direct-trunked transport or tandem switched transport and pay access charges for whichever of these services they choose. After the proposed transition of all access charges to bill-and-keep is complete, including dedicated transport, should IXCs continue to be permitted to specify how their traffic is transported? Are there any other considerations that the Commission should weigh when deciding whether and how to move dedicated transport access charges to bill-and-keep? If so, what are they and how should they affect the Commission's decision-making? In all-IP networks, does the Commission need to regulate dedicated transport at all?

Transit Service. Transit service routes non-access traffic of two carriers that are not directly interconnected with each other through an intermediary carrier's network. In essence, ''transit is the functional equivalent of tandem switching and transport'' whereas ''transit refers to non-access traffic'' while ''tandem switching and transport apply to access traffic.'' The Commission did not exercise its authority over transit under section 251(b)(5) in the *USF/ICC Transformation Order,* despite taking a unified approach to moving all traffic to bill-and-keep. Indeed, on the record before it, the Commission recognized that ''a competitive market for transit services exists.'' We now seek to refresh the record on how the Commission should view transit service following the move to bill-and-keep. Commenters should identify ''the need for regulatory involvement and the appropriate end state for transit service.'' How much revenue is still associated with transit service? Have there been marketplace changes in the way transit services are offered as other regulated transport access services moved to bill-and-keep? We seek comment on whether those developments, if any, might guide the Commission in taking action on transit service charges as equivalent services move to bill-and-keep. As a functionally equivalent service, did carriers experience rate increases for transit services or other adverse consequences when some transport access service rates were capped and moved to bill-and-keep? We recognize that functional equivalency is not always a direct comparison for substitute services, however we seek comment on whether transit services served as a substitute for tandem switching and transport during the Commission's transition of transport access services to bill-and-keep. In the time since the *USF/ICC Transformation Order* was adopted, has the market for transit services remained competitive?

We also acknowledge that transit services may become critical when IP interconnection is the default. As a result of the flexibility that transit services offer and the availability of technological alternatives to deliver transit, transit for IP services and transit to the network edge in the bill-and-keep end state for ICC may replace tariffed transport access services as carriers ultimately switch to IP networks for voice calling. We think this may be one possible option for carriers that wish to provide voice calling using TDM after the move to all-IP voice calling as the default. We seek comment on the likelihood of this shift, and on how carriers that utilize IP networks for voice calling may use or rely upon transit services to complete IP-based voice calling. We also seek comment on the end state of transit services under a nationwide bill-and-keep framework for ICC, given that transit services are not currently rate-regulated. We note that in the *USF/ICC Transformation Order* the Commission does not distinguish between transit services where a CMRS carrier indirectly interconnects with a wireline carrier or where carriers indirectly interconnect via IP technologies, from transit services used to indirectly interconnect wireline carriers, and we seek comment on whether the Commission should

recognize such differences going forward, and if so how. We seek comment on whether there is any need for additional Commission action concerning transit service at this time. For example, are there any benefits from a uniform regulatory framework for traffic that the Commission should be aware of? Should the Commission formally recognize transit services under the authority granted by section 251 for clarity and consistency within our rules? In an all-IP world, is there any need for the Commission to regulate transit service, of any type?

Remaining 8YY Access Charges. We propose to transition the remaining 8YY charges—specifically, the originating joint tandem switching and common transport charge of $0.001 per minute to the bill-and-keep framework together with the other originating access charges. We seek comment on this proposal. How much revenue is still associated with the remaining 8YY access charges? Since toll-free calling requires an 8YY provider to compensate other carriers for transmitting traffic and associated charges, we also seek comment on how moving the tandem switched transport access service charge to bill-and-keep would impact the toll-free nature of 8YY calling. We also seek comment on the role these services may play in the distance insensitive, all-IP calling world.

Remaining Switched Access Charges. The goal of this proceeding is to move all remaining intrastate and interstate switched access charges to bill-and-keep. That includes all charges for the rate elements identified in our part 69 rules or the functionally equivalent rate elements. Under our existing rules, the intrastate terminating access rate structure for both price cap and rate-of-return incumbent LECs is required to be the same as the interstate terminating access rate structure specified under our part 69 rules. Our existing rules do not require the intrastate and interstate originating access rate structures to be the same. As such, we seek comment on whether there are any additional charges—beyond those discussed herein or specified in part 69—that should also be moved to bill-and-keep.

Call Routing Charges Bearing Special Consideration. As we move all other access charges to bill-and-keep, we are especially cognizant of those access charges that require special consideration due to the role each plays in traditional TDM voice calling, call routing, and identification. Specifically, we seek comment on whether the Commission should move the charges for the Signaling System 7 (SS7) call signaling service and 8YY database query to bill-and-keep. Both of these access services provide key information to carriers in the TDM call path, assisting in identifying calling parties as well as determining the pathway along which a call can be completed. Given the specific nature of these services, we seek comment on how to move the access charges for these parts of the TDM call routing system to bill-and-keep, if the Commission decides to do so. We seek comment on and encourage proposals that address the call routing and calling party identification aspects of these two services and how they are used to identify the correct call path. How much revenue is still associated with these two services? Will call signaling service remain relevant or necessary once we move to all-IP networks? Should the Commission delay taking action to move either the 8YY database query charge or the signaling charges to bill-and-keep until a more complete record on post-transition all-IP call routing develops? We seek comment on whether these charges help resolve problems with call routing and calling party identification that are not cured by the move to IP networks, absent other solutions. Given that IP networks are more efficient than TDM networks, will IP-based solutions more effectively or efficiently handle tasks like calling party identification or toll-free calling look ups, or otherwise render these services obsolete? Are alternative call signaling and call identification solutions already available for IP calling? We seek comment on how to transition these access charges to bill-and-keep.

With respect to the 8YY database query charge, we also ask whether it would be more appropriate to recover the costs of administering the database through a mechanism similar to that used for the North American Numbering Plan, such as contributions based on FCC Form 499–A filings. We seek comment on whether a comparable database will be necessary to handle 8YY traffic in an all-IP environment. If so, what modifications to the Commission's rules would be needed to ensure that the 8YY database remains fully functional and effective in a post-TDM landscape?

VoIP–PSTN Traffic. In the *USF/ICC Transformation Order,* the Commission adopted transitional rules specifying the default intercarrier charges for VoIP–PSTN traffic. Consistent with its other intercarrier compensation reforms, the Commission specified that VoIP–PSTN traffic ''ultimately will be subject to a bill-and-keep framework.'' To that end, the Commission brought all VoIP–PSTN traffic within the section 251(b)(5) framework and adopted ''a prospective intercarrier compensation framework for VoIP traffic.'' Under this framework, the default intercarrier compensation rates for intrastate and interstate toll VoIP services are equal to interstate access rates applicable to functionally equivalent PSTN services and the default intercarrier compensation rates for other VoIP–PSTN traffic are the otherwise applicable reciprocal compensation rates. We seek comment on the charges currently assessed for VoIP–PSTN traffic, including a description of the rate elements for which these rates are being charged. We also seek comment on what carriers, if any, are tariffing these charges and the revenues associated with these charges. To the extent there are currently-assessed intercarrier compensation charges for VoIP–PSTN traffic, we propose to bring those charges to bill-and-keep, consistent with the declaration the Commission made in the *USF/ICC Transformation Order* and the reforms proposed in this Notice of Proposed Rulemaking. We seek comment on this proposal.

The Role of States After the Transition to Bill-and-Keep. We seek comment on the states' perspective on and experience with the transition of some access charges to bill-and-keep after the *USF/ICC Transformation Order.* We also seek comment on the roles states should have following the transition of all access charges to bill-and-keep. Will the implementation of bill-and-keep nationwide affect state regulations, and if so, how? Will the move to bill-and-keep have varying impacts across different states? If state regulations over intrastate access charges are not preempted, and intrastate charges are left as they currently stand by the completion of our move to bill-and-keep, will incentives for carriers to use legacy technologies remain? What role could or should state regulators have in resolving disputes that might arise from the transition to bill-and-keep?

Proposed Transition of Remaining Access Charges to Bill-and-Keep

Capping Intrastate Access Charges. As the first step in the transition of the remaining intercarrier charges, we propose to immediately cap those access charges that remain uncapped, namely the intrastate originating switched access charges for rate-of-return carriers and competitive LECs that benchmark to rate-of-return carriers, effective 30 days after the final rules adopted in a forthcoming order are published in the **Federal Register**. Freezing these rates would ensure that rates do not increase

and would help prevent carriers from shifting costs to other rate elements during the transition period. We seek comment on this proposal. Our proposal is consistent with the approach taken in the *USF/ICC Transformation Order.* We tentatively conclude that capping these charges will provide certainty and stability during the transition process and minimize disruption for consumers and service providers and seek comment on this conclusion. How would this affect carriers' present business plans? Does it prevent possible arbitrage or gaming of rates? Alternatively, should the Commission make any cap on remaining access charges effective a certain time period after an order's adoption? If so, how long after adoption of an order implementing the transition to bill-and-keep, as proposed in this Notice of Proposed Rulemaking, should such a cap become effective? What are the potential benefits and drawbacks of this approach?

In the *USF/ICC Transformation Order,* the Commission recognized that intrastate access rate disparities ''created incentives for arbitrage and pervasive competitive distortions within the industry.'' To address this concern the Commission, after initially capping certain interstate and intrastate switched access rate elements, reduced the intrastate rates to parity with interstate rates. Because there is no evidence of similar intrastate rate disparities today, we decline to propose a transitional step after capping rates that would require carriers to reduce intrastate rates to interstate rate parity. We seek comment on this approach.

Transition Period for Intercarrier Access Charges. To mitigate the potential operational disruptions an abrupt regulatory shift may cause, we propose a two-year transition period for the remaining intercarrier access charges, including both intrastate and interstate access charges which had previously been capped in the *USF/ICC Transformation Order,* as well as transit rates and rate-of-return incumbent LECs' originating intrastate switched access rates, which were not capped in 2011. In the *8YY Access Charge Reform Order,* the Commission created a new 8YY originating joint tandem switched transport rate and capped the rate for this rate element, and lowered and capped the 8YY toll free data base query rate. Under our proposal, these rates also would be transitioned to bill-and-keep over a two-year transition period. This approach is consistent with the Commission's contemplated two-year transition to bill-and-keep for originating access rates in the *USF/ICC Transformation Further Notice* and with concerns in the record that ''establishing separate transitions for different intercarrier charges invites opportunities for arbitrage.'' To achieve the goal of moving all remaining access charges by price cap and rate-of-return carriers to bill-and-keep, we propose a 24-month transition period as follows: a 33% reduction in each remaining access charge as of the first annual interstate access tariff filing following the effective date of an order in this proceeding; another 33% reduction by the following annual tariff filing (that would mean a total 66% reduction at that time from the initial rates); and a final 34% reduction as of the annual tariff filing following that one, thereby completing the transition to bill-and-keep, bringing all remaining access charges to zero. To further clarify how the two-year period operates, the first reduction occurs at month 0 of the transition, the second reduction occurs at month 12, and the final reduction occurs at month 24. We seek comment on this proposed transition schedule.

We seek comment on whether the proposed timeframe effectively and expeditiously facilitates the transition from existing intercarrier compensation charges to a bill-and-keep framework, while also facilitating carriers' migration from TDM-based switched access services to all-IP networks. Does the proposed transition period provide sufficient time for carriers to adapt to the evolving regulatory and technological landscape? If not, what alternative timeframe would strike the right balance between minimizing disruption and advancing the transition? Will the transition otherwise affect existing commercial contracts or interconnection arrangements between parties? We do not anticipate that the proposed reforms will result in the abrogation of existing contracts, and we seek comment on this tentative conclusion. Providers are encouraged to identify any issues related to how the transition may interact with existing commercial contracts, including the sufficiency of contractual change of law provisions or similar terms and conditions to address issues here.

The Commission has noted that all originating access charges ''should be eliminated at the conclusion of the ultimate transition to the new intercarrier compensation regime.'' The record suggests that establishing separate transitions for different charges could lead to arbitrage opportunities. Accordingly, we propose that the two-year transition period apply uniformly to all remaining originating and terminating access charges for both interstate and intrastate traffic, all of which would transition to a bill-and-keep framework on the same schedule. We seek comment on this proposal. Alternatively, should we instead consider a transition schedule that differentiates among various access charges? If so, what alternative schedule should the Commission consider and why would that be more appropriate? Should, for example, the Commission distinguish the 8YY database query charge or the signaling charge for a different transition period than we apply to other originating access charges? If so, why, and what periods should apply for which charges? Similarly, are there reasons to distinguish transit services during the transition of the remaining access charges to bill-and-keep? Likewise, should dedicated transport be transitioned in the same manner as the common transport access charges? Should the Commission engage in a more specific transition plan for these services, or is the same two-year transition plan as with tandem switched transport and tandem switching appropriate? Why or why not? If there remain reasons to distinguish between any types of access charges when reaching bill-and-keep, we request that commenters identify those reasons and charges with specificity, and support why they should be distinguished.

In the *USF/ICC Transformation Order,* the Commission adopted separate transition schedules for rate-of-return and price cap carriers. Here, we propose that the transition period apply uniformly to all carriers that currently tariff access charges. Establishing different timeframes for different categories of carriers could lead to unintended consequences, such as inefficiencies or opportunities for arbitrage. We seek comment on whether rate-of-return carriers should be granted additional time to transition these rates. If so, what justification supports a longer transition period, and how much additional time would be appropriate? We also invite comment on whether a two-year transition would be too rapid for certain carriers. If so, what safeguards could the Commission implement to mitigate such concerns?

We seek comment on lessons learned during previous transitions to bill-and-keep. For those terminating access charges that already have moved to bill-and-keep, we seek comment on carriers' experiences during the transition. Specifically, did any carrier experience new or novel difficulties in implementing bill-and-keep? If so, please describe the difficulties and any actions taken to resolve them. We also

seek comment on whether the Commission had accurately gauged the marketplace effects from the transition to bill-and-keep for these charges.

Competitive LEC Benchmarking. For intercarrier compensation purposes, when access charges move to bill-and-keep for price cap or rate-of-return carriers, the same rate applies to those charges for benchmarking competitive LECs. We seek comment on how the transition of the remaining switched access charges to bill-and-keep will affect competitive LECs that benchmark to incumbent LEC rates. Are there any circumstances that would signal adverse effects in those markets? After bill-and-keep has been successfully implemented for all access charges, is the competitive LEC benchmarking rule still necessary, since competitive LECs will be prohibited from charging any access charges? We seek comment on these and any other perspectives on how moving the remaining access charges to bill-and-keep will impact benchmarking competitive LECs.

Network Edge

The network edge refers to the demarcation point in the telecommunications network for establishing financial responsibility between sending and terminating carriers for transmitting calls in a bill-and-keep framework. The network edge is distinct from a point of interconnection (POI) because a call may pass through multiple POIs before reaching the network edge—the point at which the originating carrier's financial responsibility for the call ends and the terminating carrier's responsibility begins. Under the intercarrier compensation regime, there was no need to define the network edge because access charges determined which carrier paid for each segment of traffic delivery. As the Commission completes the transition to bill-and-keep and accelerates the transition to all-IP communications networks, the definition of the network edge becomes important for determining financial responsibility for transport costs between carriers' networks.

When the Commission began the transition to bill-and-keep in the *USF/ICC Transformation Order,* it defined the network edge for non-access traffic exchanged between rural rate-of-return LECs and CMRS providers. The Commission also explained that it did not intend to ''affect the ability of states to define the network edge for intercarrier compensation under bill-and-keep as a general matter'' and sought comment on transitioning the remaining access charges to bill-and-keep and on related network edge issues. In 2017, the Commission sought to refresh the record on intercarrier compensation reform, including carrier obligations to deliver traffic under bill-and-keep. To date, the record reflects a lack of consensus on how to define the network edge. In addition, evolving market conditions, ongoing technological advancements, and the reforms proposed in this Notice of Proposed Rulemaking underscore the need for a fresh look at network edge issues.

In the *USF/ICC Transformation Further Notice,* the Commission stated that it ''believe[d] states should establish the network edge pursuant to Commission guidance,'' and sought comment on this approach and other options. Given the amount of time that has elapsed since comments on this issue were filed, we renew our request for input now. As the Commission considers the reforms proposed in this Notice of Proposed Rulemaking—moving to bill-and-keep to encourage the transition to all-IP networks—we seek input on whether carriers and state regulatory commissions believe there is a need to and benefit from defining the network edge today, and on the role that the Commission and states may play in that process.

To promote consistency across states in defining the network edge, would guidance from the Commission be helpful? If so, what form should that guidance take—for example, general principles, best practices, or a default framework? Would a default framework provided by the Commission be the most practicable solution if a state fails to define the network edge or if states develop inconsistent definitions? We seek comment on how the Commission should proceed in a manner that ensures consistency with sections 251 and 252 of the Act. We are interested also in hearing from state commissions about how any action by the Commission might affect past state decisions or open proceedings. To aid the Commission in potentially offering guidance, we seek to learn as much as possible from the experience and knowledge that states have garnered in addressing network edge issues.

At the same time, we also invite input from providers, consumers, and other stakeholders on their experiences and perspectives regarding these questions and issues. We are particularly interested in learning whether the industry is in agreement on principles that would serve as the basis for defining the edge. Because LECs may need to rely on third-party carriers to deliver or receive calls, we seek comment on whether the current marketplace for transit services is sufficiently robust to ensure that disparities in size between large transit providers and small LECs do not undermine the latter's bargaining power to negotiate fair and reasonable terms and conditions.

Network Edge Issues During Transition to Bill-and-Keep and All-IP Networks. Do commenters anticipate disputes over financial responsibility for transporting voice traffic during the transition unless the network edge is clearly defined? If so, when should such a definition take effect? To facilitate the transition to all-IP networks, should the Commission require each state to designate a single point of interconnection (POI) for TDM and VoIP traffic during the two-year transition and designate that POI as the network edge? States have already been required to designate a single POI as the NG911 Delivery Point. The Commission does not intend to disrupt present commercial agreements in any actions it may take and welcomes any comments to ensure that result. Should carriers be financially responsible for transporting traffic to that POI—including the cost of any necessary TDM-to-IP conversion—even if it lies outside of their traditional service areas? We anticipate that, because it would be costly for a carrier to transport a call from its service area to the POI designated as the network edge within a state, the carrier would instead convert the call to IP format and hand it off to an intermediate carrier. That intermediate carrier would then carry the call to the network edge, where it would be handed off to the terminating carrier or to an intermediate carrier selected by the terminating carrier. Accordingly, each call would have only one network edge and would likely be transported in IP most of the way.

Would carriers be able to contract with intermediate providers to deliver traffic to the POI, and could they leverage existing network capabilities amidst evolving all-IP platforms to reduce costs? We also ask whether a single POI per state aligns with states' responsibilities under sections 251 and 252 and whether states have the resources and time to implement this approach. Alternatively, should the Commission leverage existing regional IP meet points as the default network edge to reduce costs and avoid creating separate state-specific POIs? IP-based calls significantly reduce the cost of transport compared to TDM-based calls. Would this be more efficient and cost-effective during the two-year phase-out of access charges?

We also seek comment on the relationship between defining points of interconnection in the network and defining the network edge. We recognize that the definition of network edge is an important point for both this Notice of Proposed Rulemaking and the IP Interconnection Notice of Proposed Rulemaking, and we seek comment on how we should consider the overlap. How does the definition of the network edge for purposes of ICC impact other aspects of the IP transition?

Network Edge After Transitions to Bill-and-Keep and All-IP Networks Are Completed. Once the industry completes the transition of the intercarrier access charge system to a national bill-and-keep framework, we anticipate that carriers generally will seek to maximize efficiencies by delivering voice traffic in IP format. Most carriers already have the capability to offer VoIP services to their end users. As of December 2023, only 9% of residential connections remained copper-based. It is, therefore, likely that at the end of the transition period voice calls carried in IP format from origination to termination will travel through established internet exchange points and pathways as does all other current internet traffic. The industry has already established standards for transmitting VoIP calls over the internet without compromising call quality. Once all communications are transitioned from the PSTN to all-IP networks, do carriers or state commissions believe there is a need to define the network edge? Should such a definition apply to networks still using TDM facilities after the proposed transition to bill-and-keep is completed if some networks have not completely transitioned to all-IP networks by then? Would this definition continue to be necessary so long as TDM facilities are in use? Should the Commission set a definite sunset date for when the network edge definition would no longer be applied?

In the absence of access charges defining the financial responsibility for transporting voice traffic in all-IP networks, does the network edge still need to be defined to establish financial responsibility, or what steps should be taken, to ensure that financial disputes do not cause service disruptions? At the same time, we seek comment on whether the Commission or the states have the authority to define the network edge when the transition to all-IP networks is completed? Given that IP traffic is jurisdictionally mixed in nature, should the Commission preempt state authority to define the network edge for all-IP traffic? We also seek comment on whether the Commission alternatively should distinguish voice traffic from other traffic and whether this establishes a need to determine network edges for voice traffic in all-IP networks. If so, we ask commenters to explain why, and describe and illustrate a potential network edge in this scenario.

Is it correct to assume that most providers already maintain either direct peering arrangements or agreements with third-party IP transit providers for transporting existing internet traffic from their end users, and that they can readily in a cost-efficient manner incorporate voice traffic—given that it represents only a small portion of overall data traffic—into those existing arrangements? To the extent that, at the end of the transition to bill-and-keep and all-IP networks, carriers continue to rely on TDM technology, we propose that the costs associated with a carrier's continued TDM use should be borne by the carrier that elects to maintain it and seek comment on this proposal. For example, under this proposal, any costs associated with converting a call to IP format will be borne by the carrier that elects to originate, interconnect, or terminate the call in TDM.

We strongly encourage parties to submit concise, clear-cut call-flow diagrams to help illustrate and explain their comments. Parties should also define their use of the terms ''transit,'' ''meet point,'' ''interconnection point,'' and ''peering point,'' including distinctions.

Implementation of the Transition to Bill-and-Keep

We seek comment on the role of tariffs during the transition of interstate and intrastate access charges to bill-and-keep. We propose to maintain a role for tariffing access charges to implement the rate step down to bill-and-keep (*i.e.,* zero). After access charges transition to bill-and-keep, we propose to grant incumbent and competitive LECs forbearance under section 10 of the Act from the application of section 203 tariffing requirements to access charges. The Commission will, at that time, no longer permit any tariffs containing access charges. We seek comment on this proposal and any alternative proposals.

Background. The Commission's existing ICC framework has relied on tariffing access charges to ensure that common carriers' ''charges, practices, classifications, and regulations'' are ''just and reasonable'' under section 201 of the Act and not subject to ''unjust or unreasonable discrimination'' under section 202 of the Act. Under section 203(a) of the Act, ''common carriers'' are required to file with the Commission ''schedules,'' *i.e.,* tariffs, ''showing all charges for itself and its connecting carriers for interstate and foreign wire or radio communications.'' A carrier may not ''charge, demand, collect, or receive'' a different amount for such communications, ''refund or remit'' a portion of the charges, or ''extend to any person any privileges or facilities in such communication, or employ or enforce any classifications, regulation, or practices affecting such charges, except as specified in such [tariff]'' pursuant to section 203(c) of the Act. Section 204 of the Act authorizes the Commission to ''conduct a hearing concerning the lawfulness'' of ''any new or revised charge, classification, regulation, or practice'' contained in a tariff. Upon a finding of unlawfulness of the tariffed charge, section 205 of the Act authorizes the Commission to ''determine and prescribe . . . the just and reasonable charge.'' Tariffed rates that are subsequently found to be unlawful are not subject to refund liability for damages incurred while the tariffed rate was in effect.

The Commission's part 61 tariffing rules, among other things, ensure compliance with the Commission's part 69 access charge regime. In the *USF/ICC Transformation Order,* the Commission relied on the continued tariffing of access charges to transition terminating interstate and intrastate access charges to bill-and-keep. During the transition, the Commission permitted LECs to tariff intrastate toll traffic with the states, and interstate toll traffic with the Commission. In lieu of tariffing access charges, however, carriers were free to enter into negotiated agreements. The Commission's July 1 annual access charge tariff filings, among other things, implemented the transition of terminating access charges to bill-and-keep required by §§ 51.700 to 51.715 and 51.901 to 51.919 of the Commission's rules.

Role of Tariffs During Transition to Bill-and-Keep. To provide carriers with financial certainty, we propose to preserve a role for tariffing access charges during the transition of intrastate and interstate access charges to bill-and-keep. During the proposed transition, carriers will tariff interstate and intrastate access charges consistent with the transitional rate step-down described above. We propose that the Commission would continue to accept new interstate tariffs and revisions to existing tariffs and states would be expected to do the same for intrastate tariffs. Alternatively, should we allow carriers to immediately detariff

intrastate and interstate access charges, *i.e.,* bring them down to zero, if they choose to do so? Why or why not? Should we allow carriers to enter into negotiated commercial agreements instead of tariffing access charges? We seek comment on these proposals and any other alternatives.

VoIP–PSTN Traffic. During the transition adopted in the *USF/ICC Transformation Order,* the Commission permitted ''LECs to file tariffs that provide that, in the absence of an interconnection agreement, toll VoIP–PSTN traffic will be subject to charges not more than originating and terminating interstate access rates.'' During that transition, the Commission permitted LECs to tariff interstate toll VoIP–PSTN traffic in interstate tariffs and intrastate toll VoIP–PSTN traffic in intrastate tariffs. Should the Commission adopt a similar approach to transition the remaining intrastate and interstate access charges to bill-and-keep? Meaning, during the transition, should the Commission permit carriers to tariff interstate originating VoIP–PSTN traffic in interstate tariffs and intrastate originating VoIP–PSTN traffic in intrastate tariffs? What are the costs and benefits of this approach and any alternatives? During the transition, to what extent should the Commission permit carriers to tariff interstate and intrastate terminating VoIP–PSTN traffic? The Commission has held that carriers may not tariff purely IP–IP traffic that does not touch the PSTN. In other words, carriers may not tariff access charges if the LEC or its VoIP provider partner does not provide a physical connection to last mile facilities used to serve an end user over the TDM-based PSTN network. We similarly propose to maintain the prohibition of carriers and their VoIP provider partners from tariffing purely IP-to-IP traffic that does not touch the PSTN and seek comment on this proposal.

Reciprocal Compensation Agreements. In the *USF/ICC Transformation Order,* the Commission asserted legal authority to bring all traffic—terminating and originating access service—within the section 251(b)(5) reciprocal compensation regime in order to advance the migration to all-IP networks. ICC traditionally has been subdivided between access charges (payments to LECs to originate and terminate long-distance traffic) and reciprocal compensation (payments between carriers to transport and terminate local traffic). Section 251(b)(5) of the Act imposes a duty on LECs ''to establish reciprocal compensation arrangements for the transport and termination of telecommunications.'' Section 252 of the Act outlines the responsibilities of incumbent LECs to negotiate, arbitrate, and approve interconnection agreements and allows parties to petition state commissions ''to participate in the negotiation and to mediate any differences.'' How will the transition of access charges to bill-and-keep affect reciprocal compensation agreements? Is the section 251(b)(5) framework appropriate for originating access service? Why or why not? What is the role of state commissions, if any, in resolving disputes between incumbent LECs and competitive LECs over rates for reciprocal compensation? How could the Commission's section 251(b)(5) framework be improved for originating and terminating access service? Is there any evidence that rates, terms, and conditions contained in reciprocal compensation agreements are unjust and unreasonable? Is there any evidence that LECs are offering similarly situated customers rates, terms, and conditions that are unjustly or unreasonably discriminatory?

Under sections 251 and 252 of the Act, incumbent LECs generally cannot compel other LECs to negotiate over traffic that is not exchanged by tariff. In the *USF/ICC Transformation Order,* the Commission declined to extend the duty of CMRS providers to negotiate interconnection agreements with incumbent LECs to competitive LECs and other interconnecting service providers. The Commission, however, sought comment in the *USF/ICC Transformation Further Notice* on extending the interconnection agreement process adopted in the *T-Mobile Order* to all telecommunications carriers. As part of any detariffing reforms we propose, we seek comment on whether we need to revisit the rights and obligations of carriers to negotiate interconnection agreements.

NECA. Most rate-of-return carriers establish rates for access service by participating in the National Exchange Carrier Association, Inc. (NECA) tariff and tariff pools. During the transition to bill-and-keep, should we allow rate-of-return carriers to continue to make elections regarding participation in the NECA tariffs and pooling process? Why or why not? Because we propose to detariff the remaining interstate access charges once carriers transition to bill-and-keep, we propose to require rate-of-return carriers participating in the NECA tariff pools to remove access charges from the NECA tariff pools once they transition to bill-and-keep. We seek comment on this proposal and the role of the NECA tariff and tariff pools during and after the transition of access charges to bill-and-keep.

Role of Intrastate Tariffs. Under the framework adopted in the *USF/ICC Transformation Order,* rates for intrastate access traffic continued to be tariffed in state tariffs. We seek comment on the extent to which carriers should continue to tariff remaining intrastate access charges with state commissions pursuant to intrastate tariffs. To what extent do carriers tariff TDM-based intrastate access charges in state tariffs? To what extent do carriers tariff intrastate VoIP–PSTN traffic in state tariffs? Is VoIP–PSTN traffic inherently jurisdictionally mixed in nature and therefore not subject to state regulation? We seek comment on the role of the states and state commissions to ensure compliance with the transition of remaining intrastate access charges to bill-and-keep. Are there concerns that carriers could shift cost recovery for access services from interstate to intrastate tariffed rates? If so, are there any actions the Commission and state commissions could take to prevent a windfall or double-recovery? Are there other arbitrage opportunities that the Commission and state commissions should address in any framework adopted? Is there any evidence that intrastate access charges vary by state? Is there any evidence of arbitrage opportunities with respect to intrastate originating access charges provided by rate-of-return carriers?

Existing Agreements. We seek comment on how existing commercial contractual agreements might be affected by the reforms we propose. The reforms we propose above would require carriers to revise their interstate and intrastate switched access charge tariffs. We do not, however, propose to repeal existing commercial contracts, interconnection agreements, or service guides, or propose to require a ''fresh look'' at these agreements. Instead, we propose to defer to existing change-in-law provisions with respect to these agreements and seek comment on this approach. To what extent do our proposed reforms trigger contractual change-in-law provisions allowing for the parties to renegotiate certain rates, terms, and conditions? Are there situations in which the proposed reforms could not be addressed through change-in-law provisions? Would the Commission's waiver process under § 1.3 address any such concerns? If not, would the public interest still be best served by proceeding with the proposed reforms?

Forbearance From Section 203 Tariffing Obligations for Intercarrier Access Charges

In this section, we propose to grant incumbent and competitive LECs forbearance under section 10 of the Act from the application of section 203 tariffing requirements to interstate access charges once all access charges transition to bill-and-keep. If the Commission forbears from section 203 of the Act, sections 204 and 205 of the Act would no longer apply with respect to interstate access charges. We therefore propose to also forbear from sections 204 and 205 of the Act with respect to detariffed interstate access charges once all access charges transition to bill-and-keep. We propose to require LECs to detariff remaining interstate access charges after which the Commission would no longer accept interstate tariffing of these charges. Instead, carriers would enter into negotiated commercial agreements and/or list rates, terms, and conditions in service guides. We seek comment on whether the section 10 criteria for forbearance are met.

Beginning in the 1980s, the Commission pursued permissive and mandatory detariffing policies. Initially courts found that the Commission lacked mandatory detariffing authority; however, that changed with the 1996 Act, which compelled the Commission to forbear from applying statutory requirements where certain criteria are met. Section 10 of the Act requires the Commission to forbear from applying any requirement of the Act and Commission rules if it finds that the rule is unnecessary to ensure just and reasonable rates or to protect consumers and that forbearance serves the public interest, particularly by promoting competition.

The Commission has exercised its forbearance authority to order mandatory detariffing in various contexts. The Commission has expressed concern that ''the necessity of filing tariffs hinders competitive responsiveness'' and the filed-rate doctrine reduces competition. More recently, commenters have identified part 61 tariffing requirements as ripe for further deregulation and streamlining. For example, commenters argued that tariffs are ''cumbersome and slow'' and thus ''unnecessary'' and that ''thanks to competition are largely obsolete.''

Are tariffing requirements for access charges under section 203 of the Act still necessary, following the transition to bill-and-keep, to ensure that rates, terms, and conditions of access service remain just and reasonable, and not unjustly or unreasonably discriminatory? When Congress passed the 1996 Act, incumbent LECs controlled 99.7% of the local telephone service marketplace. Today, incumbent LECs' switched access lines account for only 3.1% of the voice telephony marketplace. Once the transition to bill-and-keep is complete, will tariffing these services still be necessary to ensure that rates, terms, and conditions of service are just and reasonable and not unjustly or unreasonably discriminatory? Will carriers and their customers be able to receive the same or similar transparent price and service information provided by tariffs through negotiated contractual agreements, service guides, and other agreements? We seek comment on the extent that competition for voice services is sufficient to constrain prices for access services to just and reasonable levels absent tariffing access charges.

Are sections 201, 202, and 208 of the Act, in conjunction with market forces, sufficient to protect consumers from unjust and unreasonable rates, terms, and conditions or unjust and unreasonable discrimination without continued tariffing of access charges? If continued tariffing of access charges is necessary to protect consumers following the transition to bill-and-keep, why? Is there price, cost support, service, or other information, that otherwise would be available through a tariff filing, that carriers should make available to Commission staff and the public for purposes of preparing complaints under section 208 of the Act? For example, section 211 of the Act requires carriers to ''file with the Commission copies of all contracts, agreements, or arrangements with other carriers.'' And § 43.51 of our rules requires carriers to maintain a copy of contracts between telephone carriers and connecting carriers available to Commission staff and the public upon request. Is this information sufficient to protect consumers? Absent tariffs, to what extent can customers assert their rights under interconnection agreements or reciprocal compensation agreements? If contract negotiations break down, to what extent can customers avail themselves of state mediation and arbitration procedures under sections 251 and 252 of the Act? To what extent can consumers pursue remedies under state consumer protection and contract laws in ways otherwise precluded in a tariffing regime by the filed-rate doctrine?

Is forbearance from tariffing consistent with the public interest? For example, would forbearance from tariffing switched access services promote competitive market conditions? Does tariffing access charges create disincentives for carriers to transition from TDM to all-IP networks? To what extent does tariffing access charges impose unnecessary regulatory burdens on carriers? Would detariffing access charges reduce compliance costs, increase regulatory flexibility, increase incentives to invest in innovative products and services, or otherwise be in the public interest? Why or why not? Are there ways the Commission could reorient the tariffing regime to incentivize carriers to transition from TDM to all-IP networks? If the Commission detariffed access charges, what effect would this have on prices, service availability, innovation, and competition? To what extent does detariffing access charges increase litigation costs and refund liability for carriers by removing protections under the filed-rate doctrine? To what extent does detariffing access charges increase transaction costs through individually-negotiated contractual agreements? Are there any approaches the Commission could take to minimize these concerns?

Other Considerations. If we detariff access charges, what other rules should we subject to forbearance or further streamlining as a result? Commenters advocate that ''a careful review'' of parts 32, 36, 64, 65, and 69 of the Commission's rules is necessary. Parts 32, 36, 64, 65, and 69 contain rules for calculating CAF BLS support attributable to common line and Consumer Broadband-Only Loop (CBOL) services and interstate rates for common line, CBOL, and special access services subject to rate-of-return regulation. Parts 32, 64, and 65 contain rules for calculating high-cost loop support. At the end of the transition to bill-and-keep, to what extent should we also grant rate-of-return carriers forbearance from provisions of the parts 32, 63, 64, 65, and 69 cost assignment rules, and part 36 separations rules? Should we also forbear from § 54.1305 reporting requirements for rate-of-return carriers' access charges? We seek detailed comment on these and other rules we should eliminate or forbear from and the associated costs and benefits. Commenters note that to the extent that the Commission does not reform its universal service rules for legacy carriers that cross-reference tariffs, ''such carriers . . . could continue to impute such charges for universal service purposes without actually filing any tariffs.'' To what extent should the Commission allow carriers to impute access charges for purposes of calculating universal

service support not based on tariffs? We seek comment on the extent to which we need to revise our part 54 rules to reflect detariffing access charges, specifically the CAF ICC support rules in § 54.304 and CAF BLS support rules in § 54.901.

Role of Tariffs After Transition to Bill-and-Keep. We seek comment on the continuing role of state and federal tariffs and associated cost support (*i.e.,* tariff review plans) once intrastate and interstate access charges transition to bill-and-keep. We believe that transitioning all access charges to bill-and-keep obviates the need to tariff intrastate and interstate access services and seek comment on this view. Going forward, to what extent should the Commission allow carriers to permissively tariff certain rates, terms, and conditions of interstate telecommunications service? For example, should we permit carriers to continue to tariff terms and conditions of interstate telecommunications services once the transition to bill-and-keep for all access charges is complete? Are there any charges for interstate telecommunications service we should permit common carriers to tariff? Similarly, to what extent should the states allow carriers to tariff certain rates, terms, and conditions of intrastate telecommunications service? Should the Commission preempt state tariffing of remaining access charges and, if so, under what statutory authority? Alternatively, are there any approaches the Commission could take to encourage states to detariff intrastate access charges? For example, should we adopt a ''backstop'' if states fail to detariff intrastate access charges within a specific period of time? If so, we seek comment on how much time the states may need to detariff intrastate access charges.

We also seek comment on the continuing role of tariffs and related cost support once carriers complete the transition to end-to-end IP voice communications. The Commission's tariffing regime applies to common carriers. While carriers may tariff access charges for VoIP–PSTN traffic, they are currently prohibited from tariffing access charges for purely IP–IP traffic. We propose to maintain this prohibition and seek comment on this approach. In light of this, we seek comment on the role, if any, that the Commission's tariffing regime should play in an all-IP world. Are there reasons to maintain the Commission's tariffing regime after a transition of voice traffic to all-IP?

End Users Cover the Cost of the Networks They Choose

To support a more market-driven approach to cost recovery and encourage continued investment in modern communications infrastructure, we propose to deregulate and detariff end-user charges, known as Telephone Access Charges, thereby allowing carriers to recover lost ICC revenues directly from their end users. In addition, to further strengthen the incentive for carriers to transition to all-IP networks, we seek comment on phasing out CAF ICC support following the shift to the comprehensive bill-and-keep framework. In particular, we seek comment on how best to ensure a smooth and speedy transition for carriers while appropriately recognizing any challenges.

Deregulating and Detariffing Telephone Access Charges

To facilitate the transition to a bill-and-keep framework and ensure that carriers can recover their costs from end users, we propose to eliminate ex ante pricing regulation and tariffing requirements of all end-user charges associated with interstate access service offered by incumbent LECs. Although the term ''access charges'' typically refers to intercarrier charges, it includes some end-user charges that we collectively reference as Telephone Access Charges (TACs). Our proposals here are part of this new Notice of Proposed Rulemaking seeking comment on issues in the context of completing the transition of all remaining access charges to a bill-and-keep system and the transition of TDM networks to all-IP technologies.

These end-user charges are remnants of legacy telephone regulation when LECs were subject to comprehensive rate oversight designed to protect subscribers from supracompetitive prices. The regulations were intended to protect consumers from the monopoly power of incumbent LECs and ensure that rates were just and reasonable, as required by the Act. However, with the growth of competition in the voice services market, rate regulation of incumbent LECs is no longer necessary to protect consumers—who now have the ability to switch to alternative providers if an incumbent LEC raises rates above competitive levels. To ensure stability in the USF contributions base following any deregulation and detariffing of TACs, we propose options for calculating federal USF contributions and high-cost universal service support.

Overview of TACs and Procedural History

Section 203 of the Act, requires that common carriers file tariffs or ''schedules showing all charges for itself and its connecting carriers for interstate and foreign wire or radio communication . . . and showing the classifications, practices, and regulations affecting such charges.'' The Commission, through its tariff and ex ante pricing rules, regulates various end-user charges for interstate access service provided by incumbent LECs. Commission rules currently consist of five tariffed TACs: the Subscriber Line Charge, Access Recovery Charge (ARC), Presubscribed Interexchange Carrier Charge, Line Port Charge, and Special Access Surcharge.

Subscriber Line Charge. The Commission created the Subscriber Line Charge (SLC) in 1983 to allow incumbent LECs to recover a portion of non-traffic-sensitive loop costs through a flat, per-line fee assessed on end users. To prevent rate shock, particularly in high-cost areas, the Commission capped SLCs and required that remaining common line costs be recovered through a per-minute Carrier Common Line charge on IXCs. In 1996, the Commission reformed interstate access charges to better align rates with cost causation principles and established a federal high-cost universal service support mechanism to replace implicit subsidies. The Commission further reformed interstate access charges in the *CALLS Order* that included increasing the SLC caps for price cap carriers to $6.50 per month for primary residential and single-line business lines, $7 for non-primary residential lines, and $9.20 for multi-line business lines. In the *MAG Order,* the Commission adopted the same caps for residential lines and single and multi-line businesses served by rate-of-return carriers. There is no non-primary residential line SLC rate element for rate-of-return carriers under our rules.

Access Recovery Charge. To mitigate revenue losses for incumbent LECs and support broadband investment resulting from the transition to bill-and-keep adopted in the 2011 *USF/ICC Transformation Order,* the Commission allowed incumbent LECs to recover a portion of their reduced intercarrier compensation revenues (*i.e.,* Eligible Recovery) from end users through an Access Recovery Charge (ARC), and where applicable, through CAF ICC support. For residential and single-line business customers, ARC increases are capped at $0.50 per month, up to a maximum monthly charge of $2.50

(price cap carriers) and $3.00 (rate-of-return carriers). For multi-line businesses, increases are limited to $1.00 per month, and the maximum monthly charge is capped at $5.00 (price cap carriers) and $6.00 (rate-of-return carriers). The combined ARC and SLC for multi-line businesses may not exceed $12.20 per line per month. In addition, the Commission adopted the Residential Rate Ceiling, which prohibits incumbent LECs from assessing an ARC on residential customers that would cause the carrier's total charges for basic local telephone service to exceed $30.

Presubscribed Interexchange Carrier Charge. Created in 1997, the Presubscribed Interexchange Carrier Charge (PICC) recovers a portion of the interstate common line costs not recovered by the SLC. This is a monthly per-line access charge that a price cap carrier may bill an IXC for automatically routing a multi-line business customer to that presubscribed IXC when the end-user business customer makes a long distance call via a 1+ telephone number. If the end-user customer does not have a presubscribed IXC, the price cap carrier may collect the PICC directly from the end user. Some price cap incumbent LECs do not assess a PICC presumably because they are able to recover all of their interstate common line costs through the SLC and other rate elements.

Line Port Charge. The Line Port Charge is a monthly end-user charge that recovers costs associated with digital lines, such as integrated services digital network (ISDN) line ports, to the extent those port costs exceed the costs for a line port used for basic, analog service. This charge, which was established for price cap carriers in 1997 and for rate-of-return carriers in 2001, varies because costs are carrier specific.

Special Access Surcharge. Adopted in 1983, the $25 per month Special Access Surcharge is assessed on trunks to address the problem of a ''leaky private branch exchange (PBX).'' This problem can arise where large end users that employ multiple PBXs in multiple locations lease private lines to connect their various PBXs and permit long-distance calls to leak from the PBX into the local public network, where they are terminated without incurring access charges. The assessed amount currently constitutes only a *de minimis* portion of revenues for a very small number of carriers. For example, the National Exchange Carrier Association projects that less than a dozen of its members will collect a total of $2,100 from charging the Special Access Surcharge in tariff year 2025–2026.

Procedural History. In 2020, the Commission sought comment on its proposal to eliminate ex ante pricing regulation of TACs and to require both incumbent and competitive LECs to detariff these charges, and in June 2025, the Commission issued a Public Notice to refresh the record on that proposal. We incorporate the existing record by reference, but emphasize that the proposal set forth in this Notice of Proposed Rulemaking is part of a broader, comprehensive reform of the switched access cost recovery system. Accordingly, we encourage commenters to evaluate this proposal as part of the Commission's effort to comprehensively reform its intercarrier compensation regime as the nation moves to all-IP communications networks.

Deregulating Telephone Access Charges

Since the Commission adopted these end-user charges and caps in 1980, and in response to both the enactment of the 1996 Act and subsequent technological changes, the voice service marketplace has fundamentally changed. Today, consumers and businesses nationwide have a variety of competitive alternatives to voice services provided by incumbent LECs and may purchase voice service as part of bundled IP-based services—including wireless, video, and broadband. None of the various entities providing competing voice services, including mobile wireless providers, competitive LECs, interconnected VoIP providers, and over-the-top VoIP providers are subject to price regulation of end-user charges. Thus, mobile wireless providers and competitive LECs are free to price these services as they wish, subject only to the general requirement that the rates be just and reasonable.

Consistent with other proposals in this Notice of Proposed Rulemaking to complete the transition to bill-and-keep, we propose to eliminate ex ante pricing regulation for TACs and mandatorily detariff these charges nationwide by exercising our authority to forbear from the related tariffing and pricing rules and obligations. Ex ante pricing regulation of Telephone Access Charges includes the Commission's rules that establish these rates and charges. 47 CFR 51.915(e), 51.917(e), 69.115, 69.152, 69.153, 69.157. Tariffing requirements are contained in section 203 of the Act and part 61 of the Commission's rules. 47 U.S.C. 203(a); 47 CFR part 61. We propose to forbear from both ex ante pricing regulation and tariffing obligations. We seek comment on whether the three-prong test for forbearance in section 10 of the Act is satisfied.

Are the TAC rules and requirements imposing ex ante price regulation and tariffing still necessary to ensure that the charges, practices, classifications, or regulations for the services at issue are just and reasonable and are not unjustly or unreasonably discriminatory, given the widespread competition for voice services as discussed above? As the Commission has previously explained, ''competition is the most effective means of ensuring'' that rates are just and reasonable. When markets become competitive, pricing and tariffing regulations are not only unnecessary, they can become counterproductive. In 2016, the Commission examined the voice services marketplace and observed that ''[t]here has been an indisputable 'societal and technological shift' away from switched telephone service as a fixture of American life.'' The Commission's conclusion is even more true today, given the proliferation of non-switched access voice service alternatives in the marketplace. As carriers transition to all IP-network services in an increasingly competitive marketplace, voice service will become one of many applications on that network. With the industry poised to complete the transition of remaining access charges to bill-and-keep following the adoption of an order, we expect carriers will rely on IP-network efficiencies to recover service costs directly from their end users, like other IP-based services do today. Given these IP-related efficiencies and the proportionately small data volume voice traffic comprises, is it nonetheless likely that carriers will significantly increase end-user charges over the long term if they are no longer subject to ex ante rate regulation and detariffed? If so, then for how long might such increases persist?

Will the widespread availability of competitive alternatives for voice services constrain the prices pertaining to TACs? Are the related tariffing requirements and ex ante pricing regulation no longer necessary for consumer protection? Will enabling end-user rates to more closely reflect the actual costs incurred by incumbent LECs to provide service send more accurate pricing signals, stimulate competition, and lead to more efficient investment and production? Will it also promote transparency and support a more sustainable and market-driven framework for voice services? Are the steps we propose aligned with the overall objectives in this *Notice*?

Do ex ante pricing regulation and tariffing requirements no longer serve the public interest, given the evidence of widespread competition and the harmful effects that unnecessary

regulation can impose? The Commission has found that costs of regulation may outweigh the benefits, even in less-than-fully-competitive markets, particularly where regulatory costs are imposed on only one class of competitors. In this case, because TACs are limited to legacy voice service provided by incumbent LECs and do not apply to end-user-IP or mobile voice services, eliminating ex ante rate regulation of end-user charges will likely enable efficient pricing signals and lead incumbent LECs to align their services more closely with end-user needs. Similarly, eliminating the administrative costs of ex ante pricing regulation and tariffing requirements may help free up resources that carriers can devote to deploying next-generation networks with modern voice and advanced communications services. We seek comment on these effects and other effects we should consider.

Under a bill-and-keep framework, carriers will have the opportunity to recover their costs of providing voice service directly from end users, subject to the competitive constraints of the marketplace which we consider to be in the public interest. Would removing ex ante rate regulation and detariffing end-user charges provide carriers with the pricing flexibility and certainty necessary to support a successful transition to a bill-and-keep framework for intercarrier compensation? Will increased pricing flexibility enable carriers to respond more promptly and effectively to evolving competitive conditions in the marketplace?

Other Rules Related to TACs. We propose to eliminate the Residential Rate Ceiling because it would serve no purpose after the elimination of ARCs. We also seek comment on any additional rules related to TACs that should be eliminated. We decline to revisit the Commission's prior proposal to impose restrictions on how carriers display end-user charges on customer bills. We ask commenters to evaluate these proposals in the context of the two converging industry transitions that form the basis of this Notice of Proposed Rulemaking: the financial transition from intercarrier compensation to subscriber-based cost recovery, and the technological transition from legacy TDM switched access services to all-IP services. What other rules may impede the financial and technological transitions and therefore warrant elimination or modification? We ask that commenters provide specific rule sections and language edits if necessary.

Implementing Telephone Access Charge Reform

To allow affected carriers sufficient time to detariff and perform any needed billing system changes, we propose a transition that would permit carriers to detariff Telephone Access Charges with a July 1 effective date, consistent with the effective date of the annual access charge tariff filing following the effective date of the order in this proceeding, and would require carriers to detariff these charges no later than the effective date of the second annual tariff filing following the effective date of such order. Carriers would be allowed to permanently remove Telephone Access Charges from relevant portions of their interstate tariffs only on one of these two annual access tariff filing dates at their option. Carriers would not be permitted to detariff these charges on any other dates. Once detariffed, these charges will no longer be subject to ex ante pricing regulation. We seek comment on these proposals. Would this timeframe provide carriers with sufficient time to complete any billing system changes, notify customers of rate changes, and more generally complete tariff revisions and detariffing? If not, how much time would carriers require? If carriers believe other detariffing timeframes are appropriate, they should specifically explain and provide the reasoning of their proposal. Do the two designated annual filing dates offer carriers sufficient flexibility in choosing when to detariff their TACs?

Proposed Changes to Universal Service Support and Contributions Calculations Related to Telephone Access Charge Deregulation

Telephone Access Charges Used to Calculate USF Support. Revenues from some TACs are factors in the computation of USF support for rate-of-return carriers. Specifically, ARC revenue is subtracted from the Eligible Recovery to determine the amount of CAF ICC support a rate-of-return carrier is entitled to receive. Although our rules prohibit an incumbent LEC from assessing an ARC on residential customers that would cause the carrier's total charges to exceed the Residential Rate Ceiling, a rate-of-return carrier can recover this amount through CAF ICC. The SLC, Line Port Charge, and Special Access Surcharge revenues are subtracted from a carrier's common line revenue requirement to determine the amount of Connect America Fund Broadband Loop Support (CAF BLS) a carrier is entitled to receive.

CAF ICC. As discussed below, the CAF ICC support that a rate-of-return carrier receives is reduced by the ARC that the carrier is permitted to charge or by an imputed amount in certain situations. In this NPRM, we seek comment on phasing down CAF ICC following the completion of the transition of the remaining access charges to bill-and-keep. We also propose to discontinue all CAF ICC calculations under § 51.917 effective June 30 of the tariff year in which the transition to bill-and-keep is completed. Following the detariffing of TACs, including the ARC, CAF ICC will no longer be based on the portion of Eligible Recovery not recovered through the ARC. Thus, a rate-of-return carrier would not need to subtract ARC revenues from Eligible Recovery to determine the amount of CAF ICC support it is entitled to receive. We seek comment on this assumption. We invite parties to suggest other approaches for addressing potential effects of detariffing TACs on CAF ICC. Parties should identify potential issues and quantify the costs and benefits that would result from any alternative proposals.

CAF BLS. Pending additional review and discussion in related proceedings, we propose that legacy rate-of-return carriers receiving CAF BLS support based on costs use fixed amounts—$6.50 per month for residential and single-line business lines, and $9.20 per month for multi-line business lines (the maximum SLC permitted under our rules)—to calculate their CAF BLS. Using fixed values rather than tariffed rates will ensure stable support calculations while simplifying administration during TAC deregulation and the detariffing transition. We anticipate minimal impact since most such carriers already are entitled to assess the maximum SLCs. We seek comment on this proposal.

We also propose to remove any requirement to offset Special Access Surcharges from CAF BLS during the TAC deregulation and detariffing transition period. As a result, a carrier receiving CAF BLS will not have to reflect any revenues from the Special Access Surcharge in determining revenues for purposes of calculating CAF BLS. Given the minimal amount of Special Access Surcharge revenues currently being collected, we expect making this change will have a negligible impact on carriers' receipt of CAF BLS support. Additionally, we propose to require carriers to use the rates they are charging for line ports as of the effective date of an order adopting these reforms in their CAF BLS support calculations. This recognizes that rates

for individual Line Port Charges vary among carriers.

We expect that these proposed approaches will limit any adverse effects on the CAF BLS program during the TAC deregulation and detariffing transition and also minimize the administrative and other burdens on legacy rate-of-return carriers, most of which are small entities. We invite parties to comment on this expectation. Are there alternative approaches the Commission should consider to account for the transition of TAC revenues when carriers calculate their CAF BLS?

Contributions to USF and Other Federal Programs. Every telecommunications carrier that provides interstate telecommunications services has an obligation to contribute, on an equitable and nondiscriminatory basis, to the federal USF and several other programs. Contributions to the USF are based on a percentage of the providers' interstate and international end-user telecommunications revenues. Thus, carriers must apportion telecommunications revenues between the intrastate, interstate, and international jurisdictions. Although the Commission has not codified any rules for how USF contributors should allocate revenues between the interstate and intrastate jurisdictions for contributions purposes, many incumbent LECs (and some competitive carriers) have relied on the tariffing of TACs at the federal level as their means of determining their interstate and international revenues for contributions purposes. Among other things, the Commission instructs that revenues from services offered under interstate tariffs, such as revenues from federal subscriber line charges, should be classified as interstate revenues. Carriers report their revenues on FCC Form 499–A and those revenues are used for purposes of determining carriers' contributions to the USF, the Interstate Telecommunications Relay Service Fund, Local Number Portability Administration, and North American Number Plan Administration.

In certain cases the Commission permits providers to use safe harbors or traffic studies to allocate revenues. Wireless telecommunications providers and providers of interconnected and non-interconnected VoIP may avail themselves of safe harbors to allocate interstate revenues. The Commission has set an interstate safe harbor of 37.1% for wireless providers and 64.9% for VoIP providers. In adopting the wireless safe harbor, the Commission reasoned that this would ensure that mobile wireless providers' obligations are on par with carriers offering similar services (*e.g.,* wireline telecommunications providers) that must report actual interstate end-user telecommunications revenue. And, in adopting the VoIP safe harbor, the Commission explained that interconnected VoIP service is often marketed as a substitute for wireline toll service and is thus an ''appropriate analogue'' for that service. On this basis, the Commission established the 64.9% safe harbor, which was the percentage of interstate revenues reported to the Commission by wireline toll providers. Wireless providers and providers of interconnected and non-interconnected VoIP may also rely on traffic studies if they are unable to determine their actual interstate and international revenues. Traffic studies must be filed with the Commission and follow strict requirements.

We propose to adopt an interstate safe harbor during the transition of access charges to bill-and-keep allowing carriers to treat 25% of their local voice services revenue—including revenues from local exchange service and associated access charges, but excluding bundled toll services—as assessable for contributions purposes. As the Commission has recognized, adopting a safe harbor is ''necessarily the product of line drawing.'' Here, we note that our proposed 25% safe harbor reflects the historical allocation of common line costs to the interstate jurisdiction, and should therefore not meaningfully affect the contribution factor. Alternatively, a carrier that does not want to rely on the safe harbor would have the option of providing a traffic study demonstrating the actual percentage of its voice traffic that is interstate and international in nature and using that percentage to determine its contributions base. We seek comment on these proposals, including alternative safe harbors. Should we apply the 64.9% safe harbor for VoIP to all voice services as the industry transitions toward all-IP networks? As the industry contributions to the USF are calculated based on USF demand, how relevant is the safe harbor rate, since the contribution factor will be applied across the entire assessable base to collect the amount needed to fund demand for the quarter?

Phasing Out CAF ICC

We seek comment on phasing out CAF ICC following the transition of the remaining access charges to bill-and-keep as proposed above. Consistent with the principle of bill-and-keep, carriers would look to their own end users instead of USF support to recover the costs of their networks following the phasedown. We expect that gradually phasing out CAF ICC, in conjunction with the other reforms we propose today, will expedite the transition to all-IP networks by giving carriers the incentive to invest in new technologies. We recognize that a gradual and thoughtful approach is essential to avoid creating regulatory uncertainty and minimize impacts on carriers, such as destabilizing revenue and hindering future network investment. As discussed below, we seek comment on a phasedown of rate-of-return carriers' CAF ICC support amounts over two years following the completion of the transition to bill-and-keep to promote an orderly transition away from CAF ICC support. We seek comment on alternative approaches—enacting the phasedown by instead reducing the amount of the total CAF ICC budget over the same time period as well as beginning the phasedown in conjunction with the transition to bill-and-keep.

Background. As part of the intercarrier compensation reforms adopted in the *USF/ICC Transformation Order,* the Commission created a ''transitional recovery mechanism to facilitate incumbent LECs' gradual transition away from ICC revenues.'' The recovery mechanism has two basic components. First, the Commission defines the revenues that incumbent LECs are eligible to recover, other than those derived from access rates that are at bill-and-keep, which is referred to as ''Eligible Recovery.'' Then, the Commission specifies how incumbent LECs may receive their Eligible Recovery. In general, a carrier's Eligible Recovery is based on a decreasing percentage of the cumulative reduction in revenue each year resulting from the intercarrier compensation reform transition.

Eligible Recovery is calculated differently for rate-of-return and price cap carriers. As of July 1, 2019, price cap incumbent LECs no longer receive CAF ICC support. Thus, at present, only rate-of-return carriers may receive CAF ICC support. The calculation of a rate-of-return carrier's Eligible Recovery begins with its Base Period Revenue. A rate-of-return carrier's Base Period Revenue is the sum of certain intrastate switched access revenues net reciprocal compensation revenues received by March 31, 2012 for services provided during Fiscal Year 2011, and the projected revenue requirement for interstate switched access services for the 2011–2012 tariff period. The Rate-of-Return Carrier Baseline Adjustment Factor is equal to 95% for the period beginning July 1, 2012 and is reduced by 5% of its previous value in each

annual tariff filing. A rate-of-return carrier's Eligible Recovery for each relevant year of the transition is equal to the adjusted Base Period Revenue for the year in question, less the sum of: (1) projected intrastate switched access revenue; (2) projected interstate switched access revenue; and (3) net reciprocal compensation revenue (currently zero as reciprocal compensation rates are now at bill-and-keep).

The Commission's rules require rate-of-return carriers to project intercarrier compensation revenues for use in determining Eligible Recovery. Because projected demand likely differs from actual demand, the Commission adopted a true-up procedure for rate-of-return carriers to adjust their Eligible Recovery to account for any difference between projected and actual switched access and ARC revenues resulting from demand variations. Thus, the recovery mechanism now incorporates in the Eligible Recovery calculation a true-up of the revenue difference arising from differences between projected and actual demand for interstate and intrastate switched access services and the ARC for the tariff period that began two years earlier. Under the true-up procedure, a carrier's Eligible Recovery for the period reflecting the true-up would be reduced if the carrier's actual demand exceeded projected demand. Likewise, a carrier's Eligible Recovery would be increased if the carrier's actual demand was less than projected demand. The true-up process runs on a two-year lag such that any true-up payments are reflected two years after the relevant funding period.

After calculating Eligible Recovery, incumbent LECs may recover that amount first through the ARC, subject to caps, and, where eligible, CAF ICC support. A rate-of-return carrier may recover any Eligible Recovery that it did not or could not have recovered through the ARC through CAF ICC. For purposes of receiving CAF ICC support, a rate-of-return carrier must impute the maximum ARC charges it could have assessed under the Commission's rules. The Universal Service Administrative Company (USAC) administers CAF ICC. Under the Commission's rules, the CAF ICC funding period provides for disbursement of funds beginning July 1 through June 30 of the following year. A rate-of-return carrier seeking CAF ICC support must file data with USAC establishing projected eligibility for CAF ICC funding during the upcoming funding period, including any true-ups associated with earlier funding periods, on the date it files its annual access tariff filing with the Commission, which is generally July 1. During the funding period, USAC monthly pays each rate-of-return carrier one-twelfth of the amount the carrier is eligible to receive during that annual funding period. USAC revises CAF ICC support amounts through the true-up process, which reconciles actual versus projected revenues for purposes of determining a carrier's Eligible Recovery.

Claims for CAF ICC support have decreased annually over the past decade. In 2015, CAF ICC claims were approximately $426 million but they have dropped to approximately $330 million in 2025. For program year 2026, FCC staff estimates that CAF ICC disbursements will be approximately $324 million, indicating continued decline. As there are currently no published CAF ICC claims data for FY 2026, staff used CAF ICC disbursements for December 2025 from the USAC disbursement tool to develop an annualized estimate of likely CAF ICC claims. December 2025 CAF ICC disbursements were approximately $27 million. Multiplying that figure by 12 months equals approximately $324 million. We believe this is an accurate estimate of what CAF ICC claims will be for FY 2026. Approximately 1,091 rate-of return carriers currently receive CAF ICC support.

Discussion. We seek comment on phasing down CAF ICC support over two years, beginning once the transition to bill-and-keep is complete. As an initial matter, we note that the recovery mechanism adopted in the *USF/ICC Transformation Order* is ''limited in time.'' Indeed, in the *USF/ICC Transformation Further Notice,* the Commission sought comment ''on the timing for eliminating the recovery mechanism—including end user recovery—in its entirety.'' The time-limited nature of the recovery mechanism is consistent with the Commission's goal of moving all intercarrier compensation charges to a bill-and-keep framework. As noted, the Commission phased out CAF ICC support for price cap carriers by 2019. In the *USF/ICC Transformation Further Notice,* the Commission sought comment on whether CAF ICC for rate-of-return carriers should be subject to a defined phase-out similar to the phase-out adopted for price cap carriers.

We seek comment on switched access line loss and decreases in switched access revenues since the adoption of the *USF/ICC Transformation Order.* In the *USF/ICC Transformation Order,* the Commission observed that ''carriers are losing lines and experiencing a significant and ongoing decrease in minutes-of-use.'' The Commission observed that rate-of-return carriers' interstate switched access revenues had been declining by approximately 3% annually. Taking into account declining switched access revenue and declining minutes-of-use, the Commission limited the decrease in the baseline amount from which rate-of-return carriers calculate Eligible Recovery to 5% annually. Rate-of-return carriers' Base Period Revenue from which carriers calculate Eligible Recovery has cumulatively been reduced by more than 50% since July 1, 2012 due to the annual 5% reduction in that amount. In the *USF/ICC Transformation Further Notice,* the Commission sought comment on how to treat demand in determining Eligible Recovery for rate-of-return carriers, proposing to modify the recovery baseline, including through the use of the same 10% decline it uses for price cap carriers. As we consider how to gradually and thoughtfully phase down CAF ICC support, we invite comment on switched access line loss and decreases in switched access revenues for rate-of-return carriers. In the *USF/ICC Transformation Order,* the Commission predicted that such trends were likely to continue. Have rate-of-return carriers continued to experience switched access line loss and decreases in switched access revenues since adoption of the *USF/ICC Transformation Order*? If yes, do those declines support phasing out CAF ICC? Why or why not?

How might the transition of the remaining originating and terminating access charges to bill-and-keep and the deregulation of end-user charges affect the ability of carriers to recover their costs? To aid the Commission in evaluating cost recovery, we seek cost data demonstrating the percentage of revenues derived from intercarrier compensation. The Commission has recognized that as the telecommunications industry transitions to all-IP networks, ''non-regulated services are an increasingly important source of revenue derived from multi-purpose networks.'' Given this trend and the availability of other sources of revenue in an all-IP world, what effect would the phase-out of CAF ICC likely have on carriers' ability to recover the costs of their networks, particularly given the transition of access charges to bill-and-keep and the deregulation of end-user charges we propose today? How would our phase-out of CAF ICC facilitate the transition to all-IP networks? Would beginning the phase-down following the transition to bill-and-keep provide rate-of-return carriers with greater financial stability during

the transition to bill-and-keep? Why or why not?

We seek comment on a three-step phase-out. First, we would discontinue the requirement for all CAF ICC calculations under § 51.917 of the Commission's rules effective June 30 of the tariff year in which the transition to bill-and-keep is completed. The tariffing period is coterminous with the CAF ICC support funding period, which runs from July 1 through June 30 of the following year. 47 CFR 54.304(b). For example, if the Commission adopts an order reforming CAF ICC in 2026, CAF ICC calculations pursuant to § 51.917 of the Commission's rules would end as of June 30, 2026, regardless of when the Commission adopts its order.

Second, in the first tariff year following the transition of access charges to bill-and-keep, rate-of-return carriers would receive 66% of the amount of CAF ICC support they received in the tariff year in which the transition to bill-and-keep is completed. In the second tariff year following the transition of access charges to bill-and-keep, rate-of-return carriers would receive 33% of the amount they received during the tariff year in which the transition to bill-and-keep was completed. Beginning in the third tariff year, carriers would no longer receive CAF ICC support. We believe that this phase-out approach would provide sufficient time for rate-of-return carriers that may currently rely on CAF ICC support to upgrade their networks and make necessary adjustments, and we seek comment on this view.

We also seek comment on how to establish the baseline amount from which to enact the phase-out. As noted above, we seek comment on discontinuing all CAF ICC calculations under § 51.917 of the Commission's rules effective June 30 of the tariff year in which the transition to bill-and-keep is completed. Our proposed baseline amount—the amount of CAF ICC support carriers receive in the tariff year in which the transition to bill-and-keep is completed (*i.e.,* all ICC charges are at zero)—includes demand and therefore revenue true-up amounts for switched access services, Access Recovery Charges, and the imputation of Access Recovery Charges on CBOLs corresponding to the tariff year two years prior to the tariff year in which the transition to bill-and-keep is completed, as these revenues are trued-up with a two-year lag under our existing rules. This approach is administratively simple and reflects precisely how CAF ICC should be calculated under our existing rules. Our proposed baseline will not consider revenue true-ups corresponding to the tariff year in which the transition is completed as these will not be available on the start date of the CAF ICC phasedown (*i.e.,* July 1 of the tariff year following the one in which the order is adopted) and otherwise would be inconsistent with the Commission's rules. Furthermore, even if these demand true-ups were available on the start date, their inclusion in the baseline amount, which already includes true-up revenues corresponding to two years prior to the tariff year in which the transition is completed, would lead to double-counting of the relevant revenues. As an alternative, the amount of CAF ICC carriers received during the tariff year in which the transition is completed (tariff year ''0'') could be adjusted by subtracting the true-ups already reflected in that amount and adding the true-ups corresponding to tariff year 0 when these become available. Under this alternative, the CAF ICC support the carriers receive in the first tariff year of the phasedown would then be trued up. We believe that this alternative is too complicated. We seek comment on whether the benefits of simplicity reflected in our proposed approach outweigh any costs.

As an alternative to stepping down each rate-of-return carriers' CAF ICC support to zero by the percentages specified above over two consecutive tariff years, should we instead phase out CAF ICC by making incremental reductions to the total amount budgeted for the program over three tariff years? As noted above, for program year 2026, FCC staff estimates that CAF ICC disbursements are approximately $324 million. For example, taking that as a starting point, we alternatively propose to reduce the total annual budget for CAF ICC to $225 million (about 70% of the 2025 budgeted amount) beginning on July 1 following the completion of the transition to bill-and-keep, and then to $100 million (about 31% of the 2025 budgeted amount) beginning on July 1 of the second year, and finally to $50 million (about 15% of the 2025 budgeted amount) beginning on July 1 of the third year following the completion of the transition. After the third year, the CAF ICC budget would be zero. Because this alternative proposal reduces the total amount budgeted for CAF ICC rather than an individual carrier's CAF ICC support amount, it would still be necessary to calculate each carrier's CAF ICC support amount pursuant to each budget reduction. Do commenters agree? Why or why not? How would each carrier's CAF ICC support be calculated under this approach? Could we reduce each carrier's CAF ICC support so that each receives the aforementioned percentages of its baseline amount in the first, second, and third phasedown year (*i.e.,* respectively 70%, 31%, and 15% of the amount of CAF ICC support it received in the tariff year in which the order is adopted)? How, if at all, would phasing out CAF ICC through reductions in the total budget be preferable to reducing each carrier's support amount as discussed above?

Finally, rather than phasing down CAF ICC following the completion of the transition of remaining access charges to bill-and-keep, we seek comment on whether we should initiate the phase-out in conjunction with the transition to bill-and-keep. Under this approach, the three-step phase-out would begin June 30 of the tariff year in which the Commission adopts an order phasing down CAF ICC support. The baseline amount from which the Commission would enact the phasedown would be the amount of CAF ICC support carriers receive in the tariff year in which the Commission adopts an order phasing down CAF ICC support. Effective June 30 of the tariff year in which the Commission adopts an order phasing out CAF ICC, the Commission would discontinue the requirement for all CAF ICC calculations under § 51.917 of the Commission's rules. Then in the first tariff year following the Commission's adoption of an order, rate-of-return carriers would receive 66% of the amount of CAF ICC support they received in the tariff year in which the order was adopted. And, in the second tariff year following the Commission's adoption of an order, carriers would receive 33% of the amount they received during the tariff year in which the order was adopted. In the third tariff year, carriers would no longer receive CAF ICC support. We seek comment on the advantages and disadvantages of each of these approaches, and whether there are other approaches we should consider.

Deregulating Domestic Interstate and International Long-Distance Interexchange Services

In this section, we seek comment on the markets for domestic and international interstate interexchange services (long-distance services) and propose to detariff and deregulate these services. The Commission has generally used the term ''long-distance'' service to refer to all ''interexchange service'' or ''telephone toll service.'' We propose to grant carriers forbearance from these remaining regulations that impose

unnecessary regulatory burdens on carriers providing domestic and international long-distance services. We also propose to forbear from tariffing requirements for the remaining domestic and international long-distance telecommunications services. We seek comment on these proposals.

Domestic Interstate Interexchange Services

The Commission has largely deregulated and detariffed domestic, interstate, interexchange services provided by IXCs except for a narrow subset of services and reporting requirements. In 1995, the Commission reclassified AT&T as nondominant in the interstate, domestic, interexchange market because AT&T lacked market power with respect to this market. In light of the 1996 Act and increasing competition, in 1996 the Commission exercised its forbearance authority under section 10 of the Act to prohibit nondominant IXCs from tariffing interstate, domestic, interexchange services under section 203 of the Act. The Commission concluded that ''market forces'' would ensure that ''rates, practices and classifications'' for interstate, domestic, interexchange services provided by nondominant IXCs are ''just and reasonable'' and ''not unjustly or unreasonably discriminatory'' and that it could address any illegal conduct through the complaint process. The Commission further found that detariffing domestic, interstate, interexchange services would ''enhance competition among providers of such services'' and ''promote competitive market conditions.'' Accordingly, the Commission adopted § 61.19(a) of its rules which provides that ''carriers that are nondominant in the provision of . . . interstate, domestic interexchange services shall not file tariffs for such services.''

In 1997, the Commission reconsidered the extent to which interexchange services provided by nondominant IXCs were subject to mandatory detariffing. Specifically, the Commission allowed nondominant IXCs to permissively detariff ''interstate, domestic, interexchange direct-dial services to which end-users obtain access by dialing a carrier's access code'' (*i.e.,* dial-around 1+ service). In other words, IXCs were allowed, but not required, to tariff dial-around 1+ services. Dial-around 1+ calls are long-distance calls made by accessing an IXC other than the presubscribed IXC generally to take advantage of lower rates offered by the competing IXC. The Commission concluded that, absent a tariff, IXCs lacked a way to establish an enforceable contract for dial-around 1+ services due to technical limitations which prevented the IXC from distinguishing dial-around 1+ calls from direct dial 1+ calls. Accordingly, section 61.19(b) of the Commission's rules allows nondominant IXCs to file tariffs for ''dial-around 1+ services'' that are ''made by accessing the interexchange carrier through the use of carrier's carrier access code.'' The Commission also allowed permissive detariffing for the first 45 days of service to new customers that contact the LEC to choose their primary IXC. The Commission reasoned that tariffing should be permissible in this case because an IXC ''does not have direct contact with the customer'' and ''may be unable immediately to ensure that a legal relationship is established.'' Accordingly, section 61.19(c) of the Commission's rules allows nondominant IXCs to tariff domestic, interstate, interexchange services applicable to ''customers who contact the local exchange carrier to designate an interexchange carrier or to initiate a change with respect to their primary interexchange carrier.''

In 2007, the Commission classified the BOCs and their independent incumbent LEC affiliates as ''nondominant in the provision of in-region, interstate and international, long distance services.'' In effect, the BOCs and their independent incumbent LEC affiliates, among other things, were no longer subject to section 203 tariffing requirements and are barred from tariffing ''in-region, interstate and international, long distance services.''

Interexchange Marketplace. We seek comment on the state of the marketplace for TDM-based domestic, interstate, interexchange services provided by telecommunications carriers. We invite commenters to submit or identify data that would justify further pricing deregulation and detariffing of legacy TDM domestic, interstate, interexchange services. To what extent do TDM-based standalone or bundled long-distance service providers face declining sales and customers? To what extent do customers still purchase dial-around 1+ services from IXCs subject to tariff? Between December 2015 and December 2023, total voice subscriptions for local exchange telephone service and long-distance service decreased from 64.6 million to 20.6 million. Over this same period, total switched access lines provided by incumbent LECs declined from 51.1 million to 16.5 million connections, while interconnected VoIP provided by non-incumbent LECs increased from 46.5 million to 58.1 million. However, these figures are dwarfed by 386.1 million mobile wireless voice subscriptions as of December 2023. We seek updated data and information on the marketplace for bundled local and long-distance interexchange service and presubscribed domestic, interstate, interexchange service.

The Commission traditionally regulated legacy TDM-based telecommunications service intercarrier compensation by distinguishing local traffic (reciprocal compensation) from long-distance traffic (access charges). More modern wireless and VoIP services are offered on an all-distance basis. To what extent is the distinction between local and long-distance service relevant to consumers? As of June 2024, approximately 40% of incumbent LEC switched access lines (5.84 million lines) were presubscribed to an IXC that is not an incumbent LEC or affiliate of an incumbent LEC. To what extent do business and residential customers currently purchase stand-alone long-distance service from presubscribed IXCs? To what extent do business and residential customers currently purchase long-distance service from an IXC unaffiliated with their LEC? To what extent do customers designate an IXC to the LEC?

Would forbearance from tariffing domestic, interstate, interexchange services (long-distance) under section 203 of the Act meet the statutory forbearance criteria under section 10 of the Act, specifically dial-around 1+ services and customer-designated IXC services? Why or why not? Is tariffing these services no longer necessary to ensure just and reasonable rates, terms, and conditions of service that are not unjustly or unreasonably discriminatory? Is tariffing these services no longer necessary to protect consumers? Is forbearance from tariffing these services consistent with the public interest? Would forbearance from tariffing these services promote competitive market conditions? The Commission permitted IXCs to tariff dial-around 1+ interexchange service because the technology at the time could not distinguish these calls from direct dial 1+ calls to establish a contractual relationship. In light of LECs then ''rapidly'' deploying SS7-capable switches, the Commission predicted that the concern which gave rise to the rule ''will not be an issue in the near future.'' Are IXCs capable of distinguishing dial around 1+ services from direct dial 1+ interexchange calling? Do advanced IP calling services eliminate the technical concerns that rationalized the rule?

Certification and Recordkeeping Requirements. When the Commission detariffed nondominant interexchange services in 1996, it imposed certification and recordkeeping requirements to ensure compliance with the geographic rate averaging and rate integration obligations under section 254(g) of the Act. Section 254(g) of the Act ensures ''that the rates charged by providers of interexchange telecommunications services to subscribers in rural and high cost areas shall be no higher than the rates charged by each such provider to its subscribers in urban areas.'' This section also ensures that a ''provider of interstate interexchange telecommunications services shall provide such services to its subscribers in each State at rates no higher than the rates charged to its subscribers in any other State.'' The Commission codified this provision in § 64.1801 of its rules.

To ensure compliance with section 254(g) of the Act, in 1996 the Commission required nondominant IXCs providing interexchange services to ''file annual certifications signed by an officer of the company under oath that they are in compliance with their statutory geographic rate averaging and rate integration obligations'' under section 254(g) of the Act. The intent was to ''put carriers on notice that they may be subject to civil and criminal penalties for violations of these requirements, especially willful violations.'' Section 64.1900 of the Commission's rules requires nondominant IXCs providing detariffed interstate, domestic, interexchange services, to annually certify through an officer of the company, under oath, that it is in compliance with their ''geographic rate averaging and rate integration obligations'' under section 254(g) of the Act.

In light of marketplace and technological developments, we seek comment on whether we should forbear from section 254(g) and eliminate § 64.1801 of the Commission's rules. Does forbearance from section 254(g) satisfy the statutory criteria under section 10 of the Act? Why or why not? Is section 254(g) of the Act no longer necessary to protect consumers, particularly in rural and high cost areas? To what extent has the transition from distance-sensitive TDM-based services to all distance IP-based services rendered section 254(g) of the Act unnecessary? Do the costs and burdens associated with the transition from distance-sensitive TDM-based services to all distance IP-based services disproportionately impact smaller, rural providers? Are there sufficient competitive alternatives to TDM-based interexchange service in rural and high cost areas such as wireless and satellite? Are competitive alternatives to interexchange service being offered at rates in rural and high cost areas no higher than urban and lower cost areas?

We also seek comment on whether we should eliminate certification requirements under § 64.1900 of the Commission's rules. Commenters in the Commission's *Delete, Delete, Delete* proceeding identified § 64.1900 certifications as ''needless certifications'' that ''require regulatees (who are already required to comply with the law) file additional paperwork with the Commission that they are indeed complying with the law.'' If the Commission forbears from section 254(g) of the Act, is § 64.1900 no longer necessary? Do the costs to carriers of administering § 64.1900 certifications outweigh the benefits? Are § 64.1900 certifications no longer necessary to ensure just and reasonable rates, terms, and conditions of interexchange service that are not unjustly or unreasonably discriminatory? Are these requirements no longer necessary to protect consumers, particularly in rural and high cost areas? Would forbearance be in the public interest and promote competitive market conditions? Does the Commission have sufficient authority under section 208 of the Act and other sources to punish the behavior § 64.1900 certifications were intended to discourage?

In 1996, the Commission also required nondominant IXCs to make public current rates, terms, and conditions for all detariffed interstate, domestic, interexchange services. The Commission recognized that ''in competitive markets carriers would not necessarily maintain geographically averaged and integrated rates for interstate, domestic, interexchange services'' as required by section 254(g) of the Act. The Commission found that ''publicly available information is necessary to ensure that consumers can bring complaints, if necessary, to enforce'' the 1996 Act's geographic rate averaging and rate integration requirements. Section 42.10 of the Commission's rules requires nondominant IXCs to make publicly available their current rates, terms and conditions for all interstate, domestic, interexchange services and also make this information available online on their websites. Section 42.11 of the Commission's rules requires nondominant IXCs to ''maintain, for submission to the Commission and to state regulatory commissions upon request, price and service information regarding all of the carrier's . . . interstate, domestic, interexchange service offerings.'' This information must be available to be produced within ten business days and must be retained for at least two years and six months following the date the carrier ceases to provide service.

In light of marketplace changes and technological developments, we seek comment on whether the Commission should eliminate §§ 42.10 and 42.11 of its rules. Without these recordkeeping requirements, to what extent can the public, Commission, and state regulatory commissions review rates, terms, and conditions to ensure compliance with section 254(g) of the Act? If the Commission forbears from section 254(g) of the Act, are §§ 42.10 and 42.11 of the Commission's rules no longer necessary? We seek comment on whether the costs on carriers of maintaining price and service information required by §§ 42.10 and 42.11 outweigh the benefits. To what extent do these rules impose unnecessary regulatory burdens on carriers?

Are there any other rules related to domestic, interstate, interexchange service that the Commission should consider revising, streamlining, or eliminating? If so, why? Do the costs of maintaining these rules outweigh any benefits?

Transition. We seek comment on whether we should adopt a transition for IXCs to detariff domestic, interstate, interexchange services and, if so, how long this period should be. We believe a two-year transition period to detariff these services would be appropriate and would coincide with the transition of switched access charges to bill-and-keep and seek comment on this approach. During the transition period under our proposed approach, IXCs would be allowed to cancel their tariffs for interstate, domestic, interexchange services and the Commission would accept revisions to the IXC's tariffs for these services. However, the Commission would not accept new tariffs or revisions to existing tariffs for long-term service arrangements for domestic, interstate, interexchange service beyond the two-year transition. At the conclusion of the transition period, IXCs would no longer be permitted to tariff domestic, interstate, interexchange services and would have to cancel any such tariffs. We seek comment on this proposed approach.

Eliminating Outdated Interexchange Service Requirements

We also propose to eliminate outdated customer account record exchange requirements contained in part 64 of the

Commission's rules. The Commission adopted these rules in the early 2000s to facilitate the exchange of customer account information between LECs and IXCs in order to execute customer billing change requests in a timely manner. We seek comment on whether we should delete part 64, Subpart CC given changes in the marketplace or whether these rules remain necessary, in whole or in part. Do these rules impose unnecessary burdens on LECs and/or IXCs? Are these rules necessary to protect consumers or to facilitate timely exchange of customer account information? Do our rules prohibiting slamming and establishing truth-in-billing requirements resolve the underlying concerns of our customer account record exchange requirements such that these requirements are no longer necessary? And would that remain true if we modify the slamming and truth-in-billing rules as we recently proposed? Do carriers rely on these rules to implement customer requests or for other business and operational reasons? Are there modifications to these rules that might better serve consumers and carriers in lieu of elimination of the rules?

International Interexchange Service

Detariffing International Interexchange Service

We propose to eliminate all remaining tariff requirements applicable to international interexchange services for dominant and nondominant carriers. Currently, carriers that are classified as dominant in the provision of international telecommunications services on a particular route for reasons other than holding a foreign carrier affiliation are required to file tariffs for international interexchange service. With respect to nondominant carriers, in the *2001 International Interexchange Order,* the Commission no longer required these carriers to file tariffs for their international interexchange services but they may file tariffs based on four limited exceptions under ''permissive detariffing.'' The Commission found that the market at the time for nondominant carriers necessitated the detariffing in accordance with the forbearance criteria in section 10 of the Act but allowed and did not require carriers to file tariffs under ''permissive detariffing.'' The Commission allowed ''permissive detariffing'' of certain services, stating that these exceptions to the general detariffing rule were necessary to address specific, largely short-term situations where the reliance upon a contract could delay service initiation for a particular user. Over the past two decades, the international interexchange service marketplace has changed significantly with the myriad options for international calling now available, including free VoIP. We seek comment generally on the current market and usefulness of tariffing for dominant carriers and whether the Commission should continue to allow permissive tariffing for nondominant carriers in these limited circumstances. We seek comment on whether the current international interexchange service tariffing rules remain in the public interest.

Dominant Carriers. We propose to detariff international interexchange services for dominant carriers entirely. Accordingly, we tentatively conclude that the Act requires us to forbear from applying section 203 of the Act and to adopt a policy of complete detariffing for dominant carrier international interexchange services. We seek comment on this tentative conclusion. We further seek comment about whether this tentative conclusion meets the three prongs of the statutory forbearance criteria of section 10(a). Is tariffing dominant international interexchange service no longer necessary to ensure just and reasonable rates, terms, and conditions of service that are not unjustly or unreasonably discriminatory? Is tariffing international interexchange service no longer necessary to protect consumers? Is forbearance from tariffing consistent with the public interest? Would forbearance from tariffing interexchange services promote competitive market conditions? As discussed in greater detail below, we tentatively conclude that a formal market power analysis is not required, nor must we determine that carriers are nondominant in the provision of international interexchange services in order to support our forbearance analysis. To the extent commenters argue that the Commission should or must determine that carriers are nondominant in the provision of international interexchange services, what type of market analysis would be required or appropriate?

We further seek comment on the current state of the international interexchange market. Are there currently any carriers with market power on the U.S. end of any U.S.-international routes? If there are currently no dominant carriers, are the market conditions suitable for a carrier to become dominant on a U.S.-international route in the future? What other factors should we consider in examining the international interexchange market for dominant carriers since we last revised the rules? Are there any regional differences that we should consider? How would detariffing these services comport with our international trade obligations? How could this change mitigate the risk of international contract disputes? Has the market for international interexchange service evolved through technology such that dominant carrier tariffs are no longer needed? If we find that there are no longer dominant carriers on U.S.-international routes, should we remove the dominant carrier tariff requirement as it would no longer be needed, consistent with broader goals of the Commission's *Delete, Delete, Delete* proceedings?

Nondominant Carriers. We propose to eliminate the permissive tariff requirement for nondominant carriers. We seek comment on this proposal. The Commission allows nondominant carriers to file permissive tariffs on four services listed in § 61.19 of the Commission's rules. For nondominant carriers, are there any reasons for retaining the permissive tariff rule? We seek comment on whether the services listed in the rule have changed significantly in the last 20-plus years. Are there any services that we should retain for permissive tariffing and why? Our records indicate that nondominant carriers continue to tariff some international interexchange service. We seek comment on the extent that carriers still tariff these international services. How would detariffing these services comport with our international trade obligations? How could this change mitigate the risk of international contract disputes? Do the current services for permissive tariffs continue to be offered in the market? For example, how prevalent is the availability and use of 1010–XXX dial-around international long distance service? Is international inbound collect calling to the United States commonly in use? How have Mobile Satellite Services (MSS) offerings evolved since 2001? What other considerations should we take into account? We believe that on-demand MSS as described when the permissive tariff rule was adopted is no longer an available service, and seek comment on this. What would be the benefits of removing the rule? What are the cost and benefits for either approach? How would this affect small entities?

Twenty years ago, new LEC customers could contact their LEC service provider and request (or change) an international interexchange provider, without establishing a direct relationship between the customer and the international interexchange provider

until the parties entered into a contract. Do local exchange carrier customers still contact their provider to request a different international interexchange carrier? To the extent that these customers still contact their provider to request a different international interexchange carrier, is 45 days still a reasonable timeframe for a provider to establish a contract with the customer after the provider receives a customer's request? If so, we seek information or estimates on the number of customers that still contact their landline carrier to change their international interexchange carriers.

Would removal of permissive tariffs impede competition in the market for international interexchange services? For example, do international dial-around services still exist, and if so could they be provided in the absence of tariffs? When the international IXC tariff rules were adopted, international dial-around service providers could not enter into contracts with customers without tariffing. Moreover, the Commission noted decades ago that mass market customers rarely, if ever, consult tariff filings and when they do, they find them difficult to understand. What methods exist for communicating service plans and rates to customers today?

We believe that elimination of permissive tariffs for nondominant carriers will produce pro-consumer benefits by incentivizing carriers to be more responsive to customer demands and to offer a greater variety of innovative price and service packages. The elimination of all nondominant carrier tariff filings would also prevent potential situations in which carriers seek to avoid contract obligations or refuse to negotiate with customers based upon the filed-rate doctrine (which is in effect even for tariffs filed on a permissive basis) and the Commission's tariff filing and review processes. We seek comment on our assessment.

Public Disclosure and Retention Requirements

When the Commission detariffed international interexchange service in 2001, it found that adopting public disclosure and maintenance of information requirements would benefit consumers and further the public interest, while also promoting carrier compliance with the requirements of the Act. The Commission also believed that these requirements would permit consumers to have the information necessary to make efficient choices regarding their optimal service plans. The Commission has recognized that consumers need information about carriers' rates, terms, and conditions. For example, the Commission stated that ''consumers will need information concerning carriers' rates, terms and conditions in order to bring complaints to ensure carrier compliance with the requirements of the Act . . . .'' Consumers also need this information to determine the most appropriate rate plans that may meet their individual calling patterns. Below we seek comment on our proposal to eliminate or reduce these disclosure and maintenance requirements given the changes in the international interexchange market since they were adopted.

Public Disclosure. For nondominant IXCs, we seek comment on whether to eliminate the public disclosure requirement in § 42.10 of the Commission's rules. Nondominant carriers provide information to the public through either voluntary tariffs for certain services or through the public disclosure requirements. For the public disclosure requirement, nondominant carriers provide information to the public concerning current: (1) rates; (2) terms; and (3) conditions for all of their international interexchange services, in at least one location during regular business hours, and on websites (if the carrier maintains a website). As discussed herein, if the Commission removed the ability for nondominant IXCs to file voluntary tariffs (permissive tariffs), we propose to eliminate the nondominant IXCs' public disclosure requirement to have publicly accessible rate and service information files available at a physical location. Should nondominant IXCs instead provide that information on their websites since under the current requirement, if a nondominant IXC maintains a website currently it must make such rate and service information available there in a timely and easily accessible manner, and update this information regularly? Or, should we eliminate the § 42.10 public disclosure requirements for nondominant IXCs altogether? Is this information necessary for consumers to make an informed choice, and is this information necessary for the Commission to evaluate consumer complaints and enforce sections 201 and 202 of the Act? We seek comment on the benefits and costs for either of these approaches. How would this comport with international obligations to make such offers available? If the publicly accessible information is available at a physical location (rather than, or in addition to, a website), where should this be and how should it be maintained and updated for public access? Moreover, how would our rule changes impact small entities? What are the cost and benefits that may result from our proposal compared to the current cost and benefit?

For dominant IXCs, we consider a public disclosure requirement given the changes discussed above. As a starting point, dominant carriers provide the public with information about service rates, terms, and conditions through filing tariffs with the Commission. However, as discussed today, if the Commission no longer requires tariffs for dominant international IXCs, and if there are any dominant IXCs still providing service, we seek comment whether we should adopt new public disclosure requirements for dominant IXCs. Should a new public disclosure requirement for dominant IXCs be the same or different than the disclosure requirements for nondominant carriers? What market considerations and consumer needs influence the amount of and method for a public disclosure requirement for dominant IXCs? Would limiting the public disclosure requirement to website information posts instead of physical location files help achieve our goal of giving the public information about service rates, terms, and conditions for dominant interexchange service?

Retention Rule. We seek comment whether to eliminate or modify the retention rule that requires nondominant carriers to maintain price and service information regarding all of their international interexchange service offerings. Under § 42.11 of the Commission's rules, the Commission requires nondominant international IXCs to retain price and service information regarding all of their international interexchange service offerings for a period of at least two years and six months following the date the carrier ceases to provide international services on such rates, terms and conditions. This affords the Commission sufficient time to notify a carrier of the filing of a section 208 complaint. This price and service information must be maintained in a manner that allows the carrier to produce such records within ten business days of receipt of a Commission request. In adopting these requirements, the Commission stated that such records would assist the Commission in monitoring compliance with the Act and the Commission's rules and will help address potential violations that may require enforcement action. We seek comment on whether we should eliminate this rule. If we retain it, should the dates be shortened?

How would our rule changes impact small entities? What are the cost and benefits that may result from our proposal compared to the current cost and benefit?

Filing of Carrier-to-Carrier Contracts for International Service for Dominant Carriers

We propose to *eliminate* § 43.51(b)(2) of the Commission's rules that requires routine filing of dominant interexchange carrier-to-carrier contracts with foreign carriers as this rule is no longer necessary. Section 211(a) of the Act requires a carrier to file with the Commission the contracts that the carrier has with other carriers affecting traffic regulated under the Act. Section 211(b), provides that the Commission ''shall also have the authority to exempt any carrier from submitting copies of such minor contracts as the Commission may determine,'' giving the Commission ''the discretion to exempt carriers from filing contracts, including those referred to in section 211(a), when we determine that those contracts are of minor significance to the regulatory scheme.'' Section 43.51 implements section 211 of the Act by requiring certain common carriers providing domestic services and all common carriers providing international services to file with the Commission copies of carrier-to-carrier contracts for domestic and international services. Section 43.51 requires these carriers to file copies of contracts, agreements, concessions, licenses, authorizations, or other arrangements that relate to the exchange of services and the interchange or routing of traffic and matters concerning rates. The current contract filing requirements for international interexchange carriers apply to U.S. dominant carriers for any service on any of the U.S.-international routes included in the contract, other than U.S. carriers classified as dominant due only to a foreign carrier affiliation. Section 43.51 also states that any U.S. carrier, other than a provider of commercial mobile radio services, that is engaged in foreign communications, and enters into an agreement with a foreign carrier, is subject to the Commission's authority to require the filing of a copy of each agreement to which it is a party.

Even if we retain dominant international interexchange carrier rules, we propose to eliminate the routine filing of carrier-to-carrier contracts because less burdensome options are available for the Commission to obtain this information. We propose instead to require dominant international carriers to maintain copies of the contracts (specifically, contracts related both to: (a) the exchange of services and (b) rates as described in § 43.51(a)(i) and (ii)) on their premises, consistent with the contract maintenance provision of § 43.51 that applies to contracts for domestic service, and that the international interexchange carrier contracts must be readily accessible to Commission staff and members of the public upon reasonable request. For example, we may want to review the carrier-to-carrier contract when a complaint against a dominant carrier is filed with the Commission. We also propose that upon request by the Commission, the interexchange carrier would promptly (and within 10 business days) need to forward individual contracts to the Commission. We seek comment on this proposal, as well as methods by which the Commission can request the contracts (*e.g.,* via electronic filing through ICFS, email, or paper mailing). Moreover, we expect that such contracts will rarely need to be filed, considering that few, if any, contracts have been filed since the late 1990s. Would this requirement satisfy the United States' international trade commitments to ensure ''that a major supplier will make publicly available either its interconnection agreements or a reference interconnection offer''? If, on the other hand, the filing of these foreign communications contracts is no longer necessary, should the Commission rescind the related rules and what exact rules should be deleted?

Transition to Mandatory Detariffing of International Interexchange Services

We propose to eliminate the ability to file permissive tariffs and completely detariff international interexchange services for dominant carriers and nondominant carriers pursuant to section 203 of the Act for their international interexchange services, following the transition plan for access charges to mandatory detariffing described above. We propose that once a carrier (whether dominant or nondominant) has detariffed its international services, it must be in compliance with the relevant public information and disclosure requirements, to the extent any international services remain and to the extent that we adopt any such requirements for dominant carriers. We seek comment on these proposals, and we invite commenters to offer other transition proposals, including a shorter timeframe. How would our proposals impact small entities? What are the cost and benefits for either of our proposals?

Necessary Rule Changes

We propose rules below that would effectuate the reforms proposed in today's Notice of Proposed Rulemaking. We seek comment on these proposed rules. We also seek comment on any other specific rule changes or new rules necessitated by today's proposals after consideration of the record. Any comments proposing new or amended rules should include, as part of the commenter's submission, a draft rule or markup of an existing rule.

Other Considerations

We believe that a thoughtful transition of all remaining access charges to bill-and-keep will lead to more efficient telecommunications networks to serve consumers. We seek comment on this belief and general comment on how providers' market incentives will change as they complete the transition of remaining access charges to bill-and-keep. Are there other reasons that carriers may need to maintain and prolong the use of legacy TDM networks which we have overlooked? Are there any access services that would continue to offer utility in an all-IP network? If so, what are they, and why?

Costs of the IP Transition for Rate-of-Return Carriers. We invite comment on the estimated costs of the transition to all-IP networks for rate-of-return carriers, including the costs associated with transitioning remaining access charges to bill-and-keep. The Commission has observed that ''rate-of-return carriers are particularly sensitive to disruptions in their interstate revenue streams.'' To what extent will rate-of-return carriers need additional funding to implement the IP transition? If so, what type of funding mechanism do commenters propose? Instead of phasing out CAF ICC as discussed above, should the Commission instead continue to allow rate-of-return carriers to receive CAF ICC support until the transition to all-IP networks is complete? How should the Commission determine when the transition is complete for this purpose? Is existing CAF ICC support sufficient to cover some or all of the costs of the IP transition? Why or why not? We ask that commenters provide detailed information regarding any gaps between existing support and the costs to fully transition to an all-IP network.

If the Commission were to create a new funding mechanism specific to the IP transition for certain carriers, how should that funding be allocated among eligible carriers? Should such funding be tied to the costs of the IP transition as a whole, allocated based on lost

intercarrier compensation revenues, or based on some other metric? How should the Commission obtain reliable cost data? Should the Commission adopt a Total Cost and Earnings Review mechanism similar to the mechanism adopted in the *USF/ICC Transformation Order* to allow carriers to demonstrate that supplemental funding is needed? If so, what categories of information should carriers be required to provide to the Commission? Should any new funding mechanism be based only on the forward-looking costs of the transition? How should carriers estimate those costs for the Commission? We invite comment on these and any other issues concerning the need for additional funding for rate-of-return carriers to support the IP transition.

Competitive Conditions. How will the transition to the bill-and-keep framework and all-IP networks change the market power that various carriers currently exercise? As providers transition to bill-and-keep and move to all-IP interconnection, will certain types of providers gain market power over voice services, and will any be positioned to exercise market dominance? For instance, could intermediate carriers exert disproportionate negotiating leverage over smaller rural LECs, or is the market for intermediate and transit services sufficiently competitive to mitigate such concerns? Conversely, will the transition to bill-and-keep and IP networks help prevent any particular providers from gaining dominance and market power? What effect, if any, will the IP transition have upon providers that maintain their networks using TDM technology? Are any consumers at risk of large price increases for service as a result of the transition to bill-and-keep? If so, which consumers, and why, and are alternative voice services available to those consumers?

Access Arbitrage Concerns. The Commission has long fought against arbitrage of its access charge system. Most recently, the Commission adopted rules to combat the insertion of an internet Protocol Enabled Service (IPES) provider into the call flow to evade its access stimulation rules. The Commission has previously concluded that the transition to bill-and-keep will reduce arbitrage incentives. In the *USF/ICC Transformation Order,* the Commission found that bill-and-keep would reduce arbitrage opportunities by enabling rates to reflect the incremental cost of providing service, rather than average costs across the entire network. We tentatively conclude that the Commission's reasoning in the *USF/ICC Transformation Order* still applies and we seek comment on this conclusion. However, we still seek comment on whether transitioning remaining access charges to bill-and-keep in the manner set out above could create incentives for providers to introduce unnecessary entities or charges into the call flow and increase charges during or after the transition. Have market-driven arrangements led to efficient practices? We request that commenters describe how arbitrage opportunities might arise after providers have completed the move of all remaining access charges to bill-and-keep. Similarly, what aspects of an all-IP network may be subject to abuse?

Potential Intercarrier Disputes. The Commission has observed that shifts in intercarrier compensation regimes can generate disputes over issues such as call routing and cost recovery. Disputes between carriers can delay completing the transition to bill-and-keep, impose unnecessary costs, and potentially deter bringing innovative calling services to consumers. We therefore seek comment on the nature of disputes likely to occur during and after the transition of remaining access charges to bill-and-keep. What types of disputes may occur (*e.g.,* financial responsibility and build-out obligations, billing and collection disagreements, call routing disputes, and access arbitrage allegations) as carriers shift remaining access charges to bill-and-keep? What disputes currently exist with the exchange of IP traffic? What role should the Commission have, if any, in resolving disputes that might arise from completing the transition to bill-and-keep? Are there any aspects of an all-IP call flow that might benefit from Commission oversight in order to deter or eliminate such disputes or abuse?

Quality of Service Considerations. As the transition to IP-based networks continues, we recognize that transitioning remaining access charges to bill-and-keep may influence how providers approach standards of service quality and availability. While competitive forces may encourage providers to maintain and improve standards to attract and retain customers, we seek comment on if market forces alone are enough to ensure that consumers receive reliable and high-quality voice service. We seek comment on whether and, if so, how the Commission should consider additional oversight of service quality and availability standards for voice calls transmitted over IP networks. If the Commission were to adopt additional oversight, what aspects of service quality and availability should be subject to minimum standards (*e.g.,* call completion rates, reliability, latency, and accessibility)? What metrics or performance benchmarks would be appropriate to evaluate compliance with such standards? Are the Commission's current rules that prescribe service quality and availability standards adequate, or even necessary, for IP networks? We note that providers are currently required to comply with various service quality and availability standards. Does IP-based calling inherently provide the call quality that the Commission would otherwise require from providers, obviating the need for prescriptive standards? How have providers of voice calls over IP ensured service standards to date?

Additional Considerations. Are there any legacy networks, including critical infrastructure, that are being overlooked or would suffer from moving to bill-and-keep? If so, how and why? How will the transition to bill-and-keep impact providers' legacy 911 voice service and NG911 service and other critical government services? How will the transition to bill-and-keep affect rural LECs and smaller providers? How will the transition to bill-and-keep affect Centralized Equal Access (CEA) providers? How will the transition to bill-and-keep affect third-party tandem or intermediate providers? Are there carriers that may not want to convert their legacy networks to IP? If so, which carriers, and why? Are there any rules or regulations we should adopt, or other steps we should take with respect to particular groups of carriers that may be disparately impacted by the transition to bill-and-keep? If so, what are they, and why? Are there systems or resources that carriers believe are necessary to effectuate the transition? For example, is a database needed to help route calls to various providers' IP addresses? If so, how should the costs of operating that database be covered? Would it be appropriate to recover the costs of administering the database through a mechanism similar to that used for the North American Numbering Plan, such as contributions based on FCC Form 499–A filings. Should this database be combined with the 8YY database to improve efficiency of call routing?

We seek comment on whether the transition of all remaining access charges to bill-and-keep may result in any conflicts or inconsistencies with the Commission's existing rules or statutory obligations. In conjunction with any proposed revisions, we likewise seek comment on whether the Commission's rules may become unnecessary or outdated and should therefore be deleted, as we discuss below. For example, the Commission granted

incumbent LECs forbearance from equal access and dialing parity requirements for interexchange services, in part, because of ''the trend toward all-distance voice services'' and the decline in ''demand for stand-alone long distance service for mass market or business customers . . . .'' Although the Commission forbore from these requirements, it grandfathered end users that presubscribed to third-party long-distance services to retain equal access and dialing parity services because, at the time, there were ''still a significant number of retail customers that presubscribe to a stand-alone long distance carrier.'' Is this still the case? Following the shift of all remaining access charges to bill-and-keep, are equal access obligations still necessary in the voice services marketplace, and should the Commission sunset all remaining equal access and dialing parity obligations? The Commission has undertaken a sweeping review of all of its rules aimed at eliminating outdated rules and deregulating across multiple fronts to better serve the public and support technological progress.

Proposed Efficiency Measures

Sunsetting Commission Rules in Light of Proposed Reforms

In this section, we seek comment on sunsetting Commission rules that may be rendered unnecessary following the reforms we propose today. In particular, following the transition of intercarrier switched access and TACs to bill-and-keep, we propose to sunset the Commission's existing rules imposing ex ante pricing regulation and tariffing requirements for those charges for price cap and rate-of-return carriers. We seek comment on these proposals, particularly in light of the Commission's commitment to eliminate outdated and unnecessary regulations.

Sunsetting Ex Ante Pricing and Tariffing Rules Applicable to Intercarrier Switched Access and TACs. After the transition to bill-and-keep, the Commission's rules imposing ex ante pricing regulation and tariffing requirements on intercarrier switched access and TACs would appear to no longer be necessary. Specifically, we believe that §§ 51.915(e), 51.917(e), 69.111, 69.112, 69.115, 69.152, 69.153, and 69.157 of the Commission's rules will no longer be necessary after the transition to bill-and-keep. We seek comment on this view. The intercarrier compensation system was originally ''designed for an era of separate long-distance companies and high per-minute charges, and established long before competition emerged among telephone companies.'' Those conditions required a uniform system of pricing rules to govern the provision of interstate access services by incumbent LECs to ensure that rates were just and reasonable. But those conditions do not hold under a bill-and-keep regime in which carriers look to their subscribers, rather than other carriers, to recover the costs of their networks. Although we propose to sunset the rules imposing tariffing requirements and ex ante pricing regulation on access charges, carriers would still remain subject to the Commission's regulatory authority and protections under sections 201, 202, and 208 of the Act.

Are there any reasons that these rules should or must be retained? If so, what are those reasons? Are there any rules that must be retained because, for example, they are tied to other parts of the Commission's rules? Commenters should be detailed in identifying specific rules that should be retained with appropriate justification. We also invite comment on the appropriate timeframe under which to sunset these rules following the transition to bill-and-keep. Should the rules sunset immediately following the completion of the transition to bill-and-keep or should the Commission adopt a longer timeframe? Are there certain rules that cannot practically be sunset immediately following the transition to bill-and-keep? If so, what are those rules? Commenters should be detailed in identifying specific rules that may or must be retained and/or setting forth and justifying any alternative timeframes for sunsetting the rules. We invite commenters to include suggested rule language they believe should be revised.

Sunsetting Price Cap Ratemaking Rules. We seek comment on the continuing need for the Commission's rules applicable to price cap carriers given our proposed reforms today. We do not propose to sunset rules applicable to business data services. The Commission is currently considering further deregulation and detariffing of business data services in separate proceedings. Following the transition of remaining access charges to bill-and-keep, are there specific rules currently applicable to price cap carriers that will no longer be necessary? For example, in connection with their annual tariff filings, price cap carriers are required to establish baskets of services, which include rate elements for end-user charges that we propose to deregulate and detariff today. And, § 61.43 of the Commission's rules requires annual price cap filings that propose rates for the upcoming tariff year, among other things. Given our proposals to move remaining access charges to bill-and-keep and deregulate and detariff end-user chargers, should we sunset these and other price cap ratemaking rules? Why or why not? Are there any rules that should or must be maintained? If so, what are they and why?

Other Rules or Statutory Provisions Affected by Our Proposed Reforms. While we have identified certain Commission rules that may be rendered unnecessary if the Commission were to adopt the proposals in today's Notice, we seek comment on other rules that the Commission should consider removing. In addition, we also seek comment on whether there are other statutory provisions in the Act for which forbearance might be appropriate given our proposals. Commenters are encouraged to be as specific as possible in identifying rules or statutory provisions that may be affected by the reforms we propose today.

Incorporating Relevant Proceedings

In this Notice of Proposed Rulemaking, we open a new docket—WC Docket No. 25–311, ''Reforming Legacy Rules for an All-IP Future.'' On July 3, 2025, the Commission established WC Docket No. 25–208, ''Accelerating Network Modernization.'' All filings made in response to the proposals and questions in this Notice of Proposed Rulemaking that address the Commission's comprehensive reforms of Telephone Access Charges and intercarrier compensation rules should be filed in WC Docket Nos. 25–311 and 25–208. We also incorporate by reference comments filed in WC Docket Nos. 07–135, 10–90, 16–143, 18–155, 18–156, 20–71, 21–17, 25–209, 25–304, GN Docket Nos. 09–51 and 25–133, or CC Docket No. 01–92 that are responsive to the issues raised in this proceeding. Although we urge parties that previously made responsive filings in WC Docket Nos. 07–135, 10–90, 20–71, 18–155, 18–156, GN Docket Nos. 09–51 and 25–133, or CC Docket No. 01–92 to re-file in the new WC Docket No. 25–208, such filings will nevertheless be considered in this proceeding.

Many of the Commission's ratemaking rules have been in place for decades, and some of the associated dockets have remained open just as long. While these dockets have historically remained open in case a ratemaking issue might arise, that possibility will no longer exist once all intercarrier charges transition to the bill-and-keep framework proposed in this Notice of Proposed Rulemaking. Even where Notices of Proposed Rulemaking remain pending in these dockets, the issues they raise will

become irrelevant in an all-IP, bill-and-keep environment. As part of our holistic, forward-looking effort to modernize legacy ratemaking, we propose that, once the reforms outlined in this proceeding reach their end state, the Commission will close all related dockets. To the extent these dockets contain open notices that remain unresolved, we propose to terminate them in favor of eliminating regulatory confusion and increasing simplicity. Maintaining parallel dockets on duplicative issues risks unnecessary delay, administrative burden, and confusion for filers. Consolidating into a single, forward-looking docket will simplify the commenting process and reduce administrative overhead. It will also encourage parties to engage with the issues raised in this Notice of Proposed Rulemaking with a fresh perspective. Specifically, we propose to terminate the following docketed proceedings: WC Docket Nos. 20–71 and 07–135. We seek comment on this proposal. Commenters should provide detailed arguments about why any of these dockets should remain open. Are there other dockets that we should consider closing?

The Commission periodically reviews all open dockets and identifies dockets that appear to be candidates for termination. In a dormant docket proceeding, the Commission closes dockets where no substantive filings have been made for several years or where no further action is required or anticipated. It also terminates as moot any pending petitions or other requests for relief. Should the Commission instead allow the dockets listed above to become dormant and address them through the existing dormant dockets process? If so, why? Are there other ways to accomplish the Commission's regulatory and docketing efficiency goals?

Petitions Rendered Moot by Proposed Reforms

We seek comment on the merits of dismissing certain filings requesting Commission action, such as waiver petitions or petitions for declaratory ruling, that have been open for many years and that may have been rendered moot or will be rendered moot by policy reforms that have occurred since their filing or that will be effectuated in an order following from this Notice of Proposed Rulemaking. Below, we propose to dismiss several waiver petitions related to access arbitrage and call signaling. Are there other industry requests for Commission action that we should consider dismissing? If so, we ask that commenters provide detailed information and justification for such requests.

Access Arbitrage Petitions. In 2019, the Commission adopted rules to prevent or reduce access arbitrage, including those focused on allegations of traffic pumping, inappropriate routing of calls, and billing disputes. Following those reforms, providers filed several waiver petitions seeking relief from the Commission's access stimulation rules. Three petitions remain pending. Given the passage of time and subsequent Commission actions clarifying and implementing its access stimulation rules, we tentatively conclude that these pending waiver petitions are outdated and now unnecessary. Accordingly, we propose to dismiss these petitions for waiver of the Commission's access stimulation rules. We seek comment on this proposal.

Call Signaling Petitions. Similarly, shortly after the rules in the *USF/ICC Transformation Order* became effective, numerous parties filed waiver petitions with the Commission claiming that compliance with the Commission's call signaling rules was technically infeasible. We tentatively conclude that these waiver petitions are moot as to their merits. Each of these petitions was filed more than a decade ago. In the intervening decade, we believe these providers have come into compliance with the Commission's call signaling rules, or the advent of and migration to all-IP networks has effectively made moot the issues these petitions raised. Accordingly, we propose to dismiss these petitions for waiver of the Commission's call signaling rules. We seek comment on this proposal. Are there any other outstanding petitions in the dockets related to this proceeding that commenters suggest we dismiss? If so, why?

Encouraging Industry Collaboration

The Commission is committed to thoughtfully completing the transition of all remaining access charges to a bill-and-keep framework and accelerating the broader shift to all-IP networks, taking into account the complexity of the issues presented, transition timelines, and connectivity goals. Stakeholders now have a clearer understanding of the Commission's long-term vision. However, we acknowledge that the proposals set forth in this *Notice* may not fully reflect the operational and competitive nuances known only to industry participants, or may inadvertently advantage some providers over others.

To explore possible operational and competitive challenges associated with the transition to a bill-and-keep framework, should the Commission convene meetings with industry experts and stakeholders? The goal of such meetings would be to facilitate collaboration and provide an opportunity for all participants, including Commission staff, to examine the most significant issues carriers may face from the transition to bill-and-keep, including any issues involving interconnection requirements, intercarrier compensation, and USF support, and identify potential obstacles, share best practices, and develop potential solutions that promote a smooth and efficient transition to bill-and-keep and all-IP networks.

We invite stakeholders to collaborate on and submit a joint industry proposal that outlines the technical, legal, and economic frameworks necessary to achieve a fully deregulated and detariffed voice services marketplace—while preserving competition, fostering innovation, and protecting consumers. The Commission often requests and accepts industry-developed proposals on how to best develop telecommunications policy in the public interest. We also seek targeted recommendations for Commission actions that would facilitate a streamlined transition to an IP-based voice environment consistent with the public interest, while appropriately recognizing the challenges of the transition.

Indeed, industry participants have urged that ''the Commission convene an industry working group to coordinate a process for completing the IP transition'' and thereby ''open critical lines of communication among all types and sizes of providers.'' This Notice of Proposed Rulemaking and potential subsequent meetings would present opportunities for industry participants to establish open lines of communication and work collaboratively and thoughtfully toward a consensus on the path to all-IP networks. While the Commission may not directly participate in such negotiations, we strongly encourage all interested parties to engage in good-faith discussions aimed at resolving differences and advancing shared goals. We urge the industry to submit any resulting proposals in a timely manner to ensure Commission staff has adequate time to consider and incorporate them into a forthcoming order.

Benefits and Costs

We seek comment on the benefits and costs of these proposed rule changes, which we expect will facilitate the

transition to all-IP networks by significantly reducing regulatory requirements for carriers. We expect our proposed reforms will affect both voice providers and consumers of voice services. We seek comment on both the benefits and costs of each proposed rule change and also the totality of the rule changes proposed.

Carrier Benefits. We seek comment on the benefits of reducing the regulatory requirements for carriers, particularly in connection with ensuring a smooth transition to all-IP networks. What are the benefits of transitioning remaining intercarrier access charges to bill-and-keep and eliminating ex ante rate regulation and tariffing requirements for end-user access charges? What are the benefits of the proposal to eliminate the remaining long distance, including international interexchange, service regulations? Beyond the reduction in time and monetary costs associated, how will carriers benefit from the elimination of current filing costs, including fees, preparation and document retention costs, associated with tariffs and the other regulations the Commission proposes to eliminate? Are there any additional compliance related costs that will be reduced due to these proposed rule changes? What are the expected reductions in administrative costs to the industry of eliminating the requirements for carriers to keep records and to prepare supporting documents to meet compliance obligations? What administrative costs will carriers avoid by no longer needing to monitor other carriers' tariff filings and contest them when necessary? Additionally, are there any benefits attributable to a reduction of arbitrage opportunities that may result from the proposed rule changes? What specific benefits might voice service providers that compete with incumbent LECs realize as a result of the proposed reforms?

Consumer Benefits. We also seek comment on the consumer benefits of the proposed rule changes. Are there any benefits that customers may experience from the proposed rule changes? Will consumers benefit from any operational or economic efficiencies that carriers should be positioned to realize as a result of the proposed rule changes? Will consumers benefit from more competition or service offerings? Should consumers expect to observe lower prices for services, and if so, will the benefits of the proposed rule changes vary by type of service? Will the proposed rule changes accelerate the IP transition, and if so, how will this benefit consumers? For example, will the proposed rules accelerate the adoption of certain public safety and consumer protection technologies, such as NG911 and STIR/SHAKEN? If so, are there unique costs of this adoption that would disproportionately impact small providers? Are there any benefits that consumers may expect in the long term that may not appear during a transition period?

Carrier Costs. While the proposed rule changes are likely to reduce regulatory requirements, we seek comment on the possibility of temporary increases in compliance costs as the industry adjusts and transitions to the bill-and-keep end state as proposed. What temporary compliance costs might carriers face? Are there any costs associated with updating billing systems and existing contracts that may be necessary to comply with the proposed rule changes? Will there be additional costs associated with intercarrier disputes and dispute resolution during the transition period? Are there likely to be costs associated with negotiating agreements with intermediate carriers for the transport of traffic from the tandem switch to the network edge? If so, what are they?

Separately, we also seek comment on whether carriers expect some costs associated with the implementation of these proposed rules to persist beyond the transition period. We remind providers that although we contemplate the transition to all-IP networks, providers would still be permitted to interconnect in TDM as a contractual matter. The Commission's ultimate decision regarding the definition and location of the network edge may also impact costs for some carriers, particularly transport costs. We seek comment on how different approaches to defining the network edge may affect the allocation of costs and benefits across carriers. Are there any additional costs of having the states establish a network edge for the transition period? Would the proposals to establish a single point of interconnection for TDM and VoIP traffic or regional meet points on the existing IP-network within a state's borders impose new costs on carriers? If so, how? Will any new proposed administrative requirements impose additional costs on carriers that are not offset by the removal of past rules? What is the likelihood that some carriers may choose to discontinue offering voice services or change voice offerings as a result of the proposed rule changes? What is the projected likelihood of industry consolidation, and what are the expected costs and benefits—both economic and operational—associated with such consolidation?

Consumer Costs. The proposed rule changes may have transitional and long-term impacts on consumers. On balance, will consumers face increased costs or other nonmonetary burdens as a result of the proposed rule changes? If so, please explain fully. What market effects or additional costs, if any, would be imposed on end users if some end users choose to discontinue their existing wireline voice service in response to rate changes or changes to offerings? What share of those customers are likely to take advantage of voice service offered via wireless or other IP-based voice providers? How do rates for mobile voice and VoIP-based services compare to current rates for traditional PSTN service? What upfront expenses or logistical hurdles, such as sign-up fees or equipment requirements, do consumers face when transitioning to alternative voice services? What should consumers expect from the long-term effects of the proposed rule changes and the costs they face for continuing to use switched access voice calling service?

IP Transition. The ultimate goal of the proposed reforms in this *Notice,* along with related Notices addressing the IP transition, is to encourage carriers to migrate to fully IP-based networks. Such a transition may introduce additional costs and benefits. Should we consider the potential costs and benefits of this transition to all-IP when evaluating the merits of the proposed rules? If so, how should we measure the impact, given that some carriers may have already transitioned to all-IP networks absent the proposed rule changes? If carriers have already transitioned to a fully IP-based network, we seek comment on their experiences including any benefits they realized over maintaining legacy TDM networks. What would be the potential benefits, to carriers and customers, of carriers transitioning their network to fully IP-based networks? What would be the costs to carriers to move to IP-based networks? Will customers face increased prices or other costs as a result of a carrier's decision to move to IP-based networks? Or, will the efficiency expected from all-IP networks result in lower costs and greater choice for consumers?

USF Impact. The proposed phase down of CAF ICC support and rule changes to CAF BLS will impact USF expenditures. We seek comment on whether these direct reductions in USF expenditures should be considered a benefit. To what extent will these savings translate into lower contribution burdens or improved sustainability of the Fund? We also seek comment on whether any of the proposed rule changes may result in temporary increased USF expenditures. What may this increase be and should the potential

increase in USF expenditures be considered a cost to the broader base of contributors to the fund? Finally, are there systemic risks or unintended consequences related to the financial stability of impacted carriers that the Commission should consider in evaluating the overall impact of the proposed reforms?

Legal Authority

In this section, we seek comment on our legal authority to implement the proposals in this *Notice* to comprehensively reform our treatment of access charges, end-user charges, and tariffing requirements.

Sections 251(b)(5) and 201(b). Consistent with precedent, we propose to rely on sections 251(b)(5) and 201(b) of the Act to transition all remaining interstate and intrastate access charges, whether originating or terminating, to bill-and-keep. The Commission has recognized that its ''statutory authority to implement bill-and-keep as the default framework for the exchange of traffic with LECs flows directly from sections 251(b)(5) and 201(b) of the Act.'' Section 251(b)(5) states that LECs have a ''duty to establish reciprocal compensation arrangements for the transport and termination of telecommunications.'' In the *USF/ICC Transformation Order,* the Commission ''br[ought] all traffic within the section 251(b)(5) regime,'' including access traffic. Doing so, the Commission explained, ''is key to advancing [the Commission's] goals of eliminating the thicket of disparate intercarrier compensation rates and payments that are ultimately borne by consumers.'' In addition to providing the substantive authority for various rules and requirements, the Supreme Court in *AT&T Corp.* v. *Iowa Utilities Board,* held that ''the grant in § 201(b) means what it says: The FCC has rulemaking authority to carry out the 'provisions of this Act,' which include §§ 251 and 252.'' Thus, we intend to rely on sections 251(b) and 201(b) to implement changes to the pricing methodology governing the exchange of traffic with LECs. We seek comment on this proposal.

This statutory authority also allows us to establish a transition plan, as proposed, to bring remaining interstate and intrastate access charges to bill-and-keep. Indeed, the Commission's pre-existing regimes for establishing reciprocal compensation rates for section 251(b)(5) traffic have been upheld as lawful and, as the U.S. Court of Appeals for the D.C. Circuit has recognized, ''[w]hen necessary to avoid excessively burdening carriers, the gradual implementation of new rates and policies is a standard tool of the Commission,'' and a transition ''may certainly be accomplished gradually to permit the affected carriers, subscribers and state regulators to adjust to the new pricing system, thus preserving the efficient operation of the interstate telephone network during the interim.''

We also intend to rely on our section 201(b) authority to eliminate ex ante pricing regulation of end-user Telephone Access Charges. Section 201(b) of the Act specifies that ''[a]ll charges, practices, classifications, and regulations for and in connection with such communication service, shall be just and reasonable, and any such charge, practice, classification, or regulation that is unjust or unreasonable is declared to be unlawful.'' It also allows the Commission to ''prescribe such rules and regulations as may be necessary in the public interest to carry out the provisions of this chapter.'' This authority necessarily includes the authority to opt not to regulate—or to deregulate—carriers' interstate rates if such regulation is no longer necessary and thus, deregulation is in the public interest. Even if we eliminate our current pricing regulations, any violations of the reasonableness and nondiscrimination requirements of sections 201 and 202 of the Act could be addressed through the complaint process under section 208 of the Act. We seek comment on this analysis.

Forbearance Authority. We intend to rely on our authority under section 10 of the Act to forbear from the application of section 203 tariffing requirements and any associated regulations to the extent necessary to detariff all access charges, including for international interexchange services and end-user TACs, on a mandatory basis. An integral element of the ''pro-competitive, de-regulatory national policy framework'' adopted in the 1996 Act is the Commission's forbearance authority under section 10. Section 10 of the Act, as amended by the 1996 Act, requires the Commission to forbear from applying the Act or its rules to a telecommunications carrier or a telecommunications service if the Commission determines that: (1) enforcement ''is not necessary to ensure that the charges, practices, classifications, or regulations . . . are just and reasonable and are not unjustly or unreasonably discriminatory,'' (2) enforcement ''is not necessary for the protection of consumers,'' and (3) ''forbearance from applying such provision or regulation is consistent with the public interest.'' In making the public interest determination, the Commission must also consider, pursuant to section 10(b) of the Act, ''whether forbearance from enforcing the provision or regulation will promote competitive market conditions.'' Forbearance is required only if all three criteria are satisfied. The Commission has previously relied on its forbearance authority to detariff and deregulate interstate services. We seek comment on whether the forbearance criteria are met with respect to mandatory detariffing of access charges, including TACs, and interexchange service charges.

Relatedly, we tentatively conclude that we need not adopt or apply a formal market-power analysis or conclude that incumbent LECs are nondominant in in the provision of switched access services before we can find that forbearance from access charge regulation is justified. We seek comment on this tentative conclusion. The Commission has previously determined that incumbent LECs possess market power (and are thus dominant) in the provision of originating and terminating switched access services. However, the Commission's objective in making such a determination has not been to preserve any particular technology but to ensure that end users have access to voice services at just and reasonable rates, consistent with our statutory obligation. And, in the context of its forbearance analysis, the Commission has adopted a flexible approach in evaluating whether the forbearance criteria are met. We also note that the D.C. Circuit has held that ''[o]n its face'' section 10 ''imposes no particular mode of market analysis or level of geographic rigor,'' but ''allow[s] the forbearance analysis to vary depending on the circumstances.'' We therefore tentatively conclude that we need not adopt or apply a formal market power analysis or find that the entities being granted forbearance are nondominant before we can exercise our forbearance authority. We seek comment on these issues.

Preemption. To the extent there are states that authorize or require carriers to assess intrastate access or end-user charges and thereby undermine the goals of this reform, should we consider preempting such laws or regulations on the basis that such laws or regulations conflict with the regulatory objectives of this proceeding? In general, the Commission is precluded from entering the field of intrastate communication service by section 152(b) of the Act. But, the Commission may preempt state law in certain circumstances, including where state regulation ''negates a valid federal policy.'' The Supreme Court has explained that ''[e]ven where Congress has not completely displaced state

regulation in a specific area, state law is nullified to the extent that it actually conflicts with federal law.'' Such a conflict can arise when a law ''stands as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress.'' While there are no ''precise guidelines'' governing when state law creates such an obstacle, the Supreme Court has acknowledged that federal agencies ''have a unique understanding of the statutes they administer and an attendant ability to make informed determinations about how state requirements may pose'' such an obstacle. Additionally, the Supreme Court has found that the inquiry into whether state law poses an obstacle sufficient to allow preemption requires consideration of ''the relationship between state and federal laws as they are interpreted and applied, not merely as they are written.'' One situation in which the Supreme Court has determined that state law can interfere with federal goals is when such a law is at odds with Congress's intent to create a uniform system of federal regulation.

Furthermore, a federal agency acting within the scope of its authority may preempt state law. When federal regulation is said to preempt state law, the key issue is not whether Congress explicitly intended to override state authority, but whether the regulation itself has the force to displace state law. In other words, the relevant question is whether Congress has delegated the authority to act in a sphere, and whether the agency has exercised that authority in a manner that preempts state law. The Supreme Court also has explained that ''an 'assumption' of nonpre-emption [sic] is not triggered when the State regulates in an area where there has been a history of significant federal presence.''

The Commission undoubtedly has authority under section 201(b) to ensure that rates and charges for and in connection with interstate and international telecommunications services are just and reasonable. And the Commission's regulation of those services involves an area that has long been subject to extensive federal regulation. Since the original enactment of the Act, section 2(a) has made clear that the Act applies to ''all interstate and foreign communication by wire or radio,'' and section 201(b) has directed the Commission to ensure that rates and charges for or in connection with interstate and foreign communication services are just and reasonable. We thus propose to find that section 201(b) provides us with authority to preempt state laws and regulations allowing or requiring carriers to assess access or end-user charges in connection with intrastate services. We seek comment on this analysis. Do state laws that may require or allow carriers to assess access or end-user charges conflict with the deregulatory objectives we propose today? Why or why not? We also invite comment on the extent to which preemption is relevant to the transition to all-IP networks. We propose to find that a failure to preempt state laws that may require or allow carriers to assess access or end-user charges would only further incentivize carriers to retain TDM-based networks, contrary to the goals of these proceedings. Do commenters agree with this analysis? Why or why not?

We also invite comment on our preemption authority with respect to intrastate access charges pursuant to section 251(d)(3) of the Act. Section 251(d)(3) provides that in prescribing and enforcing regulations to implement section 251, which establishes interconnection obligations, the Commission ''shall not preclude the enforcement of any regulation, order, or policy of a state commission that (A) establishes access and interconnection obligations of local exchange carriers; (B) is consistent with the requirements of this section; and (C) does not substantially prevent implementation of the requirements of this section and the purposes of this part.'' The Commission has observed that ''section 251(d)(3) of the Act independently establishes a standard very similar to the judicial conflict preemption doctrine,'' and ''[i]ts protections do *not* apply when the state regulation is inconsistent with the requirements of section 251, *or* when the state regulation substantially prevents implementation of the requirements of section 251 or the purposes of sections 251 through 261 of the Act.'' In the *USF/ICC Transformation Order,* the Commission found that ''to the extent section 251(d)(3) applies . . . it does not prevent [the Commission] from adopting rules to implement the provisions of section 251(b)(5) and applying those rules to traffic traditionally classified as intrastate access.'' The U.S. Court of Appeals for the Tenth Circuit noted that section 251(d)(3) ''preserves state regulations only if they would not substantially prevent implementation of § 251.'' The court also held that the Commission's conclusion in the *USF/ICC Transformation Order* that intrastate access charges are obstacles to reform was ''enough for the FCC to exercise its authority to preempt intrastate access charges under § 251(d)(3).'' We seek comment on our authority to preempt intrastate access charges pursuant to section 251(d)(3). The Commission has stated that while ''the judicial conflict preemption doctrine is 'similar to' the authority provided by section 251(d)(3),'' section 251(d)(3) ''may grant the Commission broader preemption authority than the judicial doctrine.'' Do commenters agree? Why or why not?

We also seek comment on the Commission's authority to preempt the states in defining the network edge following the transition to bill-and-keep. The Tenth Circuit has concluded that under section 252(d)(2) of the Act, ''states continue to enjoy authority to arbitrate 'terms and conditions' in reciprocal compensation.'' And ''[e]ven under bill-and-keep arrangements, states must arbitrate the 'edge' of carrier's networks.'' Given this precedent, what is the extent of the Commission's authority to preempt states in defining the network edge? We invite comment on this and any other preemption issues that may be triggered by the actions we propose today.

Section 254. Finally, we intend to use our authority under section 254 of the Act to make any changes necessary to ensure that we minimize any adverse impact of our proposed reforms on universal service contributions and support. Section 254(d) requires telecommunications carriers that provide interstate telecommunications services to ''contribute, on an equitable and nondiscriminatory basis, to the specific, predictable, and sufficient mechanisms established by the Commission to preserve and advance universal service.'' Section 254(d) also provides our authority to require other providers of interstate telecommunications ''to contribute to the preservation and advancement of universal service if the public interest so requires.'' Section 254(e) specifies that only Eligible Telecommunications Carriers designated under section 214(e) of the Act shall be eligible to receive universal service support, and that ''such support should be explicit and sufficient to achieve the purposes'' of section 254 of the Act. Together, these statutory provisions provide the Commission authority to revise our rules consistent with these requirements and adopt the proposals relating to universal service. We invite comment on this use of our section 254 authority.

Similarly, we intend to use our authority under sections 225, 251 and 715 of the Act to make any changes necessary to ensure that we minimize any adverse impact of our proposed reforms on the TRS Fund, Local Number

Portability Administration, and North America Numbering Plan Administration. Sections 225 and 715 provide the Commission authority to prescribe contributions to TRS from ''all subscribers for every telecommunications service'' and from interconnected and non-interconnected VoIP service providers. Section 251(e)(2) provides that the ''cost of establishing telecommunications numbering administration arrangements and number portability shall be borne by all telecommunications carriers on a competitively neutral basis as determined by the Commission.'' We seek comment on our authority under sections 225, 251, and 715 of the Act to minimize any adverse impacts of our proposed reforms on these programs.

Initial Regulatory Flexibility Analysis

As required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Federal Communications Commission (Commission) has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the policies and rules proposed in the Notice of Proposed Rulemaking (NPRM) assessing the possible significant economic impact on small entities. The Commission requests written public comments on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments specified on the first page of the Notice of Proposed Rulemaking. The Commission will send a copy of the NPRM, including this IRFA, to the Chief Counsel for the Small Business Administration (SBA) Office of Advocacy. In addition, the Notice and IRFA (or summaries thereof) will be published in the **Federal Register**.

Need for, and Objectives of, the Proposed Rules

The NPRM seeks to accelerate Internet Protocol (IP) network deployment and modernization by proposing comprehensive reform of the regulatory frameworks for intercarrier compensation, Connect America Fund Intercarrier Compensation (CAF ICC), interexchange services, and end-user charges. To encourage providers to transition all voice telecommunications from Time Division Multiplexing (TDM) to IP networks, the NPRM proposes to move remaining intercarrier compensation charges to a bill-and-keep framework, including the detariffing of access charges. After carriers transition remaining access charges to bill-and-keep, the Notice seeks comment on gradually phasing out CAF ICC. The NPRM also seeks comment on the removal of remaining regulatory obligations for interstate and international interexchange services, given the longstanding competitiveness of these markets. To enable carriers to recover costs from their end users, the NPRM proposes to eliminate ex ante regulation and tariffing of end-user charges (also referred as Telephone Access Charges). Finally, the NPRM seeks comment on the elimination of regulations that will no longer be necessary in a post-TDM environment and invites input on a transitional framework to ensure regulatory and market stability during the shift to a fully IP-based voice services landscape. The elimination and reform of these frameworks would create a stronger financial motivation for carriers to upgrade their networks and complete the transition to IP as soon as practicable. This shift will not only promote technological modernization but also enhance long-term efficiency, competition, and service quality for consumers.

Legal Basis

The proposed action is authorized pursuant to sections 1, 4(i)–(j), 10, 201–206, 214, 218–220, 225, 251–254, 403 of the Communications Act of 1934, as amended, and section 706 of the Telecommunications Act of 1996, 47 U.S.C. 151, 152, 154(i)–(j), 160, 201–206, 214, 218–220, 225, 251–254, 403, 1302, and §§ 1.1 and 1.1421 of the Commission's rules, 47 CFR 1.1, 1.421.

Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply

The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act (SBA). A ''small business concern'' is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA. The SBA establishes small business size standards that agencies are required to use when promulgating regulations relating to small businesses; agencies may establish alternative size standards for use in such programs, but must consult and obtain approval from SBA before doing so.

Our actions, over time, may affect small entities that are not easily categorized at present. We therefore describe three broad groups of small entities that could be directly affected by our actions. In general, a small business is an independent business having fewer than 500 employees. These types of small businesses represent 99.9% of all businesses in the United States, which translates to 34.75 million businesses. Next, ''small organizations'' are not-for-profit enterprises that are independently owned and operated and not dominant their field. While we do not have data regarding the number of non-profits that meet that criteria, over 99 percent of nonprofits have fewer than 500 employees. Finally, ''small governmental jurisdictions'' are defined as cities, counties, towns, townships, villages, school districts, or special districts with populations of less than fifty thousand. Based on the 2022 U.S. Census of Governments data, we estimate that at least 48,724 out of 90,835 local government jurisdictions have a population of less than 50,000.

The rules proposed in the NPRM will apply to small entities in the industries identified in the chart below by their six-digit North American Industry Classification System (NAICS) codes and corresponding SBA size standard. Based on currently available U.S. Census data regarding the estimated number of small firms in each identified industry, we conclude that the proposed rules will impact a substantial number of small entities. Where available, we also provide additional information regarding the number of potentially affected entities in the industries identified below.

TABLE 1—2022 U.S. CENSUS BUREAU DATA BY NAICS CODE

Regulated industry (footnotes specify potentially affected entities within a regulated industry where applicable)	NAICS code	SBA size standard	Total firms	Total small firms	% Small firms
Wired Telecommunications Carriers	517111	1,500 employees	3,403	3,027	88.95

TABLE 1—2022 U.S. CENSUS BUREAU DATA BY NAICS CODE—Continued

Regulated industry (footnotes specify potentially affected entities within a regulated industry where applicable)	NAICS code	SBA size standard	Total firms	Total small firms	% Small firms
Wireless Telecommunications Carriers (except Satellite).	517112	1,500 employees	1,184	1,081	91.30
All Other Telecommunications	517810	$40 million	1,673	1,007	60.19

TABLE 2—TELECOMMUNICATIONS SERVICE PROVIDER DATA

2024 Universal Service monitoring report telecommunications service provider data (data as of December 2023)	SBA size standard (1,500 employees)		
Affected entity	Total # FCC form 499A filers	Small firms	Small entities
Cable/Coax CLEC	67	62	92.54
CAP/CLEC	655	562	85.80
Competitive Local Exchange Carriers (CLECs)	3,729	3,576	95.90
Incumbent Local Exchange Carriers (Incumbent LECs)	1,175	917	78.04
Interexchange Carriers (IXCs)	113	95	84.07
Local Exchange Carriers (LECs)	4,904	4,493	91.62
Operator Service Providers (OSPs)	22	22	100
Other Toll Carriers	74	71	95.95
Wired Telecommunications Carriers	4,682	4,276	91.33
Wireless Telecommunications Carriers (except Satellite)	585	498	85.13

Description of Economic Impact and Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities

The RFA directs agencies to describe the economic impact of proposed rules on small entities, as well as projected reporting, recordkeeping and other compliance requirements, including an estimate of the classes of small entities which will be subject to the requirements and the type of professional skills necessary for preparation of the report or record.

In the NPRM, the Commission seeks comment on proposals that, if adopted, would reduce reporting, recordkeeping, and other compliance requirements, as small and other carriers would then be subject to fewer regulatory burdens. We first propose to transition all remaining intercarrier compensation charges, both originating and terminating, for carriers of all types to bill-and-keep. To enable carriers to recover their costs directly from end users, we propose to eliminate ex ante pricing regulation for end-user charges and mandatorily detariff these charges nationwide for all carriers. After carriers transition remaining switched access charges to bill-and-keep, the NPRM seeks comment on a gradual phase out of CAF ICC, particularly on how and when this should occur to ensure carriers' continued financial viability. We propose to forbear from tariffing requirements for the remaining domestic and international long-distance telecommunications services. Finally, in the NPRM we seek comment on the costs and benefits of these proposals and whether small carriers face specific challenges resulting from transitioning remaining access charges to bill-and-keep.

We expect that the proposals in the NPRM will decrease regulatory burdens on small and other carriers, and also free up resources for use in development and deployment of IP networks. The reforms, if adopted, would reduce costs of reporting and recordkeeping requirements for carriers operating legacy networks. For example, nondominant interexchange carriers would no longer need to maintain, for submission to the Commission and to state regulatory commissions upon request, price and service information regarding all of the carrier's international and interstate, domestic, interexchange service offerings.

Commenters in related proceedings have explained that costs associated with maintaining TDM networks have been rising and that transitioning to fully IP networks offers cost and service efficiencies. In this proceeding, we seek comment on the costs and benefits of the proposed rule changes, which promote the transition to IP, to better understand the impact on small and other carriers. For instance, although we do not expect carriers to need to hire additional professionals to comply with the proposals herein, we request comments on any potential burdens or costs small entities may incur in connection with these requirements, including whether they would require support to implement the proposed reforms. Furthermore, the Commission seeks comment on engaging in meetings with experts and stakeholders to provide an opportunity for all participants to give input on the most significant issues they may face.

Discussion of Significant Alternatives Considered That Minimize the Significant Economic Impact on Small Entities

The RFA directs agencies to provide a description of any significant alternatives to the proposed rules that would accomplish the stated objectives of applicable statutes, and minimize any significant economic impact on small entities. The discussion is required to include alternatives such as: ''(1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities; (3) the use of performance rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof, for such small entities.''

In the NPRM, we seek comment on proposals and alternatives that we expect will minimize any significant economic impact of the proposed rules on small entities. Specifically, we invite comment on alternative approaches for

transitioning remaining terminating access charges to bill-and-keep, in parallel with originating access charges, in ways that reduce administrative burdens. In seeking comment on phasing out CAF ICC, we seek comment on alternative timelines and, generally, on whether any additional support may be needed to cover one-time costs associated with upgrading networks to IP-based technology, particularly for rate-of-return carriers which typically are smaller entities. We also seek comment on regulatory approaches that would mitigate concerns over cost shifting and arbitrage opportunities which might arise during the transition. The Commission will fully consider the economic impact on small entities as it evaluates the comments filed in response to the NPRM, including comments related to the costs and benefits of these proposed rules. Alternative proposals and approaches from commenters will further develop the record and could help the Commission further minimize the economic impact on small entities. The Commission's evaluation of the comments filed in this proceeding will shape the final actions it ultimately takes to minimize the economic impact of any final rules on small entities.

Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules

None.

Initial Regulatory Impact Analysis

The NPRM seeks comment on a number of potential regulatory changes that would complete the transition of the current, calling-party-pays intercarrier compensation (ICC) regime to a bill-and-keep framework; these changes, if adopted, would remove artificial incentives of carriers to preserve outdated legacy systems. The principal potential changes include: (1) capping and then phasing down and eliminating originating and terminating intrastate and interstate access charges; (2) detariffing access charges and interstate and remaining domestic interstate and international long-distance interexchange services that remain subject to tariffing requirements; and (3) phasing out the current CAF ICC support program.

With respect to (1), this change, if adopted, would shift responsibility for the cost of completing a call (*i.e.,* from the calling party's network to the called party's network) and would result in a transfer of as much as $802 million per year (based on 2023 data).

Potential change (2), if adopted, would yield administrative cost savings to carriers from not having to file tariffs of around $4.7 million. With respect to (3), phasing down CAF ICC over two years, if adopted would result in a potential total decline in USF expenditures of as much as $346 million, which was the total CAF ICC support distributed in 2024. This in turn would reduce the USF contribution factor from 37.6% to 35.4% of interstate and international end-user telecommunications revenues.

Ordering Clauses

Accordingly, *it is ordered,* pursuant to sections 1, 4(i)–(j), 10, 201–206, 214, 218–220, 225, 251–254,, 403, of the Communications Act of 1934, as amended, and section 706 of the Telecommunications Act of 1996, 47 U.S.C. 151, 152, 154(i)–(j), 160, 201–206, 214, 218–220, 225, 251–254, 403, 1302, and §§ 1.1 and 1.1421 of the Commission's rules, 47 CFR 1.1, 1.421, this Notice of Proposed Rulemaking *is adopted.*

It is further ordered that, pursuant to applicable procedures set forth in §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments on this Notice of Proposed Rulemaking on or before 60 days after publication in the **Federal Register**, and reply comments on or before 90 days after publication in the **Federal Register.**

It is further ordered that the Commission's Office of the Secretary, *shall send* a copy of this Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Parts 43, 51, 54, 61, 64, and 69

Communications, Communications common carriers, Reporting and recordkeeping requirements, Telecommunications, Telephone.

Federal Communications Commission.

Marlene Dortch,

Secretary.

Proposed Rules

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR parts 43, 51, 54, 61, 64, and 69 as follows:

PART 43—REPORTS OF COMMUNICATION COMMON CARRIERS, PROVIDERS OF INTERNATIONAL SERVICES AND CERTAIN AFFILIATES

■ 1. The authority citation for part 43 continues to read as follows:

Authority: 47 U.S.C. 35–39, 154, 211, 219, 220; sec. 402(b)(2)(B), (c), Pub. L. 104–104, 110 Stat. 129.

■ 2. Amend § 43.51 by revising paragraph (b) to read as follows:

§ 43.51 Contracts and concessions.

* * * * *

(b) A carrier that is engaged in domestic communications and has not been classified as non-dominant pursuant to § 61.3 of this Chapter must comply with the requirements of paragraph (a) of this section.

* * * * *

PART 51—INTERCONNECTION

■ 3. The authority citation for part 51 continues to read as follows:

Authority: 47 U.S.C. 151–55, 201–05, 207–09, 218, 225–27, 251–52, 271, 332, unless otherwise noted.

■ 4. Amend § 51.907 by adding paragraph (l) to read as follows:

§ 51.907 Transition of price cap carrier access charges.

* * * * *

(l) Transition of Remaining Switched Access Charges.

(1) As of [EFFECTIVE DATE OF COMMISSION ORDER ADOPTING REFORMS], each Price Cap Carrier shall cap all intrastate and interstate switched access service rates not yet capped. This includes all charges associated with switched access rate elements specified in Part 69, as well as any functionally equivalent intrastate rate elements.

(2) *Step 1.* Beginning [July 1, XXXX], and notwithstanding any other provision of the Commission's rules, each Price Cap Carrier shall reduce all intrastate and interstate switched access service rates not yet transitioned to bill-and-keep to sixty-six percent (66%) of the amount of such charges in paragraph (l)(1). This includes all charges associated with switched access rate elements specified in Part 69, as well as any functionally equivalent intrastate rate elements.

(3) *Step 2.* Beginning [July 1, XXXX], and notwithstanding any other provision of the Commission's rules, each Price Cap Carrier shall reduce all intrastate and interstate switched access service rates not yet transitioned to bill-and-keep to thirty-three percent (33%) of the amount of such charges in paragraph (l)(1). This includes all charges associated with switched access rate elements specified in Part 69, as well as any functionally equivalent intrastate rate elements.

(4) *Step 3.* Beginning [July 1, XXXX], and notwithstanding any other provision of the Commission's rules,

each Price Cap Carrier shall reduce all intrastate and interstate switched access service rates not yet transitioned to bill-and-keep to bill-and-keep. This includes all charges associated with switched access rate elements specified in Part 69, as well as any functionally equivalent intrastate rate elements.

■ 5. Amend § 51.909 by adding paragraph (p) to read as follows:

§ 51.909 Transition of rate-of-return carrier access charges.

* * * * *

(p) Transition of Remaining Access Charges.

(1) As of [EFFECTIVE DATE OF COMMISSION ORDER ADOPTING REFORMS], each Rate-of-Return Carrier shall cap all intrastate and interstate switched access service rates not yet capped. This includes all charges associated with switched access rate elements specified in Part 69, as well as any functionally equivalent intrastate rate elements.

(2) *Step 1.* Beginning [July 1, XXXX], and notwithstanding any other provision of the Commission's rules, each Rate-of-Return Carrier shall reduce all intrastate and interstate switched access service rates not yet transitioned to bill-and-keep to sixty-six percent (66%) of the amount of such charges in paragraph (p)(1). This includes all charges associated with switched access rate elements specified in Part 69, as well as any functionally equivalent intrastate rate elements.

(3) *Step 2.* Beginning [July 1, XXXX], and notwithstanding any other provision of the Commission's rules, each Rate-of-Return Carrier shall reduce all intrastate and interstate switched access service rates not yet transitioned to bill-and-keep to thirty-three percent (33%) of the amount of such charges in paragraph (p)(1). This includes all charges associated with switched access rate elements specified in Part 69, as well as any functionally equivalent intrastate rate elements.

(4) *Step 3.* Beginning [July 1, XXXX], and notwithstanding any other provision of the Commission's rules, each Rate-of-Return Carrier shall reduce all intrastate and interstate switched access service rates not yet transitioned to bill-and-keep to bill-and-keep. This includes all charges associated with switched access rate elements specified in Part 69, as well as any functionally equivalent intrastate rate elements.

■ 6. Amend § 51.915 by adding paragraph (e)(6) to read as follows:

§ 51.915 Recovery mechanism for price cap carriers.

* * * * *

(e) * * *

(6) Detariffing of Price Cap Carriers' Access Recovery Charge. As set forth in § 61.27 of this chapter, all Price Cap Carriers must detariff their Access Recovery Charges as of [DATE].

■ 7. Amend § 51.917 by adding paragraphs (e)(7) and (f)(6) to read as follows:

§ 51.917 Recovery mechanism for Rate-of-Return Carriers.

* * * * *

(e) * * *

(7) As set forth in § 61.27 of this chapter, all Rate-of-Return carriers must detariff their Access Recovery Charges as of [DATE].

(f) * * *

(6) CAF ICC transition for rate-of-return carriers.

(i) Effective June 30, [YEAR IN WHICH THE TRANSITION TO BILL-AND-KEEP IS COMPLETED], all CAF ICC calculations required by this section shall cease to be performed.

(ii) Beginning July 1, [YEAR THAT BEGINS THE TARIFF YEAR IMMEDIATELY FOLLOWING THE ONE IN WHICH THE TRANSITION TO BILL-AND-KEEP IS COMPLETED], a Rate-of-Return Carrier may receive no more than sixty-six percent (66%) of the amount of CAF ICC support it received in the [TARIFF YEAR IN WHICH THE TRANSITION TO BILL-AND-KEEP IS COMPLETED].

(iii) Beginning July 1, [YEAR THAT BEGINS THE SECOND TARIFF YEAR I FOLLOWING THE ONE IN WHICH THE TRANSITION TO BILL-AND-KEEP IS COMPLETED], a Rate-of-Return Carrier may receive no more than thirty-three percent (33%) of the amount of CAF ICC support it received in the [TARIFF YEAR IN WHICH THE TRANSITION TO BILL-AND-KEEP IS COMPLETED].

(iv) Beginning July 1, [YEAR THAT BEGINS THE THIRD TARIFF YEAR FOLLOWING THE ONE IN WHICH THE TRANSITION TO BILL-AND-KEEP IS COMPLETED], a Rate-of-Return Carrier may no longer receive CAF ICC support.

PART 54—UNIVERSAL SERVICE

■ 8. The authority citation for part 54 continues to read as follows:

Authority: 47 U.S.C. 151, 154(i), 155, 201, 205, 214, 219, 220, 229, 254, 303(r), 403, 1004, 1302, 1601–1609, and 1752 unless otherwise noted.

■ 9. Amend § 54.901 by revising paragraph (a) and adding paragraph (h) to read as follows:

§ 54.901 Calculation of Connect America Fund Broadband Loop Support.

(a) Subject to the requirements of paragraph (h) of this section, Connect America Fund Broadband Loop Support (CAF BLS) available to a rate-of-return carrier shall equal the Interstate Common Line Revenue Requirement per Study Area, plus the Consumer Broadband-Only Revenue Requirement per Study Area as calculated in accordance with part 69 of this chapter, minus:

* * * * *

(h) In calculating support pursuant to paragraph (a), if a rate-of-return carrier is subject to detariffing pursuant to § 61.27 of this chapter, the values for paragraphs (a)(1) and (a)(4) shall be as follows:

(1) The study area revenues obtained from end user common line charges shall be set at $6.50 per line per month for residential and single-line business lines and $9.20 per line per month for multiline business lines;

(2) any line port costs in excess of basic analog service as described in § 69.130 of this chapter being assessed on [EFFECTIVE DATE OF COMMISSION ORDER ADOPTING REFORMS].

PART 61—TARIFFS

■ 10. The authority citation for part 61 continues to read as follows:

Authority: 47 U.S.C. 151, 154(i), 154(j), 201–205, 403, unless otherwise noted.

■ 11. Revise § 61.19 to read as follows:

§ 61.19 Detariffing of international and interstate, domestic interexchange services.

Carriers shall not file tariffs for the provision of international and interstate domestic interexchange services.

■ 12. Amend § 61.26 by adding paragraph (h) to read as follows:

§ 61.26 Tariffing of competitive interstate switched exchange access services.

* * * * *

(h) Within 15 days of the effective date that the competing ILEC detariffs its switched access charges effective July 1 [YEAR THAT IS LAST YEAR OF THE TRANSITION], a competitive local exchange carrier must detariff all interstate switched access charges. This includes all charges for switched access rate elements specified in Part 69, or the functional equivalents.

■ 13. Add § 61.27 to subpart C to read as follows:

§ 61.27 Detariffing of intercarrier and end-user access charges.

(a) An incumbent local exchange carrier as defined in § 51.5 of this chapter shall detariff all of the interstate and intrastate switched access carrier-to-carrier charges moved to bill-and-

keep in §§ 51.907(l) and 51.909(p) and all of the interstate switched access end user charges by July 1 [YEAR THAT IS LAST YEAR OF THE TRANSITION].

(b) A rate-of-return local exchange carrier participating in a National Exchange Carrier Association interstate access tariff must remove its interstate switched access carrier-to-carrier charges and interstate switched access end user charges from the corresponding tariffs on the date the detariffing requirement in paragraph (a) of this section takes place. As of that date, the National Exchange Carrier Association may no longer pool any costs or revenues associated with detariffed offerings. Interstate and intrastate switched access carrier-to-carrier charges and interstate switched access end user charges shall not be subject to *ex ante* pricing regulation once detariffed.

§ 61.28 [Removed and Reserved]

■ 14. Remove and reserve § 61.28.

PART 64—MISCELLANEOUS RULES RELATING TO COMMON CARRIERS

■ 15. The authority citation for part 64 continues to read as follows:

Authority: 47 U.S.C. 151, 152, 154, 201, 202, 217, 218, 220, 222, 225, 226, 227, 227b, 228, 251(a), 251(e), 254(k), 255, 262, 276, 403(b)(2)(B), (c), 616, 620, 716, 1401–1473, unless otherwise noted; Pub. L. 115–141, Div. P, sec. 503, 132 Stat. 348, 1091; Pub. L. 117–338, 136 Stat. 6156.

Subpart R—[Removed and Reserved]

■ 16. Remove and reserve subpart R, consisting of § 64.1801.

Subpart S—[Removed and Reserved]

■ 17. Remove and reserve subpart S, consisting of § 64.1900.

Subpart CC—[Removed and Reserved]

■ 18. Remove and reserve subpart CC, consisting of §§ 64.4000 through 64.4006.

PART 69—ACCESS CHARGES

■ 19. The authority citation for part 69 continues to read as follows:

Authority: 47 U.S.C. 154, 201, 202, 203, 205, 218, 220, 254, 403.

■ 20. Amend § 69.4 by removing and reserving paragraphs (b) and (d) and revising paragraph (a) to read as follows:

§ 69.4 Charges to be filed.

(a) As of July 1, [YEAR THAT IS THE LAST YEAR OF THE TRANSITION], no switched access charges shall be filed with the Commission. This includes all charges for switched access rate elements specified in this part.

* * * * *

■ 21. Amend § 69.5 by removing and reserving paragraphs (b) and (c) and revising paragraph (a) to read as follows:

§ 69.5 Persons to be assessed.

(a) End user charges shall be computed and assessed upon providers of public telephones, as defined in this subpart, and as provided in subpart B of this part.

* * * * *

[FR Doc. 2026–05727 Filed 3–23–26; 8:45 am]

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